

**DRAFT**

**Durham Planning Board  
Wednesday August 24, 2011  
Durham Town Hall - Council Chambers  
MINUTES  
7:00P.M.**

**MEMBERS PRESENT:** Chair Lorne Parnell; Secretary Susan Fuller; Richard Kelley; Bill McGowan; Town Council representative Jay Gooze; alternate Town Council representative Julian Smith; alternate Wayne Lewis; alternate Andy Corrow

**MEMBERS ABSENT:** Vice Chair Peter Wolfe; Richard Ozenich

**I. Call to Order**

Chair Parnell called the meeting to order at 7:02 pm. He said Mr. Lewis would be a voting member in place of Mr. Wolfe, and Mr. Corrow would be a voting member in place of Mr. Ozenich.

**II. Approval of Agenda**

Chair Parnell noted that Agenda Item VI, Design Review on an Application for an Eight-Lot Conservation Subdivision, had been removed from the Agenda.

***Bill McGowan MOVED to approve the Agenda as amended. Wayne Lewis SECONDED the motion, and it PASSED unanimously 7-0.***

**III. Planner's Report**

Mr. Campbell said he'd met with University planner Doug Bencks on August 2<sup>nd</sup>, and said a memo had been provided on this.

He said the previous Friday, he met with the applicants who'd received approval for the takeout restaurant trailer at the Pettee Brook parking lot. He said they were just about done with permitting, and were just waiting on the final license from the State.

Mr. Campbell said the Economic Development Committee met on Monday night, and discussed a proposed TIF district for the downtown, which would include the Central Business District and the Church Hill district. He said they'd been working on a boundary map as well as a development program and finance plan as part of developing the TIF district proposal. He said the draft was almost complete, and would be sent on to the Town Council for discussion.

He said the EDC had reviewed some of the Master Plan survey results that were relevant to economic development. He noted that all of these results had been provided to the Planning

Board, in various formats. He said Charlie French would come to the September 14<sup>th</sup> Board meeting to provide an overview on the survey responses.

Mr. Campbell noted previous discussions about increasing the fee for the exemption from parking in the Central Business district. He said the ordinance technically required that the Council review this fee each year, but said this hadn't been done. He said the \$750 fee charged now per space had been in place since at least 1990. He noted that the EDC was not in favor of raising the fee at this point, and would discuss this with the Council.

He said the EDC wanted to look at the proposed changes recommended in the commercial core strategic plan, with some additional information he and planning consultant Beth Della Valle had been working on. He said he would bring this information to the Planning Board for discussion at the second Board meeting in September, before holding a public hearing. He noted that he would be meeting with Ms. Della Valle the following day in order to do various measurements of lots downtown, as part of providing setback, etc. numbers in the proposed amendments to the Zoning Ordinance.

Mr. Campbell said on Tuesday, Code Administrator Tom Johnson met with Chris Northrop of the NH Office of Energy and Planning to review the Town's flood hazard overlay districts, as well as information on activity going on in those districts. He said NHOEP would be providing the Town with a report based on this information.

**IV. Public Hearing on an Application for Site Plan Review** submitted by Metro PCS, LLC, Chelmsford, Massachusetts on behalf of Raymond Laroche, Durham, New Hampshire to install a personal wireless communication facility on his property. The property involved is shown on Tax Map 18, Lot 1-2, is located at 37-41 Bennett Road, and is in the Rural Zoning District.

**Attorney Brian Grossman**, representing Metro PCS, explained that there currently was a significant gap in coverage in that area of Durham, and said what was proposed was a 120 ft monopole camouflaged as a mono-pine. He noted a variance was received to allow the 120 height for the cell tower. He described the tower's design, and noted that photos taken showed that a lot of the sight lines were through other trees, which would help to camouflage the tower to the extent practicable.

He said there would be 6 panel antennas on the tower. He said there would be 2 radio communication equipment cabinets, as well as 2 battery cabinets to provide alternate power if needed. He also said there would be a power and telephone cabinet to allow the facility to utilize standard 120 volt electric service. He said the entire compound would be about 60 ft by 60 ft, with an 8 ft high chain link fence around it. He also said there was a small GPS antenna to facilitate site operation, and to allow the site to comply with FCC regulations regarding enhanced 911 compliance. He explained that this would allow mobile call locations to be identified automatically by emergency services within 100-200 meters.

Attorney Grossman said the facility was designed to allow up to 4 co-location spots, and said the compound would also provide adequate room for their equipment. He said the entire facility would be set back 200 ft from Bennett Road, and would be 270 ft from the railroad tracks. He said one

utility pole would need to be installed on the south side of Bennett Road, and said from that point, everything would run underground.

He said there was an existing gated access drive, and explained that the facility would only be visited 1-2 times per month, by a utility vehicle for routine maintenance. He said no improvements were needed to the access road.

Attorney Grossman noted on some maps the area where there was Metro PCS coverage already, as well as the large white area where the gap in coverage currently existed. He showed how the coverage would be improved with the additional cell tower. He said the facility would comply with all FCC regulations concerning radio frequency emissions, and also said all building codes and other regulations would be complied with. He noted that the packet contained the FAA determination that no marking or lighting of the cell tower would be required.

***Susan Fuller MOVED to open the Public Hearing. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Parnell asked members of the public who wished to speak in favor of the project to come forward.

**Roger Blinn, 42 Bennett Road,** stated that he was in favor of the project.

Councilor Gooze asked Mr. Blinn where his property was in relation to the cell tower, and Mr. Blinn said he was on the power line side.

Chair Parnell asked if there were any members of the public who wished to speak against the project, or who had concerns about it. There was no response.

***Richard Kelley MOVED to close the Public Hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Parnell said the Board would deliberate on the application that evening.

At Mr. Kelley's request, Mr. Campbell reviewed the waivers being requested. He said one was a requested waiver from section 7.02 (D) (3) (a), regarding property lines of the parcel being developed in relation to the surrounding area within a radius of 2,000 ft. He also reviewed the various waiver requests concerning information to be provided on the site plan, as listed in section 7.02 (D) (4) (a,k,l,m,n,s,t,u,v,x), noting the instances where some of this information had been provided.

Mr. Campbell also noted in particular the waiver request from 7.03 (A) (2), concerning a statement from the landowner and applicant to agree that the Town could enter the property to obtain radio frequency measurements, in order to ensure conformance with the FCC Guidelines and to obtain noise measurements. He said the applicants had laid out arguments as to why they didn't need to do this, and had come up with an alternative, which was to do measurements 90 days after construction was completed and give a report to the Town.

Mr. Campbell noted Section 8.0 concerning a construction guarantee, and said the applicant hadn't officially requested a waiver from this. But he said nothing they would be doing would be affected by this.

He said waivers were also requested from Section 9.03, concerning providing a stormwater management plan; 9.10 (F) concerning providing a lighting plan, and 9.15 (A & C) regarding visibility standards of ground mounted wireless facilities. He noted that a balloon test was done as part of the variance application before the ZBA.

Mr. Campbell also noted that a copy of the deed hadn't yet been found, and said this could be made a condition of approval.

There was discussion on the waiver requested from section 7.03 A 2, and how this had been handled by the Board in the past. Mr. Campbell said on ever occasion, the Board hadn't waived this requirement, and he provided details on this.

Mr. Kelley asked if the Town had ever taken noise measurements at a cell tower facility, and Mr. Campbell said no. Mr. Kelley noted that with a cell tower application on UNH property, there had been signed letters from the University granting the Town access.

Mr. Campbell said it took awhile to get them. He said with the current application, the applicant had suggested an alternative of doing the measurements 90 days after construction. He said the Board could review the report on these measurements, and could then decide if anything else needed to be done.

He said the Town could probably do something about the noise issue if there was one. But he said anything concerning radio frequency issues would have to go through the FCC. He said he assumed that any time in the future that there was a complaint concerning radio frequency emissions, Metro PCS would probably allow the Town to take measurements.

Mr. Kelley asked where the noise would be generated from, and if additional carriers would increase that noise.

Attorney Grossman said the equipment cabinets had very small computer-like fans in them that generated very little noise. He said there would be less than a window air conditioner in terms of overall noise, also noting that additional carriers would minimally increase this. He pointed out that a condition of approval was that any carrier seeking to co-locate would need to seek site plan approval, and as part of this would be questioned concerning possible noise impacts. There was discussion that a backup generator was not proposed at this facility.

Councilor Gooze asked about deterioration of bearings, etc, with equipment down the road, and possible noise impacts from this.

Attorney Grossman said because of the distance from property lines, Mr. Laroche would be the person most likely to be impacted by this. He also noted that the waiver request was from reporting

requirements, and not from the noise regulations. He said if there was a noise complaint and an enforcement aspect to this, it could be addressed.

The Board discussed the Findings of Fact and Conditions of Approval.

Councilor Smith said he'd gone to the ZBA hearing on the variance application, and there was nothing but positive testimony for the applicant, including his own. It was noted that the Finding of Fact should include the ZBA variance that was received.

Chair Parnell asked if it was possible that a deed would not be found. There was discussion, with Mr. Kelley noting that this was not the Town's responsibility. He said the applications from Metro PCS had been put together well, and said he liked the language provided in the Conditions of Approval on this issue.

Councilor Gooze said if for some reason there was a title problem down the line, this would be between the owner and Metro PCS.

Mr. Kelley agreed, stating that if Metro PCS wanted to go into this without seeing the deed, it was their business. There was further discussion on the Condition of Approval for this, and the Board decided that it should say that if a deed couldn't be found, the requirement would be waived.

Chair Parnell asked if the applicant was ok with the Condition of Approval that any further co-location would need site plan approval, and Attorney Grossman said yes. Chair Parnell also confirmed that the applicant had agreed to provide space on the cell tower for Town equipment for public safety purposes, at no cost to the Town.

There was discussion on what permitting was required as part of the project. Mr. Campbell said Mr. Johnson would handle this.

There was discussion on what the construction hours would be. It was agreed that the hours would be 7 am to 5 pm.

### **Findings of Fact**

1. The applicant received a variance for the height of the tower on April 12, 2011.
2. A copy of a Request for Project Review by the New Hampshire Division of Historical Resources for the property was submitted on June 22, 2011.
3. Chief David Kurz submitted a memo regarding the proposed development on July 28, 2011.
4. A Site Walk was conducted on August 24, 2011.
5. A Public Hearing was conducted on August 24, 2011 and testimony was received in favor of the application.
6. The applicant has agreed to take RFR and noise measurements 90 days after construction. A report will be supplied to the Town.

### **Waivers**

The applicant has requested waivers from Section 7.02 (D)(3)(a), 7.02

(D)(4)(a,k,l,m,n,s,t,u,v,x), 7.03(A)(2), 8, 9.03, 9.10(F), and 9.15(A & C) of the Site Plan Regulations. In addition, 7.02 (E), Copy of Deed, will be waived if the deed cannot be located. The Planning Board has considered these requests and hereby grants the waivers.

**Conditions of Approval to be met prior to signature of approval on the Site Plan**

1. The applicant shall submit one mylar copy and one blue print copy of the Site Plan. The Site Plan shall be stamped with the plan preparer's professional seal.
2. The applicant or owner shall provide a copy of the deed for the property to the Planning & Community Development Department. If one cannot be found, this requirement will be waived.
3. The applicant shall provide a security for removal of the cellular facility in the form of a bond. The amount of the security must be equal to the cost of removal plus 15%. The owner shall provide the Planning Board with an updated cost estimate every five (5) years from the date of approval. If the amount has increased more than 15%, the owner of the facility shall provide additional security.

**Conditions to be Met Subsequent to the Signature of Approval on the Site Plan:**

1. These Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within ten (10) days of the Planning Board Chair's signature on the Site Plan.
2. As per 9.11(G)(3) of the Site Plan Regulations, any further co-location on this site will need Site Plan approval.
3. If needed, the applicant has agreed to provide space on the tower for Town of Durham public safety equipment at no cost to the Town.
4. The applicant will apply for all appropriate permits for the construction of the facility.
5. Ninety days after construction RFR and noise measurements will be taken.
6. Construction work on the PWSF shall be limited to the hours between 7:00 AM and 5:00 PM.
7. As-built construction drawings, plan and profile, of all infrastructure improvements shall be submitted in electronic and paper copy at a scale of 1" to 20', including, but not limited to: Underground Utilities (sewer lines, storm drains, water lines, electrical, phone, cable, natural gas lines, etc.)
8. As per the Durham Zoning Ordinance, Section 175-106, Abandonment or Discontinuance of Use, the following shall apply:
  - A. **Notification** - At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice

shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

**B. Removal** - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

**C. Failure to Remove** - If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Town Council shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Town Council. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

***Susan Fuller MOVED to approve an Application for Site Plan Review submitted by Metro PCS, LLC, Chelmsford, Massachusetts on behalf of Raymond Laroche, Durham, New Hampshire to install a personal wireless communication facility on his property, and schedule a public hearing for August 24, 2011. The property involved is shown on Tax Map 18, Lot 1-2, is located at 37-41 Bennett Road, and is in the Rural Zoning District. Andy Corrow SECONDED the motion.***

Mr. Kelley made note of the fact that the photo simulation of the mono-pine looked remarkably different than elevation A 1 A.

Councilor Smith said A 1 A simply gave the average tree canopy as a cross section view, and said it wouldn't be possible for anyone to see this in the field.

Mr. Kelley said he would like to hear from the applicant on this. He said in the photo simulation, the tree looked a lot healthier than the one in A 1 A.

Attorney Grossman said what would be there would be more like the photo-simulation, and said it was hard to draw that on the plan. He also noted that the official name of the applicant was Metro PCS Massachusetts LLC.

Ms. Fuller asked how many feet of the 120 ft tower would have greenery, and Attorney Grossman said it would start at the top of the 60 ft tree canopy, and would go up about 60 ft from that. He provided further details on this.

***The motion PASSED unanimously 7-0.***

- V. Public Hearing on an Application for Site Plan Review** submitted by MJS Engineering, PC, Newmarket, New Hampshire on behalf of Great Bay Kennel, Durham, New Hampshire and the Town of Durham to replace the existing canine daycare building with a new building that includes an indoor and outdoor play area, office and a studio apartment on the second floor. The property involved is shown on Tax Map 6, Lot 11-7, is located at 27 & 35 Newmarket Road, and is in the Residential C Zoning District

Ms. Fuller recused herself.

Mike Sievert of MJS Engineering PC, represented the applicant. He said at the site walk that evening, there had been discussion with the neighbors about noise coming from the site, and possible changes needed to the site plan to mitigate the noise issue. He said at the site walk, it was explained that an alternative location was proposed. He explained that the current site plan didn't show this, so the applicant would have to come back to the Planning Board with a revised plan.

He said the proposal had been that the new building would be located at the top of the hill, and would open to the dog pen area below. But he said they were now discussing flipping this design, and instead putting the building at the lower side of the hill, which would serve as a barrier to noise from the dog pen area, which would be placed further up on the hill. He also said less noise would be heard from the building in that lower down location.

Mr. Sievert said a major problem with this design was that it would mean the whole building would be in the Historic district, but he said they would have to work with that. He said with the revised design, nothing would change in terms of the building, other than its location.

There was discussion that the next Board meeting would be September 14<sup>th</sup>, and Mr. Sievert said there probably wouldn't be enough time to revise the plan by then, given the fact that the Historic District Commission would have to review the plan.

Mr. Campbell said the Planning Board could make its approval contingent upon approval by the HDC.

Councilor Gooze said he didn't want there to be a situation where the neighbors had to come back to the Planning Board several times. There was discussion about this. Councilor Gooze asked what would happen if the HDC rejected the plan.

Mr. Sievert said the applicant's understanding was that the HDC could say what the building could look like, but not where it could be built.

Mr. Campbell said he would prefer to put the revised application on the September 28<sup>th</sup> Agenda, and go from there.

Chair Parnell said the application had been advertised, so members of the public now at the meeting



should therefore have the opportunity to speak.

***Richard Kelley MOVED to open the Public Hearing. Bill McGowan SECONDED the motion, and it PASSED unanimously 6-0.***

Chair Parnell summarized that the project previously presented wasn't now on the table. He asked if there were any members of the public who wished to speak anyway.

**Susan Fuller, Bennett Road**, said this was a very valuable business to the residents and the Town, and said she hoped they could make it work, and could make 99.9% of everyone happy about it.

**Rick Renner, 28 Newmarket Road**, said he was there with his wife **Suzy**, as well as **Frank and Anita Pilar, 26 Newmarket Road**. He said he had also been given proxy to speak on behalf of **Doug and Susan MacLennan, 21 Newmarket Road**, who could not be there. He said he and his wife had been on vacation, and had then learned about the application. He said he was pleased that they were able to meet with Mr. Sievert to discuss the site plan and site issues.

He said he and his wife had moved to their property the previous November, when the windows were closed. He said he had subsequently learned that former owners Paul Dubois and Sharon Griffin had brought a legal suit concerning the noise issue, and had lost the suit. He said when he opened the windows in the spring, he'd learned that despite the beauty of the property, there was continuous barking from the dogs on the Sawyer property, from Monday morning at 7 am to Friday night at 6 pm.

Mr. Renner said there was also a fair amount of loud music coming from the property. He said they had great respect for the clinic, and used its services although not the doggie day care services. He said after some cajoling, the staff at the clinic had turned the music down, but said he'd had to call again to request that they do this.

He said one of the requests made to Mr. Sievert was that there be a professional sound engineer to look at the site and building. He also noted that Mr. Pilar had said a friend had a system where when a dog barked, a piercing sound was created beyond human ears that stopped the barking. He said he and the other neighbors were willing to come back to the Board as many times as needed to discuss these things.

Mr. Renner read the letter from the abutters, which said they were not anti-business, or anti-dog, or anti-neighbor, but were against excessive and disruptive noise. The letter said that while some errors may have been made previously concerning permitting, trailer placement or acknowledgement of abutters' rights to quiet enjoyment, they were confident that an appropriate solution could be processed through the Planning Board, and that a general consensus from the neighborhood in favor of a well thought out solution was possible and probable. The letter said the neighbors supported the rights of a business to financial success, but not at the expense or detriment of neighbors' rights to quiet enjoyment, and preservation of property values.

***Richard Kelley MOVED to continue the Public Hearing to September 28, 2011. Bill McGowan SECONDED the motion, and it PASSED unanimously 6-0.***

- VI. **Design Review on an Application** for an Eight-Lot Conservation Subdivision submitted by John H. Farrell, County Line Holdings LLC, Durham, New Hampshire, on behalf of Martha Garland and Joyce Melanson, Durham, New Hampshire. The property involved is shown on Tax Map 13, Lot 15-1, is located at 110 Mill Road and is in the Residential B Zoning District.

Postponed to the September 14, 2011 Agenda at the request of the applicants

- VII. **Discussion on Possible Amendment to the Table of Uses, Article XII., Section 175-53.** The Town Council has forwarded a possible amendment to the Table of Uses for the Professional Office (PO) Zoning District to allow Single Family Residences as a permitted use within the District. The Planning Board will discuss the amendment and set a Public Hearing date.

Mr. Campbell said this was a Council initiated Zoning change that was proposed. He explained that the Planning Board didn't have the power to stop it, but could decide whether or not to recommend its passage. He said a public hearing was required, and would be scheduled now.

He explained that at a recent ZBA meeting, a variance application to restore to single family use a house on Madbury Road in the Professional Office District, which had previously been converted to an office, was denied. He said there was an accessory apartment associated with the property. He said Councilor Smith had subsequently brought this issue up to the Town Council, and proposed some language to amend the Zoning Ordinance to allow single family homes in the Professional Office district.

Councilor Smith said it was unlikely that this change would result in an influx of single-family residences in an area quite built up. He said he became interested in the issue when he saw the results of the ZBA hearing, where there was an application to reverse a process that began in 1996, when Michael Sakowski went to the Planning Board for a change in use to what was a comfortable, Cape Cod style house. He said there was no Professional Office district at that time, and no professional offices in that area.

He said in 2006, the Council, on the Planning Board's recommendation, finally adopted the Professional Office district. He noted that he was on the Council at that time, and said the vote was unanimous. He said he had also been involved in the discussion of the proposed district in 2002 and 2003, when he was on the Planning Board. He said at no point did he or anyone else on the Council in 2006 question the fact that in the new Professional Office district, which now contained what had been a part of the RA district had been there RA district, the P in the Table of Uses was being changed into an X.

Councilor Smith said after the ZBA hearing, he started thinking this through, did some research, and discovered that at the time the Professional Office district was created in 2006, there were only three professional offices there, which was the Sakowski office, Xemed and the Wentworth Douglas office. He said subsequent to the Zoning change, there were two, so nothing new had been added, and one had been discontinued. He said he saw no harm in recommending this change, which had been unanimously moved on to the Planning Board for its review at a recent

Council meeting.

Chair Parnell asked if there were other single-family homes operating as such in the Professional Office district now.

Councilor Smith said more than half of the lots in the district had single-family homes, and the rest were apartments rented primarily to students as well as fraternity houses. He said a reason for no longer permitting new single-family residences was a misguided attempt to spur economic development. He noted that several multi-story buildings had been approved in the Central Business district, but nothing new had happened in the PO district since 2006. He noted that the Church Hill district allowed single-family homes.

He also said given the fact that the new Library would be a bookend for the Professional Office district bordering on the RA district, he hoped it would result in some of the run down single-family residences on Mad bury Court being purchased and refurbished by families. He said with Capstone coming in on the far side of Town, it was unlikely that any developers would be particularly interested in buying these residences, tearing them down and putting up apartment buildings.

Councilor Smith said with the Conditional Use adaptive reuse options, any one of those residences could become a multi-unit building. He said with the approval of the Planning Board, the owner of the former Sakowski agency could put an apartment on each floor, which would make it a multi-unit building. He said what he was proposing was not spot zoning, and said the property in question was a good example of something that could and should continue as a single family residence. He said if he were coming to Durham as a young faculty member, he would want to live in such a residence.

Councilor Gooze said he had spoken against the Sakowski variance but had voted on the Council to send the Zoning change proposal to the Planning Board, because he wanted to hear discussion on it. He said the PO district was a very confused zone, and said what had been envisioned for it hadn't happened. He noted that retail commercial as well as office uses had been permitted in the district, as long as there was a multi-use structure. He noted that this was changed into a conditional use as a result of a citizen petition proposed because of a project on Strafford Ave bordering the RA district.

He said when he spoke against the recent variance application, his question was what the Town really wanted for the PO district. He said if offices were really wanted there, as a transitional zone, allowing it to go back to residential would make it that much more difficult to have offices. He said the best and highest use for the space was as a rental, whether to a family or three young people.

Councilor Gooze noted that he knew someone who would have loved to put light manufacturing in that building. He said there were existing performance standards for this use, and said it would be perfect for the PO district. He said he would prefer that use to residential use, and said he thought it was a good use for all non-residential zones. He said if people wanted to keep the district essentially residential with rental properties, they should change it back and perhaps allow light industry uses as well.

Councilor Smith said Councilor Gooze was asking some good questions about the PO district, and said what he was proposing could be part of a re-thinking of the district. He agreed that light industry should be allowed in the district, noting the existence of Xemed there, although it had been called an office use.

He said Administrator Selig had suggested that Robbi Watson's Davis Court properties to the north of the PO district could be included in an expanded PO district. He said if that happened, there would be 5-6 single-family lots on Madbury Road that should be part of that. He said he would be reluctant to extend the district unless they gave back the possibility that residential single family uses could continue as a permitted activity. He said he was very nervous about the notion that residential uses were grandfathered, and described his personal experience concerning this. He said he could see other property owners running into the same kind of problem if this Zoning change wasn't made.

Chair Parnell received clarification that the mandate right now in front of the Planning Board was narrow, with Mr. Campbell explaining that the light industry zoning change idea could be dealt with as part of the commercial core strategic plan zoning amendments.

Mr. Kelley said Councilor Smith had been very thorough in his research, taking the Board back to 1941. He asked what the Council had heard at its August 15, 2011 public hearing on this proposal.

Councilor Smith said there were two emails in support of the Zoning change, and said no one spoke for or against the proposal at the hearing.

Councilor Gooze said the emails were specifically addressing the Sakowski property. He noted that the Zoning change would cover the whole zone, and also spoke about another recent Zoning change that had been instigated by a particular property. He said it was important that there be sufficient vetting by the public of any proposed Zoning change. He also noted that this was a transition zone, so what was proposed wouldn't affect that many people.

Councilor Smith said when there was a public hearing in 2006 regarding adopting the PO district, there were no members of the public present.

Councilor Gooze said he would have been there, if he had known there were changes proposed. He said he was told he should have known about this, but said members of the public didn't know something was happening near their property unless they were notified. He said he wasn't against what was proposed now, but said a question was whether, if they really wanted the PO district to be a transition zone, with some businesses, allowing the property to go back to residential would affect that. He said he wasn't sure.

Councilor Smith said he didn't think they should think about this one property, but Councilor Gooze said the reality was that the property was why they were talking about a Zoning change now. He said he wasn't sure, and spoke further on this.

Mr. Kelley said the impervious cover area calculations for the PO district were very restrictive if someone wanted to put an office on a postage stamp lot, making it was hard to get the parking needed to service the business. He said there were other barriers, some of them having to do with Zoning, and some of them beyond that. He noted that the Board had been informed about lower prices for office space outside of Durham, at Pease, in Dover and in Newmarket.

Councilor Gooze said perhaps the PO district shouldn't have been changed from RA, or should have only gone up to Garrison Ave.

Ms. Fuller said office uses in the PO district went well with a residential area, and she noted examples of this combination in Portsmouth.

Councilor Smith said a member of the ZBA had said that if he were going to open a new office, he wouldn't want to rent or buy the property in question, because it was surrounded by student apartment buildings.

Councilor Gooze said he didn't think the business that had been there had had problems because of this, and also said he knew someone who would have rented the place if he could have put in light manufacturing.

Councilor Smith agreed that the Planning Board should recommend that light manufacturing be a permitted use in the PO district.

Councilor Gooze said if they made the proposed Zoning change, he didn't think they wouldn't get light manufacturing.

Mr. Campbell noted that this building could be converted to a multi-unit building as an adaptive reuse, under Conditional Use. He also said a multi-unit elderly housing development or a mixed-use project were permitted uses in the PO district.

There was discussion that the Planning Board could recommend that the Council take a look at the whole PO district right now instead of making this one Zoning change.

***Bill McGowan MOVED to schedule the Public Hearing for September 14, 2011. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

## **VIII. Other Business**

### **A. Old Business: Update on the Master Plan**

Mr. Campbell said toward the end of the month, the Master Plan survey results would be released to the public. He said the Planning Board would discuss them in September with Charlie French. He noted that the results would be provided in a number of different formats, and he provided details on this. He said as they started to move forward with updating the Master Plan, these results would help guide the Board.

He said a quick overview was that the results indicated that people wanted balance. He said there was a strong positive response concerning economic development, community character, and facilities such as the transfer station.

Councilor Gooze said he remembered how strongly people had previously felt about duplexes because of the three unrelated issue. He noted that there was a 66% positive response concerning duplexes in the survey, but said he thought that if the question had referred to the three unrelated aspect of this, it would have changed the responses. He said those kinds of things had to be kept in mind as the Board looked at the survey results.

Mr. Campbell agreed. He noted that 84% of respondents said more single-family homes should be encouraged. He said 10 years ago, it would have been just the opposite, and elderly housing would have been favored. It was noted that elderly housing had still gotten a 69% favorable response in the recent survey.

There was discussion that mobile home parks only got a 7% favorable response rate, and that conservation subdivisions got an 80% favorable response. Mr. Campbell said a question could have been whether residents thought some changes to the regulations were needed.

Mr. Kelley agreed that this would have been an interesting question to ask. He said the way this question and others were asked, the question was how not to give a favorable response.

Councilor Smith said he had discussed this issue with the Conservation Commission.

Councilor Gooze noted the 39% positive response concerning changing to a two-way traffic pattern downtown.

Mr. Campbell also noted the low favorable response concerning taking public transit downtown. Councilor Gooze noted the problem Wildcat transit had been having in terms of low utilization of those transit routes.

Ms. Fuller said this was discussed by the EDC on Monday, in terms of whether young families would get on the bus with their kids and go shopping downtown.

Mr. Kelley said they might get on the bus with their kids in the summer to go to the Library.

Mr. Campbell said another overriding theme in terms of economic vitality was a very strong positive response that people would spend more money downtown if there were more choices.

There was further discussion about some of the survey responses. Councilor Gooze spoke in detail about the survey response that Madbury Road and Main Street was

considered the largest intersection problem. He said he liked the traffic design that was there now, also noting that he had observed the area for about a half hour, and had watched the choices that drivers made at that intersection. He provided some details on this. He said for cars turning left onto Madbury Road and then onto Pettee Brook Lane, it was nice to know now that one didn't have to fight for a spot.

Ms. Fuller said at both intersections, she was concerned about someone banging into her from behind because they weren't prepared.

There was discussion that the traffic pattern and the parking were still experimental, as they headed into the fall semester.

Mr. Kelley asked why the Town didn't charge people without residential stickers for parking at Wagon Hill. He noted that he and his family had used that area this summer.

There was discussion about bringing this up to the Economic Development Committee. Mr. Campbell said he had brought it up during CIP discussions, and agreed that as that area was used more, the approach Mr. Kelley had described should be used.

Ms. Fuller said this could also be done with the Doe Farm and anywhere else in Town where there was parking. She suggested that the funds could go toward recreational uses or to the Conservation Commission.

Councilor Gooze suggested that the parking spaces on Madbury Road should be limited to two hour parking.

**B. New Business**

**C. Next meeting of the Board: September 14, 2011**

Mr. Kelley left the meeting at 8:41 pm.

**IX. Approval of Minutes – July 13, 2011**

Page 5, line 7, should read "He said if the Town denied what the developer applied for..."

Page 6, line 12, should read "...provisions to go to the Council..."

Page 7, line 12, should read "Councilor Smith said they didn't have much workforce housing anywhere in Durham now, and said if the Planning Board was asked to reduce lot sizes, abutters would come out in opposition." Line 19, should read "...workforce people who were not..."

Page 8, line 1, remove comma in sentence.

Page 10, line 34, should read "...said people could go out next to the Grange."

Page 13, line 46, remove comma in sentence.

Page 14, line 13, should read "...buildings would need to be elevated..." Also line 16, should read "Mr. Albert said most of the Bennett Road frontage of the property was developable."

Page 15, line 23, should read "...put this item off." Also line 29, should say Discussion on the Capstone site visit with Strafford Rivers Conservancy. Line 31-32, should read "...site walk that day of the Capstone parcel, which was attended..."

Page 16, line 8, should read "...opportunity to monitor an easement on the property." Line 10, should read "Capstone".

Page 17, line 31, should read "...said if it didn't, he..." Also, separate line 24 and 25 with a space. Line 45, should read "...would like to find a buyer before..."

Page 19, line 22, should read "Wolfe".

***Councilor Gooze MOVED to approve the July 13, 2011 Minutes as amended. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-0.***

**X. Adjournment**

***Councilor Gooze MOVED to Adjourn the meeting. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-0.***

Adjournment at 8:55 pm.

Victoria Parmele, Minutes taker