

These minutes were approved at the February 26, 2014 meeting.

DURHAM PLANNING BOARD
Wednesday, November 13, 2013 at 7:00 p.m.
Town Council Chambers, Durham Town Hall
MINUTES

MEMBERS PRESENT: Richard Kelley, Vice Chair
Andrew Corrow, Secretary
Lorne Parnell
David Williams
Bill McGowan (arrived at 8:10 pm)
Councilor Lawson, Council Representative to the Planning Board
Councilor Smith, alternate Council Representative to the Planning Board
Wayne Lewis, alternate
Jennifer Pribble, alternate
Linda Tatarczuch, alternate

MEMBERS ABSENT: Peter Wolfe, Chair;

I. Call to Order

Richard Kelley served as Chair for the meeting, and called the meeting to order at 7:04 pm.

II. Roll Call

The roll call was taken.

III. Seating of Alternates

Mr. Lewis was seated in place of Mr. Wolfe, and Ms. Pribble was seated in place of Mr. McGowan.

IV. Approval of Agenda

Chair Kelley noted that there was a request to move up the agenda item concerning the Agricultural Resources chapter of the Master Plan so that it would follow the agenda item on the Master Plan update. There was discussion, with Mr. Parnell noting that the Board normally gave priority to public hearings.

Lorne Parnell MOVED to approve the Agenda as submitted. Councilor Lawson SECONDED the motion, and it PASSED unanimously 7-0.

V. Town Planner's Report

Mr. Behrendt said Orion had requested that the continued public hearing on its application be postponed to the December 4th meeting.

He also noted that there had been a site walk that day at the Madbury Commons site.

VI. Public Comments

Jay Gooze, Meadow Road, noted that when he was the Council representative to the Planning Board, he was part of the discussion on some possible Zoning changes concerning the commercial core. He said he was concerned about multi-unit and mixed use projects possibly coming forward at the periphery of the zone near the new Library, and said he would like to see this area preserved in the future as part of a neighborhood protection area, where such developments would not be allowed. He asked the Planning Board to put this issue on the fast track before something happened that the community would be unhappy with.

VII. Durham Master Plan update - Molly Donovan, Chair of Master Plan Advisory Committee

Ms. Donovan spoke to the Planning Board about the Master Plan update process and the role of the Master Plan Advisory Committee in this process.

- The Advisory Committee completed the review of the Agricultural Resources chapter, and submitted a memo concerning it.
- The Committee completed the first review of the Recreational Resources chapter and expects to see it come back for a second review in December.
- The Natural Resources will be coming to the Committee in early December.
- The Committee recently completed its second review of the Economic Development chapter, and this chapter will come back to them in December. The Advisory Committee wants to see the Commercial Core chapter at this point in order to see the intersection of those chapters.

Ms. Donovan encouraged the Planning Board to provide the draft Commercial Core chapter to the Advisory Committee for its next meeting on November 21st, noting that other chapters had benefited from getting an early review from the Committee. She explained that at this point, the Committee was looking for general concepts and topics addressed in the Commercial Core chapter.

Mr. Williams said it would be helpful if Ms. Donovan could outline for the public progress being made on the Master Plan update and where this all was headed in terms of goals and benchmarks.

Ms. Donovan said the goal was to finish with all of the draft chapters by the end of the year, and bring them to the Planning Board. She said the Committee hoped to gather

together those people who had worked on the various chapters to see how the document was laying out and to work on balancing out some of the issues in them, before developing the Land Use chapter.

She noted that a new consultant would be coming on board to work with the subcommittees on the draft chapters already written and also the chapters still to be written, including the Historic Resources chapter. She said the draft of the Land Use chapter would be developed once the Economic Development chapter draft was complete, and said all of the chapters would be worked on further in the spring.

Mr. Williams noted that the issues in the other chapters would largely drive the Land Use chapter. Ms. Donovan agreed, and also said that any one chapter wasn't weighed more than the others. Mr. Williams asked what the Advisory Committee had in mind concerning achieving balance between the various chapters.

Ms. Donovan said this concept grew out of the Master Plan update sessions in 2011 where public input was received, and also came from the survey done by UNH Cooperative Extension. She noted that the Advisory Committee was formed to bring in public input, and said it was clear from the results of this input that those participating were asking for balance, especially concerning economic development and preserving the Town's natural resources.

She said when the Vision statement for the Master Plan was developed, a guiding principle was to seek tax stabilization while also highly valuing natural resources, and to look for opportunities to do the things where the two principles were not in competition.

Ms. Donovan said at the end of each chapter, potential intersections as well as conflicts between chapters were identified for the Planning Board to look at. She also noted that there would be more public input sought on all of this.

Mr. Williams said he very much appreciated Ms. Donovan's skillfulness in leading the Master Plan Advisory Committee.

Mr. Behrendt noted that Ms. Donovan was asking that the Planning Board consider sending the draft Commercial Core chapter to the Advisory Committee in its current state. He said while it was under development, and most recently had been discussed at the Planning Board's October workshop, it might be useful to get it to the Advisory Committee now so they could provide feedback on it.

Councilor Smith noted that he had asked that Planning Board members send more comments that could be incorporated into the draft, after the October workshop. He said perhaps they could do this by the end of the week, so the Advisory Committee could have the most recent version of the draft by next week. Ms. Pribble noted that she was working on adding additional comments on bicycling, pedestrians etc., and she also said Chair Wolfe wanted to see the draft by early December.

Mr. Parnell said the Planning Board had reviewed the Commercial Core chapter but hadn't gotten to the end of it yet, and said he thought it would be difficult to give the Advisory Committee only part of it now.

Chair Kelley said perhaps this could be done with the understanding that the Board would be providing more comments down the road. Mr. Corrow agreed, and said he didn't see any significant changes coming. He said it would be good for the Advisory Committee to see the document, with the understanding that more would come later. Ms. Pribble said she agreed, as long as there was an understanding that this was a working document.

Ms. Donovan said it would be great if the Committee could get the Board's additional comments on the Commercial Core chapter by Monday at 5 pm, and said she would keep it in mind that it was still an early draft.

Chair Kelley thanked Ms. Donovan, and said the Planning Board appreciated her efforts.

VIII. Presentation by RSG Associates on joint Town-UNH projects for the updated Traffic Model – morning peak and prospective design for Roundabout at the Main Street – Pettee Brook – Quad Way intersection.

Mr. Behrendt said Dirk Grotenhuis of RSG Associates would speak with the Board about some applications in Town of the existing traffic model, as well as the proposed update to the model.

Mr. Grotenhuis said the model developed in 2008-2009 modeled all the roads, intersections, and traffic in Town. He said it was a very intuitive model that generated traffic based on land uses in Town and not just specific developments.

Ben Swanson of RSG provided some details on the model, and explained its usefulness in analyzing traffic pattern changes as a result of new developments. He noted that the model could be used with the Seacoast regional traffic model, which took a much coarser look at traffic patterns. He said updates to the model since 2008 had taken into consideration the addition of the first roundabout on Main Street, various stop signs, the changes made to Pettee Brook Lane, the new student housing developments, etc.

Councilor Lawson said as the Town looked at using the traffic model for future developments, there was a high probability that there would be a student housing component that would need to be taken into consideration, which was different from the multi-unit development characteristics that would be modeled in a place like Dover. He asked if the model could analyze this kind of development, and Mr. Swanson said yes.

Councilor Lawson confirmed with Mr. Swanson that the model could take into account pedestrian flows and how they could impact traffic in terms of queuing, etc. Mr. Swanson provided details on some analyses that had been done concerning this.

Mr. Williams noted that there was a push to increase bike traffic in Town, and asked how bikes impacted the traffic model. Mr. Swanson provided details on this, among other things noting that the model could look at how changes in lane geometry to accommodate bikes would impact traffic flows.

Mr. Williams asked what the impact on the model would be of increasing the number of bikes. Mr. Swanson said the model didn't reflect bikes directly but did show changes that reflected an increase in bikes, such as lanes to accommodate bikes, a change in the number of parking spaces provided, etc. He noted an analysis done in Hanover concerning the impacts of providing bike lanes.

Mr. Grotenhuis said generally there weren't specific offset numbers in terms of cars going away if bikes were added. But he said they could do some research into that, and come up with an estimate of impacts and benefits of using other modes of transportation. He said the model demonstrated that pedestrians crossing and cars parked along the side of the road resulted in cars going slower.

He noted that the model runs had indicated that two-way traffic on Main Street could work and also had indicated that a single lane through Main Street would work. He said the latter approach would allow a lot more roadway right of way for bike paths, sidewalks and parking.

He noted the model run that was done concerning the Capstone project, which looked at intersections adjacent to the development as well as other intersections that might be impacted as a result of increased traffic resulting from the development.

Mr. Grotenhuis said the model had also been a good planning tool for looking at the South Drive roundabout. He said the analysis determined that there would be a significant amount of emissions reduction as a result of putting in the roundabout, and noted that this information was put into a grant submitted by the Town, and was helpful in being getting the grant.

He said the model was being used to analyze a possible roundabout where Pettee Brook Lane intersected with Main Street and Quad Way, and he spoke in some detail on this. He said a benefit of this design would be that vehicles would be able to take a left out of Quad Way and head north on Main Street, which would help reduce traffic in the downtown. He said the roundabout would also allow buses to turn around.

Mr. Grotenhuis said all of this should result in a reduction in traffic volumes downtown, some minor increases in traffic in some spots, and a reduction in air quality emissions. He noted that the roundabout would be designed to accommodate bikes and pedestrians, and he provided details on this.

Ms. Tatarczuch asked whether bus routing was taken into consideration and addressed with the roundabout design. UNH planner Steve Pesci provided details on this. He said the roundabout would mean that the Campus Connector/West Edge buses would no

longer need to circle downtown, but said the Wildcat bus stop near Mill Road would remain. He said with the roundabout, it was estimated that there would be a savings of \$30,000-50,000 per year for fuel, in addition to a decrease in traffic congestion.

Mr. Grotenhuis said the work that had been done jointly with the Town and University on the traffic model had been recognized nationally. He said the next logical stage was to develop a pm traffic model, and said since the am model was already set up, the work would entail plugging in more data and calibrating the model for the pm peak period.

Mr. Pesci noted that a working group for the pm model had been created, which would include representatives from the Town and the University. He said the Traffic Safety Committee would receive updates on the work the group was doing. He said the traffic model had been a very pragmatic tool, which had allowed the Town and the University to work together on traffic issues.

He said the University was very happy with the work of RSG Associates, and said it had really paid off in terms of the grants that had been received. He noted that the roundabout analysis was being done now because the next round of CMAQ funding was coming up. He said the numbers from the model concerning reductions in traffic and air emissions were impressive, and showed that the roundabout would be a win-win project.

Councilor Lawson agreed, and said his level of confidence in the model increased every time he looked at it. He said he was really surprised to see the benefits that would be gained from doing the roundabout. He said the cost was one additional car on Pettee Brook Lane per minute, and said everything else was a significant decrease in traffic.

Mr. Pesci said there would be a significant increase in traffic on Quad Way as a result of the roundabout, but he said the University wanted this and wanted to move traffic off of Mill Road. Councilor Lawson noted that without the roundabout, there wasn't the benefit from having two-way traffic on Quad Way.

Mr. Pesci said the roundabout design was a long-term win for the Town because it was flexible, so could be modified easily to accommodate a two way traffic pattern on Main Street, and perhaps to accommodate two-way traffic over the long term on Pettee Brook Lane. Councilor Lawson said the two-way traffic study indicated that this traffic pattern couldn't be done unless something like the roundabout was done, because of the cueing on Pettee Brook Lane.

Mr. Grotenhuis noted that the two way traffic analysis for Main Street had indicated that a roundabout at the intersection of Main Street and Madbury Road would be very constrained in terms of the size.

Mr. Williams noted that there was a high interest in bikes in Durham, and asked if the model was flexible enough to allow consideration of different geometric configurations for bike traffic. Mr. Grotenhuis said yes, and explained that an engineering assessment

could be done of what the best geometric configuration would be best for bikes, such as shared lane use, adding a specific bike lane, etc.

Chair Kelley asked where things were at with the roundabout proposal, and Mr. Pesci said now that there were some answers from the model concerning traffic and air emissions reductions, the Town and the University needed to discuss possible options concerning formal approval and funding the project. He said the roundabout had property and right of way implications, but said it would impinge almost completely on University property.

He said the University thought the roundabout was a wise use of its property, and hoped that if the CMAQ grant round was announced, the Town would be supportive of the grant application. Chair Kelley determined that there would be no impacts on private property if the roundabout was put in.

Mr. Behrendt said he, Mr. Pesci, University planner Doug Becks, Chair Kelley and Councilor Lawson would set up a meeting of the working group for next week. There was discussion that it made sense to invite Town Engineer Dave Cedarholm and Police Chief Dave Kurz to attend the meeting as well.

IX. Public Hearing - Proposed zoning amendments initiated by Town Council on October 21, 2013:

- A. Change Mixed Use Residential in the Central Business and Church Hill districts from permitted to conditional use;
- B. Increase the minimum lot area per dwelling unit in the Central Business and MUDOR districts;
- C. Set the maximum number of bedrooms per dwelling unit in Multi-Unit and Mixed-Use residences at four;
- D. Prohibit new basement dwelling units in Multi-Unit and Mixed-Use residences; and
- E. Allow for flexibility in the arrangement of Nonresidential Uses in the Central Business district by conditional use.

Mr. Behrendt said Town Council Chair Jay Gooze, Councilor Lawson and Councilor Carden Welsh had initiated these Zoning changes. He said some of this was driven by some fairly broad concerns in Town about the amount of student housing that had been built over the last few years. He also noted Councilor Lawson's analysis, which had indicated that the supply of student housing would potentially be exceeding demand in the coming years.

Mr. Behrendt said the proposed Zoning changes were intended to recalibrate things so the Town would see more incremental growth in student housing. He briefly reviewed the Zoning changes proposed, and said A-D were motivated largely by this but by other concerns as well. He said A was a good proposal, and said conditional use would allow the Planning Board a fair amount of judgment in terms of allowing student housing as part of mixed use applications.

He said B recognized that the density currently allowed in the Central Business district and the MUDOR district was a bit generous, and said with it there would be a modest decrease in the allowed density based on the lot area. He said C would affect the overall beds that could be built as part of a development, and also would make it more likely that a unit could be converted to general marketplace housing.

He said D, which prohibited new basement apartments in multi-unit and mixed use buildings, might impact the density of some developments, and would also ensure that housing would be of a higher quality. He said E would allow flexibility in terms of how commercial uses in the Central Business district were reviewed, and explained that it had been realized that with some recent projects, depending on the site and if there were multiple buildings involved, there might be a better way to configure the commercial space than what was required with the current Zoning Ordinance.

Mr. Behrendt noted that these Zoning changes were being proposed independently of one another. He recommended adoption of all of them as written.

Mr. McGowan arrived at 8:12 pm.

Councilor Lawson said he had looked at a lot of data regarding the supply and demand of student housing in Durham, and said it justified the Zoning changes being recommended. He said he was very comfortable with the changes proposed regarding density, and said he personally didn't believe that 8 unit student apartments served the community well. Regarding D, he said he didn't think it had been anticipated that basements in new developments would be used for dwelling units or apartments, and said he particularly like that proposed Zoning change.

He said that concerning E, the Zoning Ordinance hadn't anticipated some of the mixed use projects the Town had been seeing, and said it had been problematic to apply the Zoning Ordinance to these projects. He said they were getting to the point where there should be less concern about the percentages of commercial space in a project and more concern about where the commercial space would be located so that it would serve the community and would be the most viable. He noted that the Town needed to move forward with these Zoning changes as quickly as the changes they had been seeing taking place in the community.

Chair Kelley said that regarding A, the conditional use process allowed the Planning Board to provide more influence and authority in regard to an application.

Mr. Parnell asked whether with B, the Council was thinking in terms of affecting the density of projects or affecting the economics of projects.

Councilor Lawson said any time there was a change in the allowed density of dwelling units, this changed the economics, but he said he didn't believe this Zoning change would change the economics to the point where re-development was no longer viable. He said it would however put developers in the position where they would pay a lot more attention

to the viability of the commercial space in a development, and wouldn't treat it as an afterthought as had happened in the past. He said this Zoning change would get them to where commercial and residential space were both important to the viability of a project, and said developers would therefore spend more time considering how to make the commercial space work.

He noted that there was a great concern in the community about the density of student housing. Mr. Behrendt said a flaw of the existing Zoning Ordinance was that it didn't control density very well. He said a typical Zoning Ordinance managed density by setting the maximum number of dwelling units per acre. He said by setting a maximum of 4 bedrooms per dwelling unit, the Town would be able to manage density more accurately than had previously been the case.

David Williams MOVED to open the Public Hearing on Proposed Zoning amendments A- E initiated by the Town Council on October 21, 2013. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

Council Chair Jay Gooze said he and the other two Councilors who had developed the proposed Zoning changes had been in constant touch with members of the community as part of this process. He said the proposed changes reflected the sense that a limit had been reached in terms of the density of student housing that was good for the downtown. He noted that each "Whereas" in the Resolution provided a reason why the Council thought a proposed Zoning change was important. He said the Council voted unanimously to recommend these changes to the Planning Board, and he urged the Board to send them back to the Council with their recommendation.

Councilor Gooze noted before leaving the meeting that he supported the Madbury Commons application.

Beth Olshansky, Packers Falls Road, said she supported the proposed Zoning amendments as drafted, and said she hoped the Planning Board would approve them. She said zoning was an imperfect art. And said it was often hard to imagine how an ordinance might be interpreted. She said these Zoning changes were the beginning of a proactive vision for the community. She said they were now looking much more carefully at the Zoning Ordinance and how what was in it would impact the Town. She said she particularly liked the use of conditional use in items A and E.

Ms. Olshansky noted that she had emailed Mr. Behrendt and the Council her concerns about the definition of "story" in the Zoning Ordinance, and she considered whether the proposed Zoning change concerning basement apartments would address her concerns about that definition. She also asked if people were thinking there could be a commercial use in the basement of a new multi-unit or mixed use building.

Councilor Smith said there were some commercial uses in basements on Main Street, for example below Libby's. Ms. Olshansky asked if they were considered to be quality commercial spaces, and also asked if this was something the Town wanted to promote.

She also said if there was a 4 story building, and 2 floors of commercial space were required, a question was whether commercial space in the basement as one of these floors would be something people would be happy with.

Mr. Behrendt said the Central Business district allowed 4 stories with 2 stories of commercial, but he said if the basement was commercial, it wouldn't count toward this, and said there would need to be commercial on the first floor, and then commercial on either the second, third or fourth floor. Ms. Olshansky said that was good to hear, and said she would have to think some more about the whole story issue.

Councilor Lawson MOVED to close the Public Hearing. David Williams SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Smith said he didn't think the Planning Board had ever included the basement level in the calculation of space for 3 story buildings. He noted that a basement dug into a hillside would be considered a first floor, which might not be unacceptable. He said the Planning Board should consider developing a more careful definition of "basement" and some way of distinguishing between basement and first floor. He said that overall, he supported these proposed Zoning changes, and hoped the Planning Board would recommend them to the Town Council.

Mr. Behrendt said he thought the Planning Board would want to rework these definitions given their current ambiguity. He said right now, basement was defined as being at subgrade on all sides.

Mr. McGowan asked whether the main reason for wanting to prohibit basements was that there was a safety issue or that there was a density issue. He noted that Boston had some nice basement units.

Councilor Lawson said there was a density issue in terms of how many parcels ended up having basement units that weren't anticipated, and said there also could be safety and quality issues with a basement apartment. He said basements could be quality commercial space, although perhaps not for retail. Chair Kelley noted that this space could be used for an accessory use like bike storage, computer servers, etc.

Chair Kelley suggested that the Board go through each of the proposed Zoning changes and vote on them individually.

A. Change Mixed Use Residential in the Central Business and Church Hill districts from permitted to conditional use.

Mr. Williams said he thought this Zoning change would empower the Planning Board to consider what was going on with a particular site. Others Board members were also in favor of the Zoning change.

Councilor Lawson MOVED to recommend to the Town Council that it approve the Amendment to the Table of Uses to change Mixed Use Residential in the Central Business and Church Hill districts from permitted to conditional use. David Williams SECONDED the motion, and it PASSED unanimously 7-0.

B. Increase the minimum lot area per dwelling unit in the Central Business and MUDOR districts; (include the numbers)

Ms. Tatarczuch asked for some clarification on this proposed Zoning change. Councilor Smith noted that the Council had previously said that density should increase in the Central Business district so had reduced the lot area per dwelling unit to 900 sf in order to encourage more commercial development, with student rental units being the bait. He said now this process was being reversed, because what the Council had previously done had worked too well, so an adjustment was being made.

Councilor Lawson said with this Zoning change, the number of floors would stay the same but the number of units per floor would change.

Mr. Williams asked if this proposed Zoning change had to do at least in part with whether the number of students was a good thing, and the possibility of reducing the number of students.

Councilor Smith said items B and C would tend to result in a higher quality of dwelling units. Chair Kelley said there was also the issue of being able to rent to other possible renters than students as a result of these changes. He said he had struggled with B, but said with a half-acre of land, under B and C there could be about 60 bedrooms, which seemed ok.

Mr. Behrendt said the density allowed downtown in Durham was very generous compared to what was allowed in the downtown cores of other communities without a university.

Mr. Parnell said he didn't think he would support this Zoning change. He said the density requirement changes a few years ago had resulted in a great expansion in student housing being built. He said perhaps people could say things had gone too far, but said this had been what people had wanted at the time. He said there were now some new numbers, but said there was no data that said making this Zoning change would result in better student housing, or more commercial space so they could assume it would stop student housing. He said he wasn't prepared to go along with that at this stage.

Ms. Tatarczuch said perhaps it was the dramatic increase in student housing that was making people think there needed to be a more gradual change.

Chair Kelley said if he was a developer, he might pause and wait to see how the market reacted to the development currently being proposed, before going in under these new regulations.

Mr. McGowan asked where the numbers came from. Councilor Lawson said 1200 sf for the CB District moved things back to where the Zoning was in 2008. He said the 1500 sf for the MUDOR district was based on the premise that units outside of the CB district shouldn't be as dense.

Mr. Williams said he appreciated Mr. Parnell's point, but said in the last year, the Board had heard residents speaking about the changes that had taken place as being too much change and too fast, and saying they were unhappy with what they'd seen. He said he wonder if this Zoning change was a way to respond to that sentiment.

David Williams MOVED to recommend to the Town Council for approval modestly increasing the minimum lot area per dwelling unit in the Central Business and MUDOR districts. Wayne Lewis SECONDED the motion.

Councilor Lawson said this proposed change didn't dramatically change the student density economics. He said with a half-acre lot, there could be 18 dwelling units under this Ordinance, which was 72 bedrooms. He said with the current Zoning, dividing a half acre lot by 300 sf per occupant came up with a similar number of bedrooms.

The motion PASSED 5-2, with Lorne Parnell and Bill McGowan voting against it.

- C. Set the maximum number of bedrooms per dwelling unit in Multi-Unit and Mixed-Use residences at four;

It was noted that there was no maximum number of bedrooms allowed now. Mr. Parnell said he would support this Zoning change, and said he thought the Board had already made this change. Councilor Lawson said this was not only an important Zoning change, but also solidified what they were attempting to achieve with the other Zoning changes.

Lorne Parnell MOVED to recommend to the Town Council setting the maximum number of bedrooms per dwelling unit in Multi-unit and Mixed residences as four. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

- D. Prohibit new basement dwelling units in Multi-Unit and Mixed-Use residences

Councilor Lawson MOVED to recommend to the Town Council prohibiting new basement dwelling units in Multi-Unit and Mixed Use residences. David Williams SECONDED the motion.

Councilor Smith said if only 2 to 3 sides of a floor were at subgrade and one side, perhaps the longest side, was not, this was not a basement and was a floor. Mr. Behrendt said that would be neither a basement nor a story, and suggested addressing that issue later. Councilor Smith agreed that this could be a Planning Board initiated Zoning change but would take a while.

Mr. McGowan asked if this Zoning change would affect how those terms could be defined. Mr. Behrendt said this provision would still be effective, since 80-90% of basement units would fall under the current definition. Mr. McGowan noted that the Board had approved a basement apartment some months ago. He said things seemed to be changing fairly rapidly, based on what they liked or didn't like. There was further discussion.

Mr. Behrendt said this Zoning change made sense because of the density and quality of units that would result, and the certainty that would result concerning the quality of the design of a site and the building on it. He said trying to squeeze in a basement unit could negatively impact the design of a project.

Mr. McGowan asked whether conditional use could perhaps be used to address these things. Chair Kelley noted that this Zoning change applied to all of the districts.

Mr. Behrendt said if Durham really needed more student housing, they probably wouldn't need to make this Zoning change. But he said they were near capacity with student housing, so the future demand for this housing would be limited. He said he thought they wanted future student housing to be of a high quality, and wanted to avoid having a few developers come in and fill the remaining demand by squeezing the maximum number of beds into their buildings.

The motion PASSED 6-1, with Bill McGowan voting against it.

E. Allow for flexibility in the arrangement of Nonresidential Uses in the Central Business district by conditional use.

Mr. Behrendt said if there was a project for a conventional building downtown with frontage, it would be more likely that it could meet the intent of the Ordinance by putting commercial space on the first floor. But he said with a large lot or a lot with an unusual shape, the best design would probably involve multiple buildings, and said putting commercial space on the first floor of some of these buildings might not be practical.

He said it had therefore been realized that the Zoning Ordinance didn't work optimally in this kind of situation. He said with this Zoning change, the Planning Board would be allowed to approve other arrangements of commercial space by conditional use. He said there would still need to be 33% commercial space, but noted as an example that instead of putting all the commercial space on the first floor, it could be moved to the front of a building where the frontage was, and could be put on every floor. He said this could be approved by the Planning Board by conditional use.

Mr. Parnell asked if allowing this kind of flexibility would be asking for problems down the road. There was discussion. Mr. Behrendt said he thought his kind of flexibility was a good thing, for a thoughtful Planning Board. He noted that there were some projects where the applicant was asked to go to the ZBA, and it was difficult for that Board to apply flexibility.

He said these kinds of decisions were best undertaken by the Planning Board, which had fewer legal constraints and could be more creative than the ZBA. He noted that what was proposed didn't reduce the amount of commercial space required, but allowed flexibility in terms of its location. He said there still might be requests for variances regarding the amount of commercial space proposed for a project.

Chair Kelley said the language included in this Zoning change made things more difficult than it needed to be. He noted the three criteria set out in it, and asked if in addition to these criteria, the standard 8 conditional use criteria also applied. Mr. Behrendt said yes, but said some of them might not be relevant.

Chair Kelley said he wasn't crazy about the language in b) concerning a "superior alternative arrangement". He said he would like to see the word "superior" go away, stating that he didn't want to judge whether it was superior or not. Board members agreed, and said the wording should be "reasonable alternative arrangement".

Chair Kelley asked what Planning Board members thought about the fact that an example had been provided in proposed Zoning provision. After discussion, Board members agreed that the example should be removed.

Andy Corrow MOVED to recommend to the Town Council allowing for flexibility in the arrangement of Nonresidential Uses in the Central Business district by conditional use, as amended this evening. Councilor Lawson SECONDED the motion and it PASSED unanimously 7-0.

X. 118 Piscataqua Road. Tax Map 11, Lot 24-4, Residence C Zoning District.

- A. **Public hearing** - Formal application for Site Plan and Condominium Conversion for a **4-unit condominium for seniors**. Submitted by **Alexander Bakman**; Corey Colwell, MSC Engineers, engineer/Surveyor; Scott Hogan, attorney.

Attorney Scott Hogan represented the applicant. He noted that he had described the project in some details when it was accepted by the Planning Board a few weeks back. He said he would be before the Conservation Commission tomorrow concerning a few items regarding the application, and would be back before the Planning Board for the first meeting in December for final action. He provided an overview of the project.

- In 1978, a 4 lot subdivision was approved. The properties involved with this application were originally approved as two separate lots of record.
- The residence and barn existed on the two separate lots, and a previous owner was granted a lot merger of these two lots some time ago.
- Last year, the applicant came before the Planning Board in order to reinstate the original configuration of the property back into two separate lots of record, and received approval for this. At that time, the applicant went to the ZBA for variances concerning frontage and minimum lot size, in order to reinstate the 1978 configuration of the two properties.

- The applicant requested a use variance to allow light manufacturing on the property, which was not well received by the ZBA. The applicant then came up with what proposed now. Attorney Hogan noted that the barn was built to commercial specs, and said the proposal was to convert it to 4 units of elderly housing in condominium ownership. He said this involved a separate subdivision process.
- With this plan for the site, the applicant had to go to the ZBA for minimum lot size relief, and the project was well received by the ZBA. Attorney Hogan noted that even when the light manufacturing use was sought, there wasn't an objection to the use itself, because there was a large berm at the front of the property, which meant that from almost every vantage point, there was nothing visually concerning the architecture or use of the property that would impact the abutters.
- The only external modification with this application is the proposal to build two separate parking structures and some decks. Attorney Hogan said the driveway went in front of the barn, wrapped around it on the river side and came around to rear doors that accessed the basement level. He said the proposal was to create 4 separate storage units for the condo owners out of this basement level storage area, so the driveway itself wouldn't function as a driveway. He said the cars would instead park in front, in the proposed parking structures.
- The project went to the Technical Review Committee, which determined that the driveway was wide enough for a fire truck to get in and turn around. Attorney Hogan said a suggestion was made that a turnaround should be put in near the entrance to the site, so if there were two cars passing each other, one of them could get out of the way. He noted that the sight distances, etc., had been reviewed.
- The applicant will be before the Conservation Commission tomorrow concerning two issues: a proposed well at the rear of the property in a lawn area, which would be located in the shoreland overlay; and whether a path should be provided from both structures to the dock that would be shared by the residence and the residents of the condominiums. Attorney Hogan explained that there was an existing footpath near the shoreline. He said the owner wasn't looking to make a lot of improvements to it.
- The driveway is shared, and an original condition of approval when the two lots were subdivided was that easement language would be provided for the shared use of the driveway.
- There is a small cemetery where the driveway meets Route 4, and the Planning Board previously asked that there be easement language in favor of the Town so that it could maintain the cemetery. Attorney Hogan said Mr. Behrendt had asked if perhaps the easement should be broader and extend to the public, heirs, etc., and if so, if the easement might also need to include the ability for someone to park in the existing driveway.

He said this was problematic for a number of reasons. He said he didn't think that there had been an issue in the past concerning people needing to park in the driveway in order to access the cemetery. He said the owner was willing to grant an easement for anyone to view, access or maintain the cemetery, but said the question was whether providing onsite parking as part of the easement was necessary.

Attorney Hogan noted that there had been 4 surface parking spaces in front of the barn in the prior plan the Board had seen, which were in the side setback for the new boundary line between the two lots. He noted that the Zoning Ordinance didn't allow parking in front, and said this was a potential issue for the application that had been brought up at a previous Planning Board meeting.

He said he spoke to Mr. Johnson about it, and said Mr. Johnson didn't think the provision applied to this proposal. Attorney Hogan said the parking spaces were moved away from the barn and put out in the lawn area, between the berm and the building, so this potential Zoning issue had been eliminated.

Andy Corrow MOVED to open the Public Hearing. David Williams SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Lawson noted that he was an abutter to this property. Councilor Smith said he'd been to two site walks at the property, so could be a voting member in place of Councilor Lawson for this agenda item.

Mr. Williams urged the public to give consideration to the issue of access to the cemetery. Councilor Lawson suggested keeping the public hearing open in order to be able to hear from the public.

Lorne Parnell MOVED to continue the Public Hearing to December 4, 2013. Councilor Lawson SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Lawson said he thought allowing parking of vehicles in order to provide access to the cemetery was appropriate, but said he didn't think an easement was needed for this. Ms. Pribble agreed, and said she imagined that if the applicant was open to the idea of granting an easement, he would also allow access. Attorney Hogan said the owner was not opposed to any such access by anyone.

- B. Request for extension to meet precedent conditions for 2-lot subdivision. Submitted by Alexander Bakman; Scott Hogan, attorney.

Lorne Parnell MOVED to grant the Request for extension to meet precedent conditions for 2-lot subdivision. Submitted by Alexander Bakman to April 21, 2014. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

Break from 9:28 to 9:37 pm

There was discussion by the Board that the presentation on the Agricultural Resources chapter would be postponed until Dec 11th, and would be the first item on the agenda for that meeting.

There was also discussion on possibly doing a site walk of the Mathes Terrace property as part of the design review process. Chair Kelley noted that the Board had discussed this

previously. He suggested giving it some thought and discussing it after the Golden Goose agenda item.

XI. Public Hearing - 17 & 21 Madbury Road. Formal site plan and conditional use application for “Madbury Commons,” a complete redevelopment of multifamily site known as “The Greens” for **mixed use project** with student/multifamily housing for 460 +/- residents, office/retail, and parking. **Golden Goose Properties**, Barrett Bilotta, Ken Rubin, and Eamonn Healey (applicant); Rose Lawn Properties, Laura Gangwer (owner of 17 Madbury); GP Madbury 17, Barrett Bilotta (owner of 21 Madbury); Michael Sievert, MJS Engineering (engineer); Shannon Alther, TMS Architects (Architect). Tax Map 2, Lots 12-3 & 12-4. Central Business Zoning District.

Ken Rubin spoke before the Board, and introduced the team. He thanked the Board for the site walk, and said he hoped it had been enlightening, and had reinforced the discussions they had been having on the project. He noted that the applications had been accepted by the Planning Board last week. He said the site plan would be presented in some detail this evening, and also said some new perspectives and refinements to the architectural design would be provided.

Mr. Sievert first went through some of the key design elements of the site application that had now been engineered. (The entire site plan is available at the Town website.)

- Two accesses, one in front – the boulevard access, 26 ft wide, 375 long, porous surface; Gradual slope from Madbury road to back, about 4 ft drop in elevation from front to back; 22 parking spaces
- Secondary access to the parking area at the back; about 7 ft drop in elevation; about 20 parking spaces in covered parking area
- Wide pedestrian areas on Madbury Road
- Pedestrian patio area at back, also porous
- Courtyard area with pervious pavers; walkway leading to covered area that leads out to front
- Drainage runoff to Madbury Road will remain, with closed drainage system. Also a large area, including runoff from porous pavement, going to Pettee Brook in the back. Runoff on northerly side of site will be collected in an open and also a closed drainage system with swales and culverts; goes to westerly side of site into stormwater management pond, etc. Roof runoff goes into the same area.
- Water and gas connected into mains on Madbury Road. Electric power also comes from Madbury Road. Sewer connects at the back of the site, to main collection system, 18 inch pipe, that goes through Pettee Brook parking lot. Discussions are underway with DPW about construction of the sewer and its actual location. There will either need to be excavation under the brook, which would require wetland permit, or directional drilling under the brook, which would not require the wetland permit
- Landscaping – focused intently on the hardscape on Madbury Road; have begun layout of landscaping for boulevard. Will be at the Conservation Commission tomorrow night to talk about this and the brook area.

- One bridge crossing Pettee Brook will be moved and the other bridge will be reconstructed in the existing location.

Mr. Rubin said some additional perspectives on the property had been provided in order to give people a better understanding of the relative scale of the project relative to nearby properties. Architect Rob Carty from TMS Architects provided details on these perspectives. There was then discussion with the Board on some of them.

Ms. Tatarczuch asked about emergency access to the site. Mr. Rubin said there was an egress road 22 ft wide from Madbury to the back parking lot that was sufficient for emergency vehicles, and said with this as well as the pedestrian way, there would be access to every building.

Chair Kelley said the site walk that day was very well laid out, and other Board members agreed.

Landscape architect Robbi Woodburn spoke next in some detail about the landscaping plan.

- Madbury Road streetscape - 15-22 ft width of the sidewalk, proposed to have Town standard wide sidewalk along outside edge of space, so will be a public way moving down Madbury Road. Moving in from the curb are areas for tree planters, fairly wide and long to give the trees the best conditions possible. This will provide a buffer between the public way and the building. Also will be areas between the buffer and the building for outdoor commercial space, for tables for coffee shops, etc. Plantings against the building should be in planters so there is flexibility, to accommodate the particular uses that go in there. Paving pattern will provide scale, interest
- Paving at entry to interior walkway. 8 ft sidewalk on boulevard on commercial side of space. Tree planters throughout to break up area, provide cooling. On boulevard, will need site elements to enliven space. Lighting will be off of the buildings, and signage will provide color and light.
- Courtyard area will be paved, with perhaps central tree, benches, bike parking; will be an area for coming and going
- Plaza near the brook will have pavers; everything culminates with bridge. View from parking lot will look right up the boulevard, making a visual connection to the downtown
- Pettee Brook – will stabilize slopes, remove invasives, put in native plants; area will be natural but tidy, canopy of trees will be raised. At top of bank will be a low key, naturalist two rail fence. Will discuss this with the Conservation Commission.

Chair Kelley said the proposed trees on the graphics were rather large. He asked for details on this, and Ms. Woodburn said they hadn't chosen the trees yet. She noted that there were 3 big oaks along Madbury Road, and said there had been discussion about whether these could be saved. She noted that the grade in that area was going to be lowered about 6 inches, and said vibration and compaction from construction could impact the trees. She said she couldn't say for certain that they could be saved.

Councilor Lawson said he loved the idea of movable plantings, but said it would be a challenge to keep them from going someplace else. There was discussion.

Mr. Rubin said the Golden Goose team was working on many issues behind the scenes, and said there were a lot of sub-plans involved. He said they were working with a number of Town committees, and were also working on a punch list of issues with Mr. Behrendt.

Councilor Lawson determined that the Board hadn't yet decided if a fiscal impact analysis was needed, and he said this should be decided sooner rather than later.

Mr. Behrendt said the applicant also needed guidance on the need for a traffic study and possible use of the traffic model. He said he wasn't sure that a study was needed for this project.

Mr. Parnell asked how many vehicles were on the site now, and Mr. Rubin said there were 100 spaces. He said they were looking at having about 42 spaces when the development as done. He said there would also be a different kind of traffic flow there compared to now, noting that the cars there would supporting the commercial businesses on the site.

Mr. Williams said there was the impression that they were maxing out the number of students that Durham might accommodate. He asked Mr. Rubin for his perspective on this.

Mr. Rubin said Golden Goose didn't believe there would be an imbalance between the demand and supply of student housing in downtown Durham for quite a while. He said they were highly confident that there was sufficient demand now and in the foreseeable future. He said they believed they would be delivering the best student housing value in Durham, and would be the most desirable place in Durham for students to live.

Councilor Lawson MOVED to open the Public Hearing. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

Beth Olshansky, Packers Falls Road, said it was an interesting idea to have portable plantings, but asked what size trees they were talking about. Ms. Woodburn said the planters would have shrubs, not trees. Ms. Olshansky said it would be good to talk to Conservation Commission John Parry about protecting the existing trees. She said currently, Madbury Road had a nice line of trees, and said residents would appreciate maintaining this if possible. She said doing this would also help to break up some of the large buildings.

She noted the proposed flat roofed building with the solar panels on it, and said perhaps there should be a parapet or something else there to hide the solar panels. There was also discussion about the importance of keeping the nearby tree buffer in order to break up the massing of the five story building.

Ms. Olshansky noted that this project had been grandfathered before the new Zoning for Madbury Road was put in place. But she said the applicants had increased their setbacks beyond what was required under the old Zoning, and had also chosen to create units that had close to 300 sf per bed. She said it was interesting to see the different choices developers

were making in terms of creating quality housing for students in Durham. She said she appreciated it that Golden Goose had made these choices.

Chair Kelley asked that the team keep the Planning Board and Mr. Behrendt up to date with progress they were making in addressing various details concerning the plans. He noted the following things he thought were needed:

- More coordination between the details of the landscaping plans and the engineered site plan as things moved forward.
- A lighting plan.
- A master signage plan
- Access shown to the stormwater treatment device.
- Show routing of public utilities if transformers can't stay in the rear of the building
- Show the limits of work, especially along the perimeter of the property
- Address private parcel impacts to the sorority next door in cutting the swale in; work with them to get the appropriate approvals. Discuss with applicant's attorney whether easement language would be needed for maintenance of those swales
- Fiscal impact analysis should be done
- Constructing management plan
- Security and property management plan

Mr. Rubin said most of these items were on their list, other than the issue regarding the sorority house. There was discussion.

Mr. Parnell asked if the DPW had provided information on the adequacy of water and sewer. Mr. Behrendt said there had been no red flags, but said formal information on this would be provided. It was agreed that something in writing should be provided, and sooner rather than later.

In answer to questions from Mr. Williams, Mr. Rubin said there would be roughly 126 units, each with two bathrooms and a kitchen sink, and most likely a washing machine and a dishwasher. Councilor Lawson said DPW had tracked water usage in the new developments, so was getting a good sense of how much water students were consuming.

There was discussion about whether a traffic analysis of some kind was needed. Mr. Parnell said since auto traffic would probably be reduced, he wasn't sure that this analysis would be useful. Councilor Lawson agreed. He said while because of the commercial uses there would be more movement of cars on the site compared to the current situation, with 42 spaces he didn't think the time and expense of a traffic study were warranted.

Chair Kelley said a question was what if any improvements needed to be made to the Pettee Brook parking lot because of the number of pedestrians that would be moving through it, and said there should be conversation with DPW about this. He said there would be a big increase in the number of residents on the site, and a pedestrian corridor to the downtown was being created, but a pedestrian path through the parking lot hadn't been delineated. Mr. Sievert said this issue came up with the DPW, and they stated that money was in the CIP for walkways leading to the bridge.

Mr. Williams said earlier in the year, the Planning Board was advised that Middle Schoolers could be lured to this area because of the businesses that would be there. He said this was another demographic issue for that area. Mr. Rubin said compared to today's setting, the site would have sidewalks on both sides of the pedestrian corridor, a security officer, and very few cars. He said on balance, the kids should be a lot safer after the project was built.

Councilor Lawson said he agreed, also noting that the boulevard would be narrow so cars would need to drive slowly and that there would be sidewalks and good visibility. He said he couldn't imagine a much better scenario than this.

Mr. Rubin said he thought the drivers on the site would be more sensitive to kids than the current drivers on the site.

Mr. Williams asked how noise from the construction would be addressed. Mr. Rubin said there was a construction management plan, which could be discussed in detail at a future meeting. He said the timing of construction would be about 14 months, so they would want a maximum amount of hours allowed for construction. He said they planned to open in September of 2015.

Ms. Tatarczuch noted conversation about potential offsite parking for some residents of the development. Mr. Rubin said the premise was that most students attracted to the property would not own cars, but said if they did, they wouldn't need to get to them every day. He said spaces on the site were reserved for commercial purposes.

He said 20-25% of the residents would have vehicles, and said Golden Goose was making provisions for satellite parking within a 10 minute walk of Madbury Commons. He also said there was other satellite parking areas available, including the West Edge lot. He said the company believed it was covering the parking demand. He noted that while they would like to have more onsite parking, this was one of the constraints of the project.

The Planning Board agreed that no traffic study was needed. There was discussion on the fiscal analysis to be done. Mr. Rubin said they were expecting to get through the review process by the end of the year, or thereabouts, and Chair Kelley said this would be driven more by Golden Goose than the Planning Board at this point. He said there were issues the applicants were well aware of that needed to be worked through. There was further discussion.

Mr. Behrendt noted the process followed with the Peak application, where at the meeting prior to the Peak Approval, he had provided the Board with a draft notice of decision, so the Board could refine it before approving it at the next meeting.

Mr. Rubin said they just wanted to be sure the goal posts weren't moving around and there wouldn't be surprises about the scope of work.

Chair Kelley said the challenge for the Planning Board was to spend the time now reviewing the documents, and to send questions, etc. on them to Mr. Behrendt as soon as possible.

Councilor Lawson said he appreciated the schedule, but said there was a lot to review, so perhaps the review process would be done in January. Mr. Rubin suggested formalizing the task list, and making sure they were all working off of the same list, so there would be clarity. Chair Kelley said that was an excellent idea. Mr. Behrendt noted the list he had provided for the November 6th meeting, which was fairly comprehensive. He said he would update this list and be clear on the items on it at the next meeting. There was further discussion.

- XII. Public Hearing** (continued) - **25-35 Main Street**. Formal site plan application to redevelop three lots into a **mixed-use student housing project**. The proposal involves rehabilitating the houses at 25 and 35 Main Street, demolishing the houses at 27 and 29 Main Street, demolishing/relocating the barn in the rear, erecting two new houses fronting on Main Street, erecting two large new buildings, one in the rear and one fronting on Main Street. **Orion Student Housing**, Bill Fideli and Philip Wills, applicant; Bob Clarke, Allen and Major, engineer; Lisa DeStefano and Adam Wagner, DeStefano Architects, architect; Tim Phoenix, attorney. Tax Map 5, Lots 1-6, 1-7, and 1-8, Central Business District.

Mr. Behrendt said Orion had requested that this agenda item be postponed until the December 4th meeting.

Ms. Pribble left the meeting at 10:54 pm.

- XIII. Mast Road**. Discussion about cutting of trees along the multi-use path and possible remedies. Related to approved site plan under construction for 142-unit/460 bed apartment-style housing development. **Peak Campus Development**, LLC. Office Research/Light Industry Zoning District.

Jonathon Barge of Peak Campus Development provided some history on how they had gotten to this point, where some of the trees about half way down the path on Mast Road were removed by the contractor. He noted that most of them needed to be removed, but said there were a few trees that could have remained. He said it was an 8 ft path with a 1 ft shoulder on each side.

He said over the past two months, there had been numerous meetings to look at the situation. He said a plan was developed that added 20 trees to the path, and slightly adjusted the path to possibly fit in more trees in the easement area. He said the plan was reviewed with Mr. Parry and Mr. Lynch in the field, and said they agreed that this was the best way to run the path. He said it was adjusted in the field to save additional trees that they had planned to take down.

Mr. Barge said in the winter, the clearing would be completed, cleaned up and stabilized, and said in the spring, the path would be paved and the new trees would be planted. He said Peak believed that they were addressing the misstep that had been made, and said they were still following the original plan, which included discussion with Mr. Parry about trees to be planted, etc. and the Planning Board would be kept in the loop. He said Peak didn't believe that a vote or public hearing was required.

Mr. Behrendt said Peak didn't believe this needed to be treated as an amendment to the site plan, and believed they could pursue this plan consistent with the previous site plan approval. He also noted that Mr. Wolfe thought this matter should be treated as an amendment to the site plan, and required a public hearing.

Chair Kelley asked how the Board felt about this. Mr. Parnell said given that there were conditions in the original approval that were noted, the Planning Board had a role in this. He said he wasn't prepared to say anything about what was proposed without seeing the situation on the site. He said at a minimum there should be a site walk. Mr. Lewis agreed that a site walk was needed, noting that there had been a lot of citizens who were concerned about this issue.

The Board agreed that the public hearing would be scheduled for December 4th.

Mr. McGowan said he didn't see why the Planning Board would second guess discussions between Peak, Mr. Parry and Mr. Lynch on the path. Chair Kelley said the Board was being thorough. Mr. Behrendt said it would be wise to do a site walk and have the public hearing. He said he didn't see any reason for concern about doing some cleanup work of the path before winter set in. There was further discussion about the importance of doing the site walk and having the public hearing.

UNH planner Steve Pesci noted that the path was on University property, and said since the misstep, Peak had done a lot to address the problem. He said he respected the Planning Board's thoughts about having the site walk and public hearing, but asked them to give permission to Peak to do the site work necessary now so they wouldn't be delayed regarding putting things to bed for the winter. There was further discussion.

Councilor Lawson MOVED to hold a public hearing on December 4, 2013 on the proposed planting plan at Peak Campus Development on Mast Road. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

It was agreed that the site walk would be held at 3:15 pm on December 4th..

After further discussion, the Board agreed that the path could be cleared up and stabilized for the winter.

XIV. Draft Agricultural Resources Chapter of the Master Plan – first presentation to the Planning Board. Recommended action: Discussion and set public hearing for December

Postponed

XV 2014 Schedule of Planning Board meetings.

Bill McGowan MOVED to approve the 2014 Planning Board meeting dates. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

XVI. Other Business

After discussion about whether there should be a site walk for the Mathes Terrace project, Board members agreed that there should be one. It was agreed that the site walk should be held at 2:30 pm on December 4th.

XVII. Review of Minutes:

September 25, 2013 - postponed

October 2, 2013 - postponed

XVIII. Adjournment

Bill McGowan MOVED to adjourn the meeting. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 11:17 pm

Victoria Parmele, Minutes taker

Andrew Corrow, Secretary