

**DRAFT**

**Durham Planning Board Minutes  
Wednesday November 2, 2011  
Durham Town Hall - Council Chambers  
7:00P.M.**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Peter Wolfe; Bill McGowan; Town Council representative Jay Gooze; alternate Wayne Lewis; alternate Andy Corrow; alternate Town Council representative Julian Smith

**MEMBERS ABSENT:** Richard Kelley; Richard Ozenich

**I. Call to Order**

Chair Parnell called the meeting to order at 7:04 pm.

**II. Approval of Agenda**

Chair Parnell asked if it made sense to discuss the Master Plan before the proposed Zoning amendments, since the zoning came out of the Master Plan.

Mr. Campbell said the Zoning changes being discussed now came out of the charrette and Strategic plan for the commercial core. He said the discussion on the commercial core for the Master Plan chapter was a separate but equal issue.

Councilor Gooze said there was some concern that they were being driven into the Master Plan from the charrette and said he wasn't sure that people working on the Master Plan were going to be 100% for it. He said the typical way to do this was to do the Master Plan and then do the Zoning rewrite to follow along with it.

Chair Parnell said the last Master Plan had a general overview concerning the commercial core that led to the Zoning.

Mr. Campbell said the Planning Board had been working on the commercial core strategic plan and zoning amendments for almost 18 months. He said the target date to get the Master Plan chapter done was next May-June, but said he didn't think they could wait. He said it took six years to get commercial zoning after the last Master Plan update. He said it was all coming together, and said it was important for the Board to keep in mind that when they were looking at the zoning, they were looking at the Master Plan chapter as well, and needed to make sure that they worked together.

Mr. Campbell said the Board had done some planning with the strategic plan, and was following through with the Zoning changes.

Mr. Wolfe said Councilor Gooze was right in that the Board would dictate what the Master Plan commercial core chapter looked like based on what it did with the Zoning amendments.

Mr. Campbell said he thought that was ok. He said the strategic plan would be incorporated into the Master Plan in a major way.

Councilor Gooze said he didn't mind doing this, but just wanted everyone to be aware that this was what they were doing.

***Peter Wolfe MOVED to approve the Agenda. Councilor Gooze SECONDED the motion, and it PASSED unanimously 6-0.***

### **III. Discussion on Possible Zoning Ordinance Amendments Associated with the Commercial Core Strategic Plan.**

Chair Parnell suggested that the Board should set some objectives for what it wanted to accomplish, so the discussion wasn't too open-ended.

Mr. Campbell noted the meeting memo he'd provided.

Ms. Della Valle said she and Mr. Campbell had discussed how to possibly conduct this conversation so the Board could move through the issues that had been identified. She said it had been suggested that the top two issues were protection of residential districts from adjacent commercial uses, and whether or not to pull the design standards/guidelines out into a separate document. She said these could be focused on first, and then other issues could be addressed.

#### **Issue #1 – Protection of abutting residential districts outside the Central Business District**

Ms. Della Valle said with this issue, it seemed that noise at certain times of day and primarily late in the evening was driving a lot of the concern. She said things like traffic, the scale of buildings, etc. were being addressed in the design/performance standards. She said the Board should look at the standards that were proposed and adjust them as seemed appropriate.

She said some possibly ways to provide additional protection of adjoining residential areas were to:

- make the standards more restrictive concerning noise
- retain some conditional uses for area that were one lot adjacent to residential districts
- not allow some uses in that area
- create an overlay district across current zones, and restrict certain uses in those areas
- create a different zone for that area. She said a question was whether it made sense to combine some districts. She spoke about the idea of creating a transition district.

Councilor Gooze said from a noise standpoint, it boiled down to the fact that multi-unit student rentals were the most problematic issue for adjacent residential areas. He said it wasn't just hearing the music, etc., and was also the fact that noise from parking lots created a problem at night. He noted that there was a University parking lot above where he lived, and said it wasn't uncommon to hear the beeping sounds when people locked their cars. He said residences a certain distance away probably wouldn't be affected by that.

He said concerning the idea of having conditional use for lots adjacent to a residential area, this could still be problematic because of issues with parking lots.

Councilor Gooze said that regarding not allowing some uses,

He said he didn't think he would mind a light manufacturing use or offices uses next door to him, stating that noise wouldn't be an issue at night. He said these uses could be handled with performance standards. He noted that the Professional Office district was supposed to be for office uses, but had morphed into retail uses below and rentals above. He said he thought offices would be acceptable in any zone.

Chair Parnell asked if they were really looking at potential new uses near residential areas, noting that Mill Plaza had residences all around it. He asked Councilor Gooze what he thought could be done about Mill Plaza that would change its interface with these residential areas.

Councilor Gooze said this would be problematic. He noted that the Mill Plaza study committee had recommended some residential uses as part of redeveloping that area, as well as a 3 story height limit and perhaps just office uses adjacent to residential areas.

Chair Parnell said if they started creating new zones, they might start putting conditions in that would be difficult to implement.

Councilor Gooze said he preferred not to create a new zone, and instead to use performance standards, or to limit uses to office or light manufacturing next to residential areas, with the caveat that Mill Plaza would be a different story.

Mr. Campbell said a particular use like multi-family or mixed use buildings could be excluded if it abutted a residential district.

Councilor Gooze said those uses were the biggest concern of people he had talked with in residential districts. He said the only use he could think of that would be a problem other than a club, a kennel or a restaurant with an outdoor deck, was a multi-unit development.

Ms. Della Valle asked about the multi-family part of mixed use buildings.

Councilor Gooze said it was the same issue, unless it was workforce housing. He said perhaps an expansion could be allowed in some areas if it included workforce housing.

Ms. Della Valle said when the Board had discussed this issue in the past, it had treated the Central Business district different than other districts.

It was noted that except for the Mill Plaza portion of the Central Business District, there were no residences adjacent to that district.

Ms. Della Valle said if they went with the 1 c approach, they wouldn't have to apply it in the Central Business district. She said performance standards would still apply. She summarized that multi-unit housing and mixed use that included multi-unit housing (with the exception of workforce housing), clubs, kennels, and outdoor decks for commercial purposes, would be uses that would not be allowed for lots adjacent to residential areas in the commercial core districts other than the Central Business district.

Board members agreed that this was a reasonable way to proceed.

Mr. Wolfe he didn't see anything in the standards about a situation where there was an existing building and the question was how the building to be built next to it was going to look.

Ms. Della Valle said this was addressed on page 19, at the beginning of the Design Standards and Guidelines.

## **Item #2 – Whether to include design standards/guidelines in the Zoning Ordinance, Site Plan Regulations, or as a Free Standing document**

Ms. Della Valle noted that concern had been expressed by Board members that it was a deterrent to have so many pages in the Zoning Ordinance on these design standards. She said she had cleaned up the document where she could, although noting that this could still be improved.

She said that generally, she recommended keeping this as a single document, which would be less confusing for everyone. She provided details on this. She noted that Mr. Campbell was going to discuss with the Board's attorney whether adopting this as a regulation would have the force of law. She said the way things were laid out right now, there were some requirements as well as some suggestions in terms of the design related provisions.

Chair Parnell said the Design Standards and Guidelines seemed to get into more regulatory things until Section 8, where they became much more aesthetic. He said he saw the provisions from Section 8 on going into a separate document.

Ms. Della Valle said that actually, there were both requirements as well as suggestions and encouragement in all of the sections. She said the shalls were almost formulaic, and could be handed off to staff, who could then check them off or not in terms of whether an application complied with them. She said there would have to be discussion by the Planning Board on the may's. She said if the Board was really uncomfortable with some of the shalls, a waiver process could be set up, through which the Board could choose to slow its own process down.

Councilor Gooze asked whether a variance could be required instead in some situations.

Mr. Campbell said there were some situations where there was the waiver option for the Planning Board to consider, noting the waiver the Planning Board could grant an applicant concerning having to provide parking for a project.

Ms. Della Valle said the general practice was that if the Planning Board was given authority to waive something, there needed to be very specific directions and boundaries concerning the waiver. She said she would check with an attorney on this.

Councilor Gooze asked if the design standards/guidelines should go in as an article of the Zoning Ordinance rather than as a separate document.

Mr. Wolfe said he had been the Board member who had wanted to take them out of the Zoning Ordinance. But he said looking at Ms. Della Valle's rationale, he'd changed his opinion. He said in order to keep things straight, it had to be in the document. He said this might look more complex, but was essential in order to keep things organized.

Councilor Gooze noted that with the editing that had been done, the document had been shortened and was easier to read now.

Mr. Wolfe said he was happy with keeping these provisions in the Ordinance.

Ms. Della Valle pointed out that while the provisions could be put in the site plan regulations, this would mean they would only apply to projects that required site plan review.

She said a question that needed to be resolved with the Town attorney was whether if the design standards/guidelines were put in the regulations rather than the Zoning Ordinance, conformance would still be required.

Mr. Wolfe said there would need to be some mechanism to resolve the ambiguous language that wasn't clean.

Councilor Gooze suggested that with a project at Mill Plaza, the Board could have a waiver process for properties adjacent to a residential area. He said it would be kind of like a conditional use.

Chair Parnell said there appeared to be a mixture of shalls and mays in the draft, and said he thought this would make things difficult for someone working through the Ordinance and trying to decide whether to invest in a project in Durham. He said the language wasn't precise.

Mr. Wolfe asked Chair Parnell if it was the wording itself or the concept of having the shalls and mays that he was concerned about.

Chair Parnell said there was a mixture of what must be done and what was not required, and he provided some examples of this.

Ms. Della Valle said if the concern was that there were mays as well as shalls, most professionals would have no problem with this.

Chair Parnell said a question was whether the Planning Board should design a project for the developer.

Mr. Wolfe said an issue he had with the draft was that he didn't understand half of the definitions in it. He said he agreed with Chair Parnell that the wording needed to be clearer.

Ms. Della Valle said they would address the definitions piece as well. But she said a question was who these provisions were being written for, - a developer, or Sam Smith who lived in Town. She said it got tricky when getting into design provisions to try to substitute language that was different from what was part of the profession.

As an example, she said she would need to write many sentences in order to describe a terminated vista, as compared to simply saying those two words. She said this was a balancing process, to be defined by the Planning Board.

Chair Parnell said it was the Planning Board that would be applying this, and said they were not architects. He said perhaps they were getting into ways of presenting things that were beyond what they were capable of.

Ms. Della Valle said there was always a learning curve, noting that there had also probably been a learning curve to face when they first started doing the stormwater regulations. She said there were also the questions of to what extent the Board wanted to rely on staff or wanted to get training themselves, and said these were things they needed to define.

Councilor Gooze asked how Ms. Della Valle had come up with the requirement that 23% of the front wall of a building was required to be clear glass.

Ms. Della Valle said she had done some measurements, having picked out buildings in each zone that reflected the image the Board wanted to portray, and she noted that she'd looked to Mr. Campbell for guidance on this. She said she had then done the calculations concerning the glass.

Councilor Gooze suggested that the requirement should be 25% glass instead.

Councilor Gooze said he'd gone through the draft a couple of times, and said the majority of the design standards/guidelines were shalls.

Mr. Campbell said he did think about the idea, as Chair Parnell had, of having a separate document for the "shoulds" and the "encourages".

Ms. Della Valle asked if in the current Zoning Ordinance, there was a mixture of shalls and shoulds.

Mr. Campbell said for the most part, the Ordinance said what the applicants shall do.

Mr. Wolfe said the wording "...should emulate town character..." could be put in the Zoning Ordinance at some level, but said it was clearly aspirational language, and had no real force.

Councilor Gooze noted the visual preference survey, and said perhaps the wording should be “shall” in some cases, such as “...shall relate to neighborhood character.” He said if that wording wasn’t in the Ordinance, they would get things like the Cottages at Jenkins Court. He said it would be nice to have all of the buildings in that area in character. He said the language suggested that a developer should try to make that happen with a project, but didn’t require it.

Ms. Della Valle encouraged Board members to look through the shalls and shoulds very carefully. She said she’d agonized over them in a number of cases. She said a lot of times when she went to the permissive approach rather than the required approach, it was because she could see situations where the Board might want something different.

She noted that a problem with regulating design was to make sure not to end up with everything looking the same. She made reference to the visual preference surveys that were done, and said sometimes people liked uniformity and sometimes they liked mixes. She spoke about trying to create an environment where they could get variability within an overall framework so that the variability worked, and she provided some examples of this.

She suggested the idea of taking a page out of the form based code and doing a pattern book, which was a set of architectural drawings to show off different kinds of roofs, door designs, etc. that represented the design standards. She said there could be a pattern book for Durham, which showed the predominant styles of buildings that they wanted developers to emulate.

She said she could show the Board what such a book looked like, if they decided they wanted her to go down that path, but said this would involve more than what she had been hired to do. She noted that she was trying to work on the design regulations in a way that wasn’t so inflexible that it became a cookie cutter approach.

Mr. Campbell noted that sloped roofs were addressed on page 22, and he described how that section was done. He said it captured what Ms. Della Valle had just talked about.

Councilor Gooze agreed that it made sense.

Ms. Della Valle asked Chair Parnell if he wanted to discuss who this document should be designed and written for.

Chair Parnell said he thought it should be written for someone involved in the business of buildings, as well as someone in the business of regulatory planning of those activities. He said he was fine with what was proposed other than a few things he had some problems with. He said some of the definitions were a bit dense, and said the regulations were in some cases too specific about what a developer could do.

Ms. Della Valle summarized that she would integrate the design standards/guidelines into the Zoning Ordinance, based on what the Board had said. She said it would be a separate article in the Ordinance.

**Item # 3 - Whether the Town should retain conditional use permits for some uses that the Town is concerned about, like duplexes**

Ms. Della Valle said the question was whether the Town should keep conditional use for some uses it was concerned about. She said duplexes was an example of a use like this, but she asked if they had perhaps solved this issue with the discussion on Item #1.

Councilor Gooze said the Board had probably gone a long way toward addressing this issue with the discussion on Item #1. He noted that when duplexes had been taken out as an allowed use in many districts, it was because it had been very problematic. He said within the commercial core, putting in a duplex would be no different than putting up a multi-unit building. But he said multi-unit properties would have property management, while he wasn't sure that duplexes would.

Ms. Della Valle suggested that concerning the property management idea, they could require that duplexes be owner occupied.

Mr. Campbell noted that duplexes wouldn't come before the Planning Board for site plan review.

There was discussion that as proposed now, duplexes would be allowed in the Church Hill district and the Professional Office district, and Court House district as an adaptive reuse of an existing family structure.

Ms. Della Valle said the idea was to allow an increase in density with an existing single family home. But she said it wasn't a deal breaker if it was giving Board members some angst.

Councilor Gooze explained that the community had been very definite about duplexes because of the problems with them before.

Mr. Campbell said MUDOR and ORLI were the only districts where duplexes were currently allowed, as conditional uses.

Councilor Gooze noted that duplexes couldn't be excluded from all zones.

Mr. Wolfe said what was being proposed now was to allow duplexes everywhere but in the Central Business district and the residential districts.

Ms. Della Valle suggested that the Board could also exclude duplexes from that special area where commercial districts and residential districts abutted one another.

Mr. Campbell said he and Ms. Della Valle had discussed the idea of only allowing duplexes for workforce housing.

Councilor Gooze said if the Board wanted to encourage workforce housing, there was a great opportunity to do this with duplexes. He said it would provide an opportunity for



faculty to have housing close to the downtown. He suggested that workforce housing duplexes should be allowed anywhere in Town.

Mr. Campbell said duplexes were perfect for workforce housing, in that they allowed someone to live in one unit and rent the other, so were more affordable than a single family home.

Ms. Della Valle said if a duplex was owner occupied, it was tricky to regulate and not have it become an enforcement nightmare.

There was discussion that a workforce housing duplex could be a rental property and wouldn't have to be owner occupied.

Ms. Della Valle said the ideas on the table were limiting duplexes to workforce housing, requiring one of the units to be owner occupied (which she said was an enforcement nightmare) , and not allowing duplexes adjacent to residential districts unless they were workforce housing.

Councilor Gooze said when the Board went to public hearing with these proposed changes, he thought some kind of workforce housing would be acceptable. He noted that Councilor Smith was a proponent of workforce housing.

Councilor Smith said he was. He said definitions would be needed for infill and retrofitting, which were applicable for all zones. He said there were sections of Town with good size lots, where the houses were getting old and could be torn down, with duplexes then being built, one of which could be for the owner, who didn't have to meet the workforce housing qualifications. He said the rental half could be the workforce housing portion, and said there should be an option for this.

Councilor Gooze said he would like to leave things as they were with duplexes because it would otherwise scare people. But he said he would like to see some kind of workforce housing option put in.

Mr. Campbell said some money had been put in the Budget to take another look at workforce housing. He said he wouldn't want Ms. Della Valle to spend a lot of time on that issue. He said perhaps they could put the idea out there, but wouldn't allow it next to residential districts for the time being. There was discussion that there could be the caveat that the Board would look at this more as the workforce housing issue was looked at more.

It was agreed that Ms. Della Valle wouldn't work on the workforce housing piece right now. She said she wouldn't necessarily encourage duplexes in the Central Business district, stating that it was too low a density for that zone. She said that was why it was restricted in what was proposed to adaptive reuse of existing single family buildings. She said there might be some duplex infill on Church Hill.

Councilor Smith said some more options concerning workforce housing would be coming before the Town Council, and said the Planning Board would be asked to weigh in on this.

**Item # 4 Dead walls – is the maximum length of dead walls too big**

There was discussion on the issue of dead walls on a building, and that what was proposed seems like a reasonable number. Ms. Della Valle suggested that Planning Board members should measure what felt good and felt bad in terms of dead wall space. She said a lot of the dead walls observed in the Central Business district, along alleys, were 60 ft or more. She said in a number of cases, it could be seen where there used to be windows.

Councilor Smith said dead walls could evolve, noting that there used to be some dead walls where La Paz now was.

Mr. Campbell said he was surprised to see how many there actually were, and there was discussion. He noted one of the reasons they existed was that if a wall was within three feet of the property line, it couldn't have windows.

Ms. Della Valle said the Board might want to distinguish a dead wall along an alley from dead wall along a face front, because when they were along the alleys they weren't as offensive. She said that at least there should be some control over the fronts of buildings.

She spoke about the various alleyways in the downtown, and said perhaps some could be re-designed as part of some kind of creative community development idea. She said perhaps the Board was therefore getting ahead of itself in terms of addressing dead walls on alley ways.

Councilor Gooze said sitting at La Paz, looking out at a dead wall, he'd wondered why there couldn't be a nice mural on that wall.

Mr. Campbell noted that Federal Savings Bank had gotten an approval from the Planning Board to put in a driveway and windows in that area but this work had not been done.

Ms. Della Valle said a question was whether the Board wanted to restrict regulating dead walls to frontages and rear areas. She said the key thing was to regulate them when they were really visible. She noted that the language that had been included provided a lot of options, and she provided details on this.

There was further discussion about the dead wall issue. The Board agreed that front and back walls should be regulated in terms of dead walls, and that for buildings with two frontages, they both should be regulated. They agreed to go with 25 ft as the maximum length for a dead wall.

**Item # 5 Review, Adjust, add some definitions to tighten up “some definitions that don't tell what's being defined”, and possibly add a new definition for workforce housing duplex”**

Workforce housing

Ms. Della Valle said she wouldn't develop a definition for workforce housing, and said what had just passed as an ordinance could be used for this.

#### Farmers market

It was agreed that the farmer's market definition as written now was fine

#### Frontage definitions

There was discussion about the various frontage definitions that were proposed. Board members agreed that it would be good to include photos to go along with the frontage definitions. Ms. Della Valle suggested adding either photos or architectural drawings to explain the frontage types....

Chair Parnell confirmed that different frontage types were discussed for different districts, and asked if this was important.

Ms. Della Valle said it was important in only a few places, stating that most frontage types were allowed in several places. She said Church Hill was a bit different because it was more of a residential area. She said some residential frontage types probably wouldn't be appropriate in the Central Business district and should be prohibited. She suggested that she would rework the definition for frontage type. She noted that she'd taken some of the standard definitions from the form based code, and said some of these needed some work.

#### Definition of Lot Frontage

The Board agreed to get rid of the second sentence proposed under this definition.

#### Inferior Material

Councilor Gooze asked whether concerning the word "value" as used there, that value was defined. There was detailed discussion.

Ms. Della Valle said after hearing what Board members were saying, this definition would be removed from what was proposed. She said she would also get rid of corresponding language in the design standards

Mr. Campbell noted the wording concerning this issue on page 25, under the design standards, and said it was pretty good.

#### Definition of Portico

Ms. Della Valle said this word was found in the Zoning Ordinance and there was no definition for it. She said she wouldn't have used it otherwise, and said it could perhaps be pulled out.

Mr. Campbell said an arcade could run the full length of a building, while a portico was usually for the entrance.

Ms. Della Valle recommended changing the term portico as it was currently used in the Ordinance. She said she'd see if it could be replaced with a different term, and said if so, the

new definition for portico could be deleted. She said otherwise, she'd come up with a picture for it.

There was discussion about the Porch and Fence definition. Chair Parnell then suggested that the Board should think about whether all these definitions for frontage types were needed. He said they were confusing, and said the reality was that a small area was involved, geographically.

Councilor Smith said if someone wanted a planted area and porch, a question was why the Board would not want to allow this in the Central Business district. He asked if this was a definition that there would be a problem with.

Ms. Della Valle said they could probably get rid of the fence part, and just have the porch. She said what was driving this and the other façade definitions was that there were distinct design types. She said she was trying to approximate what they would get with a form based code, by putting this into a narrative.

Ms. Della Valle noted that there couldn't be a porch in the Central Business district because buildings had to come up so close to the street.

Councilor Smith noted that at Houghton's Hardware, people walked up onto the porch, and were under cover when it rained. He said he thought that if someone proposed a porch as part of a project and had a nice picture of it, the Board would have no reason to object to this.

#### Definition for Shopfront and Awning

Ms. Della Valle said this was a very important definition.

#### **Item #6 – Is a general reference to New England character adequate. Are tall buildings inconsistent with this.**

Ms. Della Valle said it wasn't sufficient to simply say that buildings reflected New England character, so more description was needed. She said they hadn't talked about the issue of height.

Mr. McGowan left the meeting at 8:50 pm.

Councilor Smith asked what was meant by a "tall building" here.

Ms. Della Valle said some people had expressed concern about 4 and 5 story buildings. She said Roger Hawk had tried to get at this issue with the visual preference survey he presented. She said the context was the issue in terms of height.

Councilor Gooze said they'd have to wait and see concerning Matt Crape's building, and said hopefully it would blend in.

Mr. Wolfe said the Crape building would surprise some people.

Mr. Campbell noted that the Zoning Ordinance allowed this height up to Garrison Ave.

Ms. Della Valle noted that a form based code looked at where the buildings would be, and would say in a regulating plan that in a particular place there could be 5 story buildings, and in another particular area there could be 4 story buildings, etc. She said she and Mr. Campbell had had to translate that approach into words rather than show it on a map.

She said they came up with situations/locations where the particular site conditions would reduce the visual impact of a building, or where the goal was for a building to provide some kind of presence and anchor to grab the eye. She said there were also situations where it would be good to have a particular building at the corner of some streets, or in an important public space. She said a few such locations were identified in the strategic plan and were intended to be illustrative. She said another situation was when there was a particular building where the intent was to command respect, such as a bank or municipal building.

Ms. Della Valle said this would be so much better to do if there was a form based code and regulating plan, and said she and Mr. Campbell and struggled with this. She said they would all have to see what came out of the community in terms of acceptance of what was proposed.

Councilor Gooze noted that with the new 5 story building that would be put up on the Kostis property, there would be essentially 4 stories facing on Rosemary Lane, which wasn't the main frontage, while it would read as a 5 story building on the main frontage, which was Pettee Brook Lane. He read the wording on page 21, which said "the topography of the property allows the first floor of the building to be below ground on the primary street frontage".

Ms. Della Valle said the goal of that wording was that the building would read as a 4 story building on the main street. She said she would see if this issue could be worked on.

Councilor Gooze said the issue would still be whether they wanted to look at a 5 story building as they came down Pettee Brook Lane.

There was further discussion.

Mr. Wolfe said it was important to consider building height in regard to surrounding buildings, so that if there was a two story building next door, a new building couldn't be five stories.

Ms. Della Valle said perhaps it could, but said the Planning Board would have the option of saying no in a particular instance.

Councilor Gooze noted the criteria listed on page 21, concerning conditions under which a 5 story building might be allowed. He asked on what basis the Board could say it didn't want a 5 story building.

Ms. Della Valle said there were no further conditions written there. But she said the "out" was at the beginning of the Design Standards and Guidelines section on page 19, in the second paragraph. She suggested that she should do some work on the exception language

there. She noted that this didn't provide the option of stepping up in height, and said there should be a provision for this.

Councilor Gooze said the concept was good, but said he wanted a developer to come in with knowledge that if he did what was proposed, he would have an easier time with the Planning Board. He asked how what was proposed concerning height worked with that.

Ms. Della Valle said it didn't help, because the negotiation process was being introduced to the situation.

Councilor Gooze said it wasn't a conditional use but yet it was.

Ms. Della Valle said a reason developers hated conditional use was that it messed up financing, because it was hard to get a loan for something that might or might not be ok to the Planning Board. He said developers wouldn't go through doing a full blown site plan only to then get kicked out the door.

Chair Parnell said he didn't remember the Planning Board having a discussion on the language in the second paragraph under Design Standards and Guidelines on page 19. He said what was allowed now was 50 ft, and said he didn't think they should put something in that diminished that.

Mr. Wolfe said he disagreed. He said if in the Professional Office district, if a 3 story office building was proposed next to a residential house, it might not fit. He said the wording was an important tool to create visual harmony.

Ms. Della Valle suggested that perhaps this wasn't a problem for the Board with 2 and 3 story buildings, but they would want to look more contextually when a proposed building was 4 or 5 stories.

It was noted that a building could be 35 ft by right, but could go up to 50 ft with permission from the Planning Board. Ms. Della Valle said perhaps there should be a straight allowance for up to 35 ft, but above 35 ft there should be a balancing provision.

Chair Parnell said the Board could already allow or disallow a building height above that, and might take into account the buildings nearby. But he said that concerning the statement on page 19, this seemed to be something a developer would want to get sorted out upfront before spending a dime in Durham.

Councilor Gooze said they were trying to encourage higher buildings and higher density, and might wind up with a taller building next to a shorter one, with the hope that things would fill in later.

Ms. Della Valle noted that on page 21, conditions were listed as to when a development could be 4 stories as a matter of right, and when a 5<sup>th</sup> story was discretionary. She said some guidance needed to be built in as to when the Board would say no.

Councilor Gooze said if the Planning Board had had this when the Crape application came before the Board, a question was how what was proposed would have affected that building.

There was discussion.

Ms. Della Valle said what she was hearing was that the language on page 19 needed to be adjusted to allow for stepping up in height, and to say that 35 ft was allowed by right. She also said the wording on page 21 should be edited so it reflected that 35 ft in height was allowed by right. She said the second idea was to try to edit page 21 so it reflected what the intent was with the Kostis property.

She said there needed to be better direction in terms of when the Planning Board might say it wanted to bring the height down. She said she'd bring some wording back to the Board and it could decide if the right balance was found.

Councilor Gooze asked Ms. Della Valle if enough input was received from residents that it shouldn't be the other way around, so that the maximum height was 3 stories and the Planning Board could allow more.

Ms. Della Valle said the marching orders from the B Dennis plan was to go higher and not lower. She said she was hoping to learn more on what people wanted from the visual survey, and said it might be that more work was needed on this. She said she had suggested to Mr. Hawk that he might want to look at areas where the vote concerning a building was evenly split, and go back and do a more targeted investigation.

Councilor Gooze said more feedback would be received when the Crape building went up.

Chair Parnell noted that there had been extensive public hearings on the developments proposed for the downtown, and no one showed up.

Mr. Campbell said with the Master Plan forum and survey, there wasn't an overwhelming statement that they shouldn't go more than three stories.

Councilor Gooze said for the immediate downtown, in the Central Business district, that was true, but said there was more questioning as they got further out from that.

Ms. Della Valle noted that Church Hill was treated differently. She said when talking with the community, it was important to get input but also to share information. She said there were some conflicting goals. She said one goal was to increase business activity downtown, but said a goal was also to stretch out the commercial district, which would in some cases undermine the goal of intensifying the uses downtown.

She spoke in detail on this, noting among other things that it didn't make sense to put uses that took up a lot of room in the downtown, and that it was important that commercial uses that had more room to spread out further out from the downtown shouldn't undermine the success of uses in the downtown. She said it was also important to think about where Durham was in the region. She noted that the market study got into some of that kind of detail, and said it was important to think about these things as they did the regulations.

Ms. Della Valle said height without the other design issues addressed in the B. Dennis plan wouldn't work very well, and said it was important to remind members of the community to look at this plan.

**Item # 7 – re franchise architecture.**

Ms. Della Valle said right now franchise architecture wasn't allowed in some zones. She said what was proposed was that it not be allowed in any of the commercial core zones.

Mr. Wolfe noted that the comment that not allowing the architecture hadn't prevented the franchises from coming into some towns.

Ms. Della Valle said Ed McMahon, who did work for the Urban Land Institute had noted that developers from national franchises had three models they came to a Planning Board with. She said the third, when the first two failed, was an architect designing a building that worked for the Town.

It was agreed that the Planning Board didn't have a problem with what was proposed.

**Item #8 - Light manufacturing in the Coe's Corner district isn't problematic**

Councilor Gooze said he was a proponent of the performance standards (on page 12) as they were now, and said he thought light manufacturing should be allowed anywhere if it could bring tax money in.

Mr. Campbell noted that there was a reference to Coe's Corner on page 12, under the performance standards for light manufacturing.

After further discussion, the Board agreed to propose that light manufacturing be allowed for Coe's Corner as well as the other zones in the commercial core.

**Item #9 - The Planning Board seems to like graphics and photos, but is there a need to identify the locations of the photos in the design standards and guidelines**

After discussion, Board members said there wasn't a need to identify these locations.

**Item #10 – concerns with proposed “overhangs on sidewalk”**

There was brief discussion on overhangs and the issues involved with them. It was noted that the old theatre on Jenkins Court had an overhang.

Councilor Gooze said this provision allowed a developer to do this, and provided some choices.

Board member said they had no issues with this.

**Item #11 – Concern that the PO District is almost the same as the Central Business district, which conflicts with the Master Plan, which sees the Professional Office district as a transition area.**

Councilor Gooze said with the right protections, it didn't matter to him what it was called.



Councilor Smith noted that single family residences were now a permitted use in the Professional Office district. He asked Councilor Gooze if he still had concern that the two districts were almost the same, and Councilor Gooze said not in regard to the provisions they were talking about.

**Item #12 - Concern that the Board hadn't been polled about how it wanted to go – conditional use, form based code, design standards/guidelines, and need for discussion as a Board**

It was agreed that the Board had had that conversation at the previous Planning Board meeting.

Ms. Della Valle said she'd been able to listen to that discussion and said it was very informative.

Ms. Della Valle said she had some questions for the Board to go through. She said that regarding Page 9, she was still trying to get some additional information in order to finalize the standards for maximum building width in all districts, maximum depth, and maximum accessory height in the Church Hill district.

Councilor Gooze noted concerning Item #11 that the building height in the CB district was the same as the height of the PO district. He said that was ok if one was in the PO district right next to the CB district, but said it wasn't as good as one got further out in the PO district.

Re the question on page 13 on driveway width, Mr. Campbell said he had discussed this issue with the Fire Department, because they'd had problems with things not being wide enough. He said he'd been concerned that if a maximum width of 12 ft was proposed, they would have a problem with this, and they did.

He said an adjustment needed to be made to this language. He said the Fire Department would suggest that there be a minimum rather than a maximum. He said they had suggested a maximum of 16 ft but would really like 18 ft. He said the fire code allowed them to determine widths, which meant the Zoning Ordinance didn't mean a thing. He said it wasn't clear where that authority came from. He said the Fire Department had gone with a lot of what was proposed for projects, although noting that they made Capstone widen a few things.

Ms. Della Valle said the design factor involved with this provision was not wanting to have overly wide driveways. She said the other issue to grapple with was how to provide predictability as to what would be required. She suggested that she and Mr. Campbell would work on this as well as the jurisdiction issue.

Chair Parnell noted #3 on page 13, concerning the Planning Board requiring applicants to demonstrate that night time interior sound levels wouldn't exceed 40 decibels. He said this looked like a building code issue, and asked how the Planning Board was supposed to address this, with a building that wasn't constructed yet.

Ms. Della Valle said an applicant's architect should be able to demonstrate this, just as a lighting engineer could show the lighting spillage in a lighting plan. She said the issue would be whether the Planning Board would have the technical capacity to analyze whether what the applicant provided was accurate enough, and whether it followed good professional standards.

Mr. Campbell said there could be third party review.

Ms. Della Valle said a Board member had asked about this at an earlier meeting, because a concern was expressed about insulation between commercial and residential portions of a mixed use building.

There was discussion. Ms. Della Valle said one could take the position that this was private property, and if there wasn't adequate insulation to address noise possible sound issues, the owner would have trouble renting the space.

Councilor Gooze said he would expect to see a spec sheet in an application that provided decibel levels based on this standard that was proposed.

Ms. Della Valle said technically this was something that could be done, but said the question was whether the Board wanted to regulate this.

After further discussion, it was agreed that this proposed standard would be taken out.

Ms. Della Valle next noted Page 17 regarding off street parking and loading. She said what was proposed in this section might be very controversial. She said she'd taken some of her direction from the parking study that Rick Chellman had done, which suggested that there was a surplus of parking in the downtown. She said that was why what was proposed was to cut back on some of the standards.

She reviewed what was proposed. She said in the CB, PO, Church Hill and Courthouse districts, there wouldn't be additional parking requirements over what was already provided, for a change of use. She also said Mr. Chellman had suggested that the parking impact fee was counterproductive to revitalizing the downtown, and conflicted with the idea that reuse and redevelopment were encouraged.

Ms. Della Valle reviewed further the range of parking issues that were addressed with the new off street parking and loading provisions that were proposed. She said it might make sense for the Planning Board to meet with the Traffic Safety Committee before diving into these further, and to see where they were with what was proposed here.

There was discussion about how shared parking was addressed in the new provisions.

Councilor Gooze said he would propose that there be less parking in some locations. He said the Professional Office spoke about being pedestrian friendly, and said the Town seemed to be going that way of not requiring the amount of parking that used to be required. He said he wasn't sure it was worth the effort to do shared parking, in terms of what they would get out of this.

Ms. Della Valle said what the Town would get out of this was less pavement in the downtown. She noted that it was important when doing shared parking to have good partners involved. She said there was a lot of evidence in other communities that it could be successful.

Mr. Campbell said the Town had allowed shared parking for a while now, and no one had used it.

Ms. Della Valle said what was proposed provided some guidelines in terms of shared parking, rather than allowing this to happen on an ad hoc basis. She noted that with the smart code, some planning boards negotiated with some uses such as institutional and recreational uses concerning shared parking, but said this was suspect because it didn't treat all applicants the same way. She said the Board could decide not to allow shared parking for these kinds of uses, but said she knew that there were some communities that had such shared parking.

Councilor Gooze noted that when he'd been in Albuquerque a few years ago, there was a section of the city being redeveloped based on a form based code, which had used shared parking for retail establishments and apartment buildings quite effectively.

Ms. Della Valle said it certainly could work, but said it could be problematic in Durham, where students might park their cars for the day. She said the shared parking idea should be reviewed in that context. She said perhaps shared parking wouldn't be allowed for certain types of uses.

Mr. Campbell said most people would rather pay the one time parking fee. He also said with the new section proposed in the Ordinance on the calculation of required parking, the parking available could include anything within a thousand feet. He said if one started adding this parking up, shared parking wouldn't necessarily be needed.

Ms. Della Valle said even though Mr. Chellman's report made it clear that there was more parking than was the standard for a small downtown area, what she'd heard from the public at the visioning session, from the visitation survey, etc. was that there wasn't. She said Mr. Chellman's report said there was the parking, although it might not be all in the right places and as accessible as it might be. She noted that he laid out an extensive strategy to manage that parking.

She said if the Planning Board agreed with Mr. Chellman, it would be an uphill battle to convince the merchants what that study was saying. She said it might make sense to draw the Traffic Safety Committee into this to help do some outreach, and said it might or might not make a difference.

Councilor Gooze said residential properties would be limiting parking to two hour parking until about 7 pm after which people who lived in the area could park there. He said retail businesses could use those spots during the day. He spoke further on this.

Ms. Della Valle suggested that the Planning Board should talk with the Traffic Safety Committee before really digging into the off street parking and loading section. She encouraged them to read the parking study, and to see where the TSC was with it.

Chair Parnell asked if Mr. Campbell could provide the Board with a presentation on what the Traffic Safety Committee's views were. He said that would make more sense than having the TSC join in a Planning Board meeting.

Mr. Campbell said he would talk with Administrator Selig about this.

Ms. Della Valle said there were four discrete issues left to discuss for the evening. She noted that page 19 spoke about allowing parking between the front wall and/or side property lines in the Courthouse district. She said it said the Planning Board may allow it there, if it was part of a site plan review or a CU application, and the lot configuration or existing building placement didn't allow parking in the rear. She said the concern was that the current requirement could be an encouragement for a property owner to keep a substandard or undesirable structure as it was rather than replacing it and having to face this new condition of having to put parking in the back.

Councilor Smith said this was discussed several years ago, for the Courthouse district. There was discussion. Mr. Campbell provided details on the fact that the Planning Board had changed the Zoning a few years ago so that parking was allowed in the front setback.

Chair Parnell recommended that the Board therefore leave this as it was.

Ms. Della Valle made a note that the Board would keep this existing language.

She said on page 26, there was a question about whether stoops should be allowed in all of the commercial core districts. Board members said they didn't have a problem with this.

She said on page 27 there was an exception concerning waiving the maximum lot frontage if the building was designed to read as multiple separate buildings. She asked if the Board wanted to allow this exception for Coe's Corner, as proposed, or if they would be concerned that overly large buildings there would undermine the intended character of that district.

There was discussion about what the character of the Coe's Corner district currently was, and whether it belonged in the commercial core. Chair Parnell suggested possibly taking it out of the commercial core.

Ms. Della Valle noted page 13 of the charrette report. She said with the charrette, the primary discussion was about using that area for a municipal complex. She said there was also a group of people who were really pushing for economic development of that area, but said this didn't really come through as a solid recommendation.

Mr. Wolfe noted that the survey addressed the issue of gateways to the Town. He asked what the comments were in it regarding Coe's Corner and Route 108 coming into Town.

Councilor Gooze said he believed that people wanted to retain it as a gateway but felt that if some uses were screened, that would be acceptable. He asked if there was a property there that could be developed commercially, going in from the road. There was discussion.

Ms. Della Valle said in doing the design work for the B. Dennis strategic plan, it was determined to be an area that was environmentally sensitive, which undermined the idea of intensive development. She noted Jackson's Landing and another waterfront area in the

district. She said there was a very mixed recommendation, and she provided details on this. There was discussion that the municipal recommendations no longer applied.

Ms. Della Valle encouraged the Board to consider how much commercial development they wanted in Coe's Corner, and what type, so it didn't conflict and suck out the vitality from the downtown area where they were hoping to intensify the uses somewhat.

She asked the Board what they thought of Chair Parnell's suggestion of taking Coe's Corner out of the commercial core. She asked them to take a step back and look at this.

Councilor Gooze asked about the time frame for getting these Zoning changes done and voted on, and there was discussion.

Mr. Wolfe said something that wasn't in these provisions was sidewalk widths, which made a big difference in terms of how a downtown looked. He noted that some mistakes had been made concerning this in the downtown. He said there would be the same problem with the new building on Madbury Road.

Councilor Gooze said Tom Elliot, Chair of the Economic Development Committee, had been adamant about getting the Zoning changes done fairly quickly.

Mr. Campbell said the Board's only scheduled meeting for December was the 14<sup>th</sup>. It was agreed to put further discussion about the proposed Zoning changes on the agenda for that meeting.

Ms. Della Valle asked Mr. Wolfe for further details on the issue he had concerning the sidewalks.

Mr. Wolfe said the Planning Board had allowed some new buildings without allowing adequate sidewalks.

Chair Parnell noted that a reason for the narrow sidewalk with the new building on Jenkins Court was that it was on private property. He said the applicant didn't have to put any sidewalk in. He said for the new building on Madbury Road, there would be the sidewalk on private property as well as a public sidewalk piece.

Ms. Della Valle said she would work on the sidewalk piece.

#### **IV. Discussion on updating the Commercial Core Chapter of the Master Plan.**

Ms. Della Valle said she would be meeting with the EDC on November 16<sup>th</sup>, and would have a scoping session on the big issues emerging, successes and failures from the previous Master Plan, etc. She said the Planning Board could take a look at answering these questions as well. She said based on the scoping, she would then draft a chapter, which would then be discussed by the Board. She said this would be a very open process, and would not be consultant driven.

There was brief discussion about how the Board would go about updating the commercial core Master Plan chapter.

**V. Other Business**

- A. Old Business:
- B. New Business:
- C. Next meeting of the Board: **November 9, 2011**

**VI. Adjournment**

*Councilor Gooze **MOVED** to adjourn the meeting. Peter Wolfe **SECONDED** the motion, and it **PASSED** unanimously 5-0.*

Adjournment at 10:32 pm.

Victoria Parmele, Minutes taker