

# **D-R-A-F-T**

**DURHAM PLANNING BOARD  
WEDNESDAY, MARCH 23, 2005  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.**

**MEMBERS PRESENT:** Chair Stephen Roberts; Richard Kelley; Bill McGowan; Kevin Webb; Nick Isaak; Jerry Needell, Council Representative

**MEMBERS ABSENT:** Amanda Merrill; Richard Ozenich;

**OTHERS PRESENT:** Jim Campbell, Planner; Victoria Parmele, Minutes Taker

**I. Call to Order**

**II. Approval of Agenda**

*Nick Isaak **MOVED** to approve the agenda as presented. The motion was **SECONDED** by Richard Kelley, and **PASSED** unanimously.*

**III. Report of Planner**

Chair Roberts said that Town Planner Jim Campbell was not present, and said he would read through Mr. Campbell's Report to the Planning Board.

- In his report, Mr. Campbell said he and University planner Doug Bencks had discussed the Northern Connector issue, and said he would find all the information he could on the project. He said he and Mr. Bencks had discussed the Northern Connector in general terms, and how it related to the campus Master Plan. He said he planned on having another meeting with Mr. Bencks, and sharing any information the Town had on the Northern Connector.

Chair Roberts said it was a positive development that Mr. Campbell was relaying current transportation planning discussions with Doug Bencks and the University directly to the Planning Board.

- In his report, Mr. Campbell said the University continued to meet with a potential buyer for the Highland House. He said the University's administration had been discussing opening up the sale of the property to a wider audience, but no decisions had been made on this. He said there had also been discussion about the possibility of selling the land with a conservation easement in order to prevent further development

of the property when it was sold. He also said the University wanted to sell the property to someone who would save the building on Bennett Road.

- Mr. Campbell said there would be a hearing in April concerning a research building to be built at the west end of campus, bordering Route 4 on O’Kane Road.
- Mr. Campbell said the Economic Development Committee had met on March 17<sup>th</sup> to discuss the design guidelines for the Business Park. He said the Committee would be making recommendations to the Town Council for changes to these guidelines.

Mr. Kelley asked if Chair Roberts could get a copy of the drainage report for the Irving Station application from Mr. Campbell. There was discussion on the traffic report for the application, and Mr. Kelley said he didn’t believe it was ready yet.

#### **IV. Discussion on Future Master Plan and Zoning Ordinance Revisions**

Chair Roberts said consultant Mark Eyerman would brief the Board on his ideas concerning future Master Plan and Zoning Ordinance revisions. He said the Board was open to hearing Mr. Eyerman’s ideas, and provided some background information on his own previous experience in updating master plans.

Mr. Eyerman suggested that the Board should consider whether a process was needed to implement the existing Master Plan. He said he was someone who was outside the process by which the existing Master Plan had been developed, and was looking at it from the perspective of the existing Zoning Ordinance.

He said there were a lot of good proposals and recommendations in the Master Plan, but questioned whether there was a systematic process in place for working on them and implementing them. Mr. Eyerman suggested that before updating and revising the current Master Plan, it would be worthwhile to step back and ask how the Town was using what was in the current plan, and to make sure that the good ideas in this plan wound up on a priority list.

Mr. Eyerman said a lot of good work had been done on Durham’s Master Plan, and said the plan contained many good ideas, but he said the question was how to make it more of a living document. He said he had emailed Board members a copy of a typical implementation strategy. He gave the example of the Northern Connector issue, noting this issue was addressed in the Master Plan, but a process was still needed for determining how it could happen. He said the Board might want to step back and develop an implementation strategy for this, including what should be done, and who should do it.

Mr. Eyerman said some towns developed implementation strategies through the Planning Board, while others did so through other means. He noted that he had worked with some towns that had developed annual work programs that focused each year on issues that were a priority. He also said it was important to conduct a periodic review of progress in

implementing the Master Plan. He said some communities provided an annual report on this to their Town Council.

He said that although the introduction to the Master Plan contained several paragraphs on amending it, the plan itself contained no procedure for doing this. He said the Town should probably adopt a policy on this, which said the plan would be reviewed on a regular basis. He suggested that a list should be developed outlining the most important issues that were still relevant, those issues that needed to be updated, those that were no longer relevant, those that were probably never really good ideas.

Mr. Eyerman said he had not gone through the existing Master Plan section by section. But he said there should perhaps be an addendum to the current Master Plan instead of rewriting it. He suggested that it should be used as a base, noting it already contained very extensive discussion, as well as recommendations for very specific actions on various issues.

Chair Roberts noted that this had been a recommendation from the Strafford Regional Planning Commission.

Mr. Eyerman said the idea of doing an update of the Zoning Ordinance in conjunction with updating the Master Plan made sense, to the extent the Board could accomplish this. He noted that local Boards sometimes fell into the bad habit of using administrative expansion to cover things that should be changed in the ordinance.

He said his sense was that the Town had started creating an Ordinance check list/punch list, on topics that should be worked on, on an ongoing basis, and said the Board could sit down once a year and go over this.

There was discussion about the fact that some of the same issues were dealt with in different sections of the current Master Plan, but sometimes were treated differently depending on where they were found.

Mr. Isaak asked what the process might be for making the Master Plan a living document, one that could be amended a chapter at a time.

Mr. Eyerman said there should first be a review, beginning to end, to see what was in the current plan. He said if it was found that the large majority of the plan was good, didn't need to be changed, and still represented the Town's thinking, that would represent one level of work that would be needed. He said that on the other hand, if the whole plan was reviewed and it was found that many things needed to be updated, that would represent a greater level of work that would be required.

Chair Roberts noted that the Historic District Commission had come to the Board concerning two issues, the idea of a Heritage Commission, and greater protection of the Town's gateways.

Mr. Eyerman noted that these kinds of issues had almost been overlooked in the current Master Plan.

Chair Roberts said the Planning Board would work diligently with the Historic District Commission on these issues.

Mr. Webb spoke about a conversation he had recently had with a planner working in another Town, who lived in Durham. He said this person said the Master Plan provided a broad brush on planning issues, but said a town was not constrained from stepping away from it. He said he wondered if this person was correct, and there was discussion about this.

Chair Roberts said one of the issues with the Irving application was its relationship to the Master Plan, and whether the plan provided guidelines that some attention must be paid to it in such subsequent development. He discussed his own views concerning the proper role of the Master Plan.

Mr. Webb said the planner he had spoken with had said a planning board would not be constrained by a master plan from moving something like a zoning district boundary. Mr. Webb said he was still uncertain about the proper relationship between the master plan and the zoning ordinance. There was additional discussion about this.

Councilor Needell said if something drastically different than the master plan was planned, there would be a problem. But he said if something like moving a district line was desired, that was different. He said the master plan was a general guide, and couldn't provide that level of detail in describing future land uses.

Chair Roberts noted he had asked the Town Attorney about the idea of extension of the Historic District out through Gasoline Alley out to Route 108.

Mr. Isaak noted that in a way this became redundant, because the revised Ordinance had addressed a lot of the issues.

Chair Roberts said in a lot of towns, the conditional use statute referred to the master plan, to indicate that the Town was not supposed to stray too far in terms of the conditional uses that should be allowed. He noted that Durham's conditional use language had been rewritten so that it generally didn't encourage new uses.

Chair Roberts said he had had a discussion with a merchant at the Mall of NH, regarding rules for how merchants at the mall got along with one another. He said the lease agreement covered this, as a way to ensure the continued success of the businesses in the mall. He said that various communities had adopted similar rules concerning conditional uses, to ensure that businesses got along with one another.

Mr. Eyerman said the general rule was that the zoning ordinance had to be consistent with the master plan, and couldn't go off in a totally different direction. But he noted that

State statute contained the option for innovative land use controls, and said much of what Durham did fell under these. He said the statute was clear that if a town did these things, they had to be supported in the master plan. He said the biggest question was whether the Town in some sense was doing a good job of being specific in the Master Plan as to what uses were allowed and not allowed. He noted the Town may have gone further than it needed to go, or should have gone, concerning this.

Mr. Eyerman said the State had recently enacted a new outline for what should be in the master plan. He reviewed this as it related to Durham. He said Durham probably already had a Vision statement, as part of its guiding principles, etc. He said other chapters included land use; transportation; community facilities; economic development; natural resources; natural hazards (a current gap); recreation; utilities; public services; cultural and historic resources; regional concerns; a neighborhood plan; a community design section; housing section; and an implementation section.

Mr. Needell noted that only the first two sections, a Vision statement and a Land Use section, were required.

Chair Roberts said that the Strafford Regional Planning Commission had a regional master planning document, and was also coming out with model ordinances and other relevant documents such as a regional transportation plan that the Town should refer to.

Mr. Eyerman suggested the idea of creating a standing Ordinance subcommittee of approximately 3 people to do routine homework on key issues, and to work with Town staff on an ongoing basis.

Mr. Kelley asked if such a committee would review how development occurred, to see if it jived with the Master Plan. There was discussion about this.

Chair Roberts said he agreed with the approach of rereading the Master Plan, developing a punch list, checking off what had already been accomplished, indicating what still was outstanding, and determining what might need to be added or subtracted. He said a priority list could be developed out of this, and could be given to a standing committee to work on.

Mr. Kelley said that when such a punch list was created, it might be found that only an addendum to the Master Plan was needed.

Chair Roberts said that a former Planning Board he was on had done something like that, and said he was a great believer in having such an approach, and of having an active implementation plan.

Mr. Eyerman said that given the baseline of the Master Plan and the Zoning Ordinance at that point, doing a rewrite became a living process.

Chair Roberts said a master list could be provided to various committees, the Council, and Town departments in order to solicit comments, as part of determining what the priorities were.

There was discussion about the public hearing process that would be required if there were to be something like annual updates of both the Master Plan and Zoning Ordinance.

Chair Roberts asked where Mr. Eyerman might fit into this process. He noted that planning consultants he had previously worked with on master plans had exposed the Planning Board to a variety of new ideas.

Mr. Eyerman said he didn't know the answer to that question. He said this was a function of how many issues were on the table, and how much time Town staff had to do the work. He said that if in-house staff had the capability, an argument could be made that they should do the master planning, and another way should be found to accomplish ongoing development review.

Chair Roberts discussed the dilemma of handling aspects of the smart growth initiative that were in collision with one another. He gave as an example the difficulty of reconciling reduced road widths with ever-larger trucks on these roads.

Mr. Eyerman said a fundamental question regarding smart growth was whether one could alter the pattern of development such that how people got from place to place also changed. He said it didn't make sense if just the form of development on the landscape changed, but the number of road trips, and how big the roads had to be didn't change.

He said the current Master Plan seemed to say that the Town would accommodate residential growth in the RA and RB districts, and would minimize growth in the RC and R districts. He noted there was discussion on the transfer of development rights. But he said he didn't have a sense of how much development potential there was in the RA and RB district, and whether the zoning changes would actually change where development occurred.

Mr. Webb noted that a major constraint on all of this was that Durham had no control over 2/3 of the land in Town.

Mr. Kelley said that one of the few areas where the Town did have some control was how it planned its transportation network. He gave some examples of this, and said if the Town had traffic problems on Madbury Road, Garrison Road, etc, it could hire a consultant to do a traffic analysis, develop some models and perhaps change the way traffic moved around in that area, in a way that would be advantageous to the people who lived there.

Mr. Eyerman noted that the fear of students living in housing that was not a part of the UNH campus colored a lot of decision-making.

Chair Roberts said another planning development the Town had no control over was the land conservation that had resulted from LCHIP, the Nature Conservancy, etc. He said 50% of the Town's land was now controlled by these organizations.

Mr. Eyerman noted that one of the priorities in the existing Master Plan was a joint Town/UNH office park. He described the development of such an office park in the town where he had gone to college, and said it had been very successful.

Chair Roberts said he thought the idea of such a park was excellent. But he noted that a previous Council delegate had provided a briefing to the Board that the Town had been told that such an office park should be closer to Route 128 than Durham was.

Mr. Kelley said he found it odd that the Town's Master Plan was four times as thick as the University Master Plan. He also said that as part of the Master Plan update, agencies seeking to protect lands and keep them in their natural state should be asked what their future plans for the Town were, and whether they planned on purchasing more land. He said it might turn out that the R and RC districts should be characterized as a resource area.

There was discussion about this, and the Crommet Creek area in particular, and Chair Roberts asked Mr. Webb if he could ask the Conservation Commission to give the Planning Board an update on this.

Chair Roberts asked if any Board members wished to volunteer to do an in depth review of the current Master Plan.

Mr. Kelley said he would be happy to work on this, once the Zoning rewrite was completed. He suggested that perhaps different people could work on different sections of the Plan.

Mr. Eyerman said it was important to decide what were the really important issues to be working on. He said his experience was that otherwise, issues that wound up getting worked on were driven by one or two people, without thinking whether these issues were in the broader context of what the Town's priorities were.

Chair Roberts said this conceptualization should be shared with the Town Council.

Mr. Eyerman said successful communities that had long range planning programs went to the Council every year, and presented what their priority issues were, how they should be addressed, and how much money should be spent on them. He said this kind of thing could be done as part of the CIP.

Chair Roberts said that the Board had lobbied to expand the CIP to reflect longer term planning issues. He noted the Northern Connector was listed in the CIP, but had been delayed in terms of being a priority.

Mr. Isaak said a key thing was to pair down the list of issues, in order to focus.

Mr. Eyerman agreed, and said it was also important to be sure there was someone/some group to work on these particular issues.

There was discussion as to when the membership of the Planning Board would be reconstituted.

Mr. Kelley asked if the implementation strategy for Sanford, Maine, which Mr. Eyerman had used as an example, had been done recently.

Mr. Eyerman said it had first been done about three years ago.

Mr. Kelley asked whether, based on this, Sanford had determined it needed a new master plan, or just an addendum.

Mr. Eyerman said this implementation strategy was part of their master plan update, and said the town had actually used it to some extent to prioritize, and to track what they were doing. He provided examples of some of the things in their strategy, and what had happened concerning them.

Mr. Kelley noted a surficial geology map of Durham, which he said should be used as a tool to show that Durham was different than Hollis in terms of its soils.

Chair Roberts said that Hollis had 2 acre zoning, along with a provision for 4 acres for back lots. He also noted that Durham had 42 % more land in each lot than Hollis did, and in addition, said Hollis had one third of its land in public lands, while Durham had 55%. He said the Board had reached a good compromise on soils criteria, and said the maps were helping to document this.

Mr. Kelley stated that no one wanted to simply throw his/her hands up, and change the character of Durham. Concerning the Master Plan update, he suggested that the Board should seek the input of others, and develop a committee not just of Planning Board members. He said it would be good to develop a list of the kinds of people who should be on the Committee, and noted that assistance would lighten the Board's load.

Mr. Isaak said the discussion had been helpful, and said a method for building on what had been done in the past was important.

Chair Roberts said that money had been put in the budget to get some help for the Board with this process.

Mr. Kelley said he had been very pleased with Mr. Eyerman's work on the Zoning Ordinance Rewrite.

Mr. Needell said the process described by Mr. Eyerman for updating the Master Plan made sense.



There was discussion about upcoming public hearings on the Zoning Rewrite.

***Richard Kelley MOVED to set the public hearing dates of March 30<sup>th</sup>, 2005 for the floodplain overlay, and April 6<sup>th</sup> for ordinance amendments. The motion was SECONDED By Kevin Webb, and PASSED unanimously.***

Chair Roberts thanked Mr. Eyerman Mark for coming to the meeting, and for the work he had done in outlining possible approaches for updating the Master Plan.

## **V. Other Business**

Chair Roberts said there had been a flurry of activity as a result of concerns about what had been presented by University planner Doug Bencks at a previous Board meeting. He said Mr. Campbell had provided some concrete steps concerning meeting with the University planner on these issues, and said he was happy he had done that.

Mr. Kelley asked if a presentation on the University Master Plan by Mr. Bencks was planned.

Chair Roberts said there were no details on this yet, but said such a presentation was in the works.

Mr. Kelley said he would like to have an opportunity to review the drainage report for the Irving application prior to the April 13<sup>th</sup> Board meeting.

Chair Roberts said that Attorney Mitchell would be attending this meeting, and said there would be a pre-meeting session to discuss issues regarding the application for which the Board would need legal guidance. He said an acceptance hearing was scheduled, but said if the Board decided to decline accepting it, it needed to have grounds to do so. He said he was not saying the Board wanted to defeat the application, but said it was important to see the right approach in the drawings.

He also said the Board would like to get guidance from the Council on the application, and noted he had spoken with Mr. Campbell about this. He said the Board was in the process of sending a copy of the application to the Historic District Commission. He noted the 60-day window went very quickly.

There was detailed discussion about the process to be followed concerning the application.

Chair Roberts said it was in the Town's interest, if there were issues, to pay attention to the investment the Town had required of neighborhood businesses that had recently been approved in the area of the proposed Irving station. He also said it was important to pay attention to the Master Plan, which clearly gave the Town's position on the importance of the site in relation to the Historic District. He said given that this was also a Conditional

Use application, it was important to ask whether the proposed plan showed any relationship to surrounding structures. He said that so far, it appeared that it didn't, and said it was appropriate for the Board to say to the applicant that this was one of it's concerns.

Mr. Webb noted that the 60-day window could be extended, and said he had yet to see an applicant refuse an extension.

Mr. Kelley said it was common to see extensions to applications. He also said he personally found it awkward when the Planning Board Chair was put in a position of having to ask if an applicant would be willing to grant an extension.

***Kevin Webb MOVED to postpone approval of Minutes. Richard Kelley SECONDED the motion.***

There was discussion on whether Board members at the next meeting would be sufficient to approve the minutes, given that the membership of the Board was changing.

***The motion PASSED unanimously.***

***Richard Kelley MOVED to adjourn the meeting. The motion was SECONDED by Councilor Jerry Needell, and PASSED unanimously.***

Adjournment at 8:46 pm

---

Amanda Merrill, Secretary