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**Planner's Report**  
**DURHAM PLANNING BOARD**  
**Wednesday, October 10, 2012**

Item numbers refer to position on meeting agenda.

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**V. Planner's Report**

New member. Please welcome new Planning Board member David Williams. David is retired from the United States Air Force Reserves, parish ministry, and public school teaching. He notes on his application that he is "enriched by good conversation, ideas, music, and books." We are very pleased to have him join us.

Architectural renderings. The Town Council asked Peter Wolfe about the status of a recently proposed site plan amendment to require architectural renderings for all proposed buildings that are presented under site plan review. Jim Campbell discussed this with the board a number of months ago. I would propose that at some point in the near future, after adoption of the Architectural Regulations, we put together a number of simple amendments to the Site Plan Regulations, including this one, and process them together.

University Edge signs. The Historic District Commission completed its review of new signs for University Edge (Orion) located in the historic district. This includes a number of wall signs prominently located on Main Street, others located off Park Court and Mill Road, and one freestanding sign in front of 10 Main Street. University Edge has placed numerous other wall signs on its properties outside of the historic district. Thank you to Mike Leary, proprietor of Sundance Signs, for working closely with the HDC to craft very attractive signs specially tailored for the historic district.

UNH Master Plan. UNH has a final draft document of the September 24, 2012 Campus Master Plan. This is posted on the web for public review at [www.unh.edu/cmp](http://www.unh.edu/cmp). There will be an informational forum:

***October 18, 12:30-2:00 Huddleston Hall Ballroom***

It is expected that the Campus Master Plan Team will finalize the document and deliver it to President Huddleston in early November, and that it will be presented to the Trustees some time this winter.

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**VII. Request for Technical Review (Administrative Process) by Phillip D. Albright to sell Christmas Trees at 172 Packers Falls Road, Map 17, Lot 50-1.**

- I recommend that the Planning Board vote to send this proposal to the Technical Review Committee for an administrative review

Please note the following:

- Section 175-17 Delegation of Site Review Authority, on page 41 of the Zoning Ordinance, allows the Planning Board to delegate to the Technical Review Committee site review for minor site plans. This is permitted under RSA 674:43.
- The ordinance refers to the committee as the Technical Review Committee, but I would prefer to call it the Minor Site Committee. We recently established a Technical Review Group (TRG) which reviews projects but has no authority. The TRG includes staff and representatives from various Town boards. The Technical Review Committee or “Minor Site Committee” is composed only of staff and has the authority to approve minor site plans.
- At some point, Section 175-17 should be amended to clarify the process and types of projects it reviews.
- I think this project is appropriate for minor site review. No new buildings are proposed at this time. This would be subject to site plan review because it is a new use – selling Christmas trees on site. This is permitted in the Rural zone as a Plant Nursery. Simply raising Christmas trees or engaging in agriculture is not subject to site plan review, but because the applicant proposes to sell merchandise on site it is subject. The Minor Site Committee will review access, parking, storage, display, etc.
- This is an excerpt of what the applicant conveyed in his email to me:

*We would like to sell Christmas trees and holiday cuttings, greens and stems, on our 13.8 acres at 172 Packers Falls Road, Durham, zoned rural this Holiday Season...We have planted a few Christmas Tree transplants this spring on the property to see how they would do and I am growing Christmas Trees on another property which are just coming on for harvesting size this year.*

*My tree sales experience includes retailing trees in Michigan for 17 years on my tree farm and three additional lots for annual sales of 5000 trees per year. I also sold retail trees in Hong Kong and China for seven years. Our expected tree sales at our Durham mini-farm would be quite modest in comparison and would have the appropriate help to provide timely service for our customers. I have been a participating member of the New Hampshire-Vermont Christmas tree Association for the past 10 years. Please see our web site for additional information, [www.harbourdesignnh.com](http://www.harbourdesignnh.com).*

*Phillip D. Albright  
**Harbour Design**  
**Landscape Design and Construction**  
172 Packers Falls Road  
Durham, NH 03824*

- If the board approves reviewing this as a minor site plan then the applicant would submit an application, he would pay for notices (there is no fee), we would hold a public hearing on site, and the committee would approve the application if all is in order.
- Any action by the Minor Site Committee may be appealed to the Planning Board.

- The applicant may want to build a greenhouse in the future. Depending on the size and other factors, that application might be appropriate for minor site or review by the Planning Board.
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**VIII. Public Hearing (continued) - Eight-Lot Conservation Subdivision plus a Boundary Line Adjustment, 110 and 114 Mill Road, submitted by John H. Farrell**, County Line Holdings LLC, Durham, New Hampshire, on behalf of Martha Garland and Joyce Melanson, Durham, New Hampshire. Tax Map 13, Lots 15-1 and 15-2, Residential B Zoning District.

- I recommend postponement to October 24

Jack Farrell has requested postponement in order to continue to work on the common open space and stewardship fund questions.

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**IX. Public Hearing on an Application for Site Plan Review and Conditional Use Permit** submitted by Joseph Persechino, P.E., Tighe & Bond, Portsmouth, New Hampshire, on behalf of **Peak Campus Development, LLC**, Atlanta, GA (applicant), Chet Tecce Jr., Durham, New Hampshire, John & Patricia McGinty, Durham, New Hampshire and the University of New Hampshire, Durham, New Hampshire (property owners) for a **142-unit/460 bed apartment-style housing development**. The properties involved are shown on Tax Map 13, Lots 6-1, 10-0, 3-0UNH and 4-0UNH, are located on **Mast Road** and are in the Office Research/Light Industry Zoning District.

- I recommend the public hearing be held and kept open and the application continued to October 24

Please note the following:

- See the enclosed, updated list of issues I have compiled. Joe Persechino responded to a number of issues from my prior list. I removed issues from the prior list that have been appropriately addressed.
  - It would be worth going through the list and discussing any pertinent items at the meeting.
  - Julian suggests that the Planning Board visit the Capstone project soon, prior to final action on the Peak project, to see if there are lessons there that might be applied to the Peak project. Would the board like to schedule a visit? John Acken, VP of Capstone, would be happy to arrange a visit.
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**X. Public Hearing (continued) - Proposed amendment to the Site Plan Review Regulations to create a new section - Architectural Design Standards**, that would apply to all nonresidential and multifamily (other than single and two family dwellings) development within the five Core Commercial Zoning Districts – Central Business, Church Hill, Coe’s Corner, Courthouse, and Professional Office. These would be regulations, not voluntary guidelines, to be applied by the Planning Board. The standards would not apply to any property located in the Durham Historic District, but rather it is expected that a separate companion set of regulations will be prepared soon for that area.

- I recommend holding the public hearing, closing the public hearing, holding discussion, and continuing to October 24.

Please note the following:

- I suggest the following schedule: the public hearing is held and closed on October 10, the board discusses the document on October 10 and October 24, I submit one final revised draft for November 14, we hold a new public hearing on November 14 on the revised document, and we shoot for adoption on November 14.
- After much debate and wrestling with how to approach the question of waivers, I now believe that the best approach is to handle these regulations in the conventional manner – using “shall” and requiring waivers for any departures from the regulations. Based on the successful approach in Rochester over many years I was very wary of using waivers, but now realize that a different approach is appropriate for Durham and for this document. I also realize that it should not be cumbersome as a high quality application should not require many waivers. Thank you to the Planning Board for its patience and flexibility in working through this difficult issue.
- Since the height of buildings is a controversial issue it might be worth later on requiring a conditional use to go to four or five stories. But that would be addressed later when the Planning Board revisits the draft Commercial Core Zoning Amendments. At any rate, I think the language for the Architectural Regulations is workable on height. To go to four or five stories an applicant would need to meet both the criteria in the regulations and the objective requirements in the Zoning Ordinance (as stated now or amended in the future).
- We have posted to the website: a) a marked up version of the document showing the changes from the prior document and pertinent citizen comments; and b) a clean copy of the same updated document.
- The document is 37 pages. I know this is long but hopefully it will be user-friendly based on its format and organization. If anybody can point to specific items – provisions or photos – that are superfluous or minimally useful, please let me know so that we might remove them.

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XI. **Acceptance Consideration of an Application for Conditional Use Permit** submitted by Attorney Christopher A. Wyskiel, Dover, New Hampshire on behalf of **Great Bay Kennel**, Durham, New Hampshire 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.

- I recommend acceptance as complete and setting the public hearing for October 24

Please note the following:

- It would probably make sense to set the date for a site walk at the October 24 meeting so neighbors can hear.
- There is a long history to this project. It may take a little time to get clarity on the entire situation.
- The Planning Board approved a site plan for changes to the Dog Daycare facility in January 2012 but it was realized later that a conditional use was needed. Thus, this application is submitted.
- Karen Edwards put together a timeline for this project that is enclosed.

- Thank you to Stephen Burns of 20 Newmarket Road for providing documentation to me and also developing a time line. These items are enclosed.
  - While there has been some communication between the applicant and the neighbors, my understanding from speaking with several neighbors and Scott Hogan, attorney for the neighbors, is that the neighbors do not endorse this plan.
  - At some point, I think it would be appropriate for the board to table the application and request the applicant to meet with the neighbors and see if a mutually acceptable arrangement can be made.
  - I believe that the conditional use must be reviewed with consideration of the long history of this project and the various approvals for the site that have been granted by the Town over the years.
  - Elements of this project will probably need to be reviewed by the Historic District Commission. I will clarify which parts shortly.
  - The site plan is a little different from the site plan that was approved in January. That site plan can be modified as part of this conditional use review (a new site plan application is not necessary).
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## **XII. Discussion of Zoning Amendment to allow chickens as an accessory residential use in all zoning districts. Proposed by the Durham Agricultural Commission.**

- I recommend discussion and setting a date for a public hearing- October 24 or November 14

Please note the following:

- The Agricultural Commission developed this proposal. Proposed changes to the existing zoning ordinance are enclosed.
  - One of the more challenging aspects of the proposal is how to handle roosters
  - The proposed changes also include amendments to Chapter 85 – The Durham Noise Ordinance. The Planning Board does not have purview over this ordinance but I think it would be appropriate for the board to make recommendations about changes to Chapter 85 along with its recommendations about the zoning ordinance.
  - Theresa Walker, chair of the Agricultural Commission and/or other members of the commission will be present to explain the proposed amendments.
  - Please see my email of October 4 about this topic. It includes some comments from John Carroll, a member of the Agricultural Commission.
  - See my email of October 4 that has the minutes from the August 13 meeting of the Agriculture Commission where it took public comments about the keeping of chickens and other fowl (not about this draft amendment).
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## **XIII. Other Business**

- A. **Request for Extension on Conditions of Approval** for an approved Two-lot Subdivision of **Alexander Bakman** at **118 Piscataqua Road**, Map 11, Lot 24-4.

- I recommend approval of the extension

The applicant obtained a variance recently for the creation of a four unit condominium in the barn. He will be submitting a subdivision and site plan application soon for that project.

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**B. Proposal for Planning Board to visit sites of recently completed projects**

The Town Council asked Peter Wolfe about this recently. It would be worthwhile for the board to schedule periodic road trips (We could probably get a large van/mini bus) to visit recently completed projects.