

These minutes were approved at the June 25, 2014 meeting.

DURHAM PLANNING BOARD
Wednesday, May 14, 2014
Town Council Chambers, Durham Town Hall
7:00 p.m.
MINUTES

MEMBERS PRESENT: Peter Wolfe, Chair
Andrew Corrow, Secretary
Bill McGowan (arrived at 7:31 pm)
Lorne Parnell
David Williams
Councilor Julian Smith, Council Representative to the Planning Board
Wayne Lewis, alternate
Linda Tatarczuch, alternate
Councilor Kathy Bubar, alternate Council Representative to the Planning Board

MEMBERS ABSENT Richard Mr. Kelley, Vice Chair
Jennifer Pribble, alternate

I. Call to Order

Chair Wolfe called the meeting to order at 7:02 pm.

II. Roll Call

The roll call was taken.

III. Seating of Alternates

Chair Wolfe said Ms. Tatarczuch would sit in for Mr. McGowan, and Mr. Lewis would sit in for Mr. Kelley.

IV. Approval of Agenda

Councilor Smith MOVED to approve the Agenda as submitted. Linda Tatarczuch SECONDED the motion, and it PASSED unanimously 7-0.

V. Planners Report

Mr. Behrendt said there would be an extra Planning Board meeting next week, and also said the Board would have a planning workshop at the meeting on May 28th. He said the

site plan application concerning proposed relocation of the dumpster at the Coops had been postponed to the next meeting.

It was noted that Planning Board representatives to the Historic District Commission, Conservation Commission and Energy Committee would be chosen at the next meeting.

VI. Master Plan update

Molly Donovan, Chair of the Master Plan Advisory Committee said the goal was still to have 10 chapters come through the Planning Board and be completed by the end of the year. She said the Committee had asked for and would be getting a flow chart from their consultants at Strafford Regional Planning Commission that would show how the chapters were at various stages of development. She said the Committee would discuss the flow chart tomorrow and perhaps would make some changes to it. She said once they finalized it, it would come back to the Planning Board.

She said the Committee was trying to be very organized about the ten chapters that were in various states of development, and would assign dates for SRPC to review each of them. She said the Economic Development, Downtown Commercial Core, Recreation, Natural Resources and Historic Resources chapter would start through the review process in July and August. She said the Energy and Agriculture chapters would also be reviewed by SRPC.

Ms. Donovan noted that SRPC wasn't writing any of the chapters, and said after reviewing a chapter, SRPC would issue a memo to the chair of the committee that had written the chapter, indicating information SRPC might have to update and enhance the chapter. She said SRPC would also highlight areas to look at among chapters. She said this process would start this summer.

She said in the meantime, the Advisory Committee had been reviewing early drafts of the Housing and Demographics, Existing Land Use and Community Character chapters. She said they were thrilled with the information SRPC was providing and said it would impact and strengthen the other chapters. She said the Advisory Committee was also excited about the mapping SRPC had done of existing land use, and said it told an interesting story and would help in developing the Future Land Use chapter.

Mr. Williams asked how Planning Board endorsement of a chapter would affect the Advisory Committee deliberations. Ms. Donovan said the Advisory Committee discussed this at its last meeting, and felt it was the Planning Board's decision whether to endorse, adopt, set aside, etc. a chapter. She said a decision on this would potentially impact the Energy chapter and the Agriculture chapter, which the Planning Board had already reviewed. She said she couldn't advise the Board on this, and also noted that SRPC would review these two chapters to perhaps enhance what had already been done.

Chair Wolfe said he thought the Board had made a decision that when a chapter came to it and met its approval, it would be accepted pending review of all of the chapters. Ms.

Donovan said the Advisory Committee wasn't clear what the Board had decided, and said clarification on this would be helpful. She said SRPC would begin to review seven chapters in July and August, and said those that hadn't gone through the Planning Board yet would come back to the Advisory Committee. She said it was believed that seven chapters would then go to the Planning Board in September in quick succession, and said that would be when the process would need to be very clear concerning acceptance, endorsement, etc.

Chair Wolfe said he thought the Planning Board should discuss this now. He said if the Agriculture Chapter, which was on the agenda this evening, was ready for SRPC to review, was the Board saying it accepted or endorsed that chapter.

Councilor Smith said he hoped The Board could endorse in principle the Agriculture chapter, sign off on it, and would then be finished with it until it came back to the Board at the end of the process. There was discussion. Mr. Williams said there was a lot of information on demographics, housing and land use unfolding pretty fast right now, and said he could imagine that this might cause committees to rethink some of their thoughts and priorities, or protect their priorities.

Chair Wolfe noted that no one had looked yet at how the various chapters would be integrated and balanced with one another. He said this would be done later and would be part of the Planning Board's role in the Master Plan process. There was discussion about whether the Planning Board would endorse chapters one by one. Chair Wolfe said he didn't think this could be done because the chapters were related. He said there would be a session at the end to figure out how the chapters meshed. He said there would be conflicts.

Ms. Tatarczuch said she was uncomfortable with the idea of endorsing a chapter at this point, noting among other things that there was still a lot of information coming in. She also said endorsement of one chapter could cause problems for other chapters, and said she liked the idea of accepting a chapter at this point and seeing how it played out together with other chapters.

After discussion about the meaning of endorsement compared to acceptance, the Board agreed that they would accept chapters.

Mr. Behrendt said the Energy and Agriculture chapters would go to SRPC for formatting, embellishing, etc., but would not be reviewed in depth. He said this work would be done under the direction of the Advisory Committee.

Mr. Parnell said he hadn't been aware that SRPC was involved in the Master Plan process. Ms. Donovan said the Advisory Committee had started to have concerns about being able to move forward with the Master Plan, working with the existing consultant. She said there was a joint decision to look for a new consultant, and said after putting the project out to bid, a joint selection committee selected SRPC. Mr. Behrendt noted that the Planning Board had endorsed this.

Ms. Donovan said “acceptance” was a comfortable term for the Advisory Committee. She said she’d provide a flowchart with her next update to the Planning Board.

VII. Public Comments

There were no public comments.

VIII. Agricultural Resources Master Plan. Review of updated draft chapter. Theresa Walker, Chair of the Agricultural Commission.

Theresa Walker, Bennett Road, Chair of the Agricultural Commission, noted that a lot of the other members of the Commission were present. She said when they were all last before the Planning Board, there was discussion on the draft the Commission had worked on with the Advisory Committee and Beth Della Valle, and the Planning Board provided comments. She said the Commission had met several times since then and had added in the changes the Board had requested and had also made some more changes of its own. She said they were glad to hear that SRPC would work on formatting and layout issues.

She said the Commission had a discussion on Monday about things that still needed to be added to the chapter. She said they were excited about having a specific chapter on Agriculture, and having a discussion about opportunities to farm and use the working landscape in Durham. She said as the Town and the University made critical decisions about the future, this should include opportunities to grow their own food and to educate residents concerning these opportunities. She said she hoped the chapter’s recommendations reflected this.

Chair Wolfe said he liked the chapter but has some comments on it.

- Recommendation #1: “Work with the Town Government to adopt the state definition of agriculture...” Need to say why that is important.
- What does Recommendation #4 “Enhance relationships among the Town and farmers and land owners, including UNH...” mean. Ms. Walker said the idea was to keep building on conversations so that farmers had a seat at the table.
- Recommendation #6 “Expand the Farmer’s Market to year-round and encourage CSAs and other emerging techniques that helped local food producers sell their good directly to consumers...” This is good, but belongs under Goal #4 too.
- Recommendation #8 is too long and should be made easier to read. Try using bullets to make it easier for the public to see the specifics in the recommendation.

Councilor Bubar noted the term “farmland soil” on page 4, and asked that this be defined in a footnote. Ms. Walker said a definition would be added for this and also noted that maps from SRPC would provide information on farmland soils. Councilor Bubar said the chapter was beautifully done.

Ms. Walker noted that the map on page 5, which had been discussed by the Planning Board previously, had been corrected. There was discussion that the maps would work best at a size of 11 in by 17 in. Ms. Walker said it would be good to have the maps on the Agricultural Commission's section of the Town website.

Mr. McGowan arrived at 7:31 pm.

Chair Wolfe noted Goal #3 on page 16 concerning supporting food hubs, and asked if Recommendations #2, 3 and 4 were actually related to this, even though they were great ideas. There was discussion. Ms. Walker spoke about why #2 should stay there. There was discussion that #3 and 4 could perhaps go under Goal #4. Councilor Smith said they could also go under Goal #1, but said it was already pretty long.

Chair Wolfe said he hoped to see something in Goal #4 about the fact that growing local reduced the use of fossil fuels and also helped the environment and global warming.

Councilor Smith said he would provide his copy of the chapter to the Commission, which had some comments and notes on it. He said there were some large claims and abstractions in the chapter that he questioned, for example, that "Zoning will recognize...", and that "The Town will view agriculture as one form of economic development..." He said some people wouldn't say that it was a form of economic development. He said he also found a lot of redundancy in the chapter. He said he hoped SRPC would look for these things. There was discussion that Mr. Behrendt would get Councilor Smith's notes to Ms. Walker.

Mr. Lewis noted that the size of farms in Durham was discussed on page 4, and he suggested that the measurement of an acre should be provided as a frame of reference for readers

Mr. Williams said this chapter was a great addition to the Master Plan, and said it fostered an understanding of their needs as human beings. He said there were a lot of actions placed in the chapter, and said it was ambitious. He suggested perhaps making a basket of actions that were truly priorities in order to be realistic. He said some of it was aspirational and said it was unlikely all of the actions could be taken in ten years.

He noted that page 16 said "It is commonly believed that there is no more than a 3 day supply of fresh food in NE region..." He said there was a lot of canned food that would be available if there was a disaster, so a loss of fresh food wouldn't kill everyone off. He said this issue begged the question of emergency planning regarding food supplies.

Ms. Walker said the chapter was trying to demonstrate the vulnerability of Durham because it was at the end of the food chain. She said if something disrupted this chain a question was whether the food would get up here from Boston. She said she agreed that this was a hazard mitigation issue, and noted that she wrote hazard mitigation plans for NH towns. She said the town of Brentwood didn't have a Market Basket until recently,

and had realized that natural events could create panic among residents of the area concerning the food supply. She said the Agriculture chapter did address this aspect of the local food issue.

There was discussion on how that issue was being raised in the Master Plan.

Chair Wolfe asked if the comments Planning Board members had provided this evening could get into the draft of the chapter and got to Strafford Regional Planning Commission. Mr. Parnell said he hadn't heard anything this evening that really changed the content of the chapter, and other Board members agreed. There was discussion on the process if this chapter was accepted by the Planning Board this evening.

Planning Board members agreed that the chapter could go back to the Advisory Committee, which would then oversee SRPC in its review of the chapter. It was noted that the chapter would then be set aside and would come back to the Planning Board later with the other chapters.

Councilor Smith MOVED to accept the draft of the Agriculture chapter, and refer it back to the Master Plan Advisory Committee. David Williams SECONDED the motion and it PASSED unanimously 7-0.

- IX. Public Hearing - Elderly Mixed-Housing Development – Proposed Zoning Amendment.** Proposal from the Economic Development Committee for an amendment to create a new residential use which would be allowed in the Durham Business Park Zoning District by conditional use.

Mr. Behrendt noted that letters on this proposal were received from Richard England, Jessica and Sean Starkey, Anthony Raimondo, and the Schwartz family. He said they were supportive of the proposed ordinance and were available on the Town website. He also said there was a letter from Daniel Keefe, who lived across from the Business Park and was concerned about the density of a development that would be allowed there as well as traffic from it, and asked that the Planning Board be careful about the potential scale of development that this ordinance would allow.

Mr. Behrendt said that after the public hearing, the Planning Board could reject the proposed ordinance and choose not to initiate it; could vote to formally initiate it as it currently was written; or could initiate it with some minor changes. He said if the Board wanted to make significant changes to it, another public hearing would then be required. He said it would then go on to the Town Council for consideration, where after a public hearing, the Council could decide whether to adopt it.

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

Councilor Carden Welsh, Fairchild Drive, member of the EDC, said Eric Chinburg, owner of the Business Park, was trying to do something with this property but it was difficult with Pease nearby, which didn't pay property taxes. He said this proposal would potentially provide the Town with a nice increase in taxable value with little additional cost to the Town. He said the residents would be relatively low maintenance and wouldn't add kids to the School District. He said an elderly mixed housing development could also help the Town avoid an increase in property taxes as it tried to absorb the costs of the new Library and new Town Hall.

He said while it would be better if the site and density proposed on it were closer to Town, the principles of smart growth couldn't always be followed exactly. He said the property was relatively close to downtown, and also said by being set off a bit, the site would be in a setting that would provide peace and quiet for the residents.

Councilor Welsh said the EDC had spent a good bit of time on this proposal, and said the end result was a new use and performance standards that could perhaps be applied in other areas of Town.

He noted that there had been some questions at a previous Board meeting about wetlands on the site, and said controls were in place to protect them. He also said NHDOT rules would be enforced regarding the amount of traffic that could be generated by a development there. He said if the proposed Zoning amendment was adopted, it would serve the Town very well.

Councilor Jay Gooze, Meadow Road, said the Council hadn't discussed this Zoning proposal yet, and also said he was speaking as a citizen. He noted that he'd been on the ZBA for seven years and on the Council for four years, and over that time had watched as many attempts were made to get something going out there, including over the past few years when Mr. Chinburg had owned the property. He said he believed something needed to be done at this point, and said he reviewed the EDC minutes to see how they had worked their way through developing this Zoning amendment. He said it looked like a lot of thought was given to it, and said he endorsed the proposed ordinance change.

Councilor Welsh noted that the Town had paid \$500,000 for the site, and said this Zoning proposal was very reasonable, given the suggested \$10 million in valuation if there was an elderly mixed housing development there. He said that would come to about \$300,000 annually in taxes.

Nancy Webb, Woodridge Road, read a letter into the public record from **Beth Olshansky, Packers Falls Road**:

While I am not opposed to the development of the Durham Business Park, there are several aspects to the proposed amendments before you that I find troubling:

- 1) The creation of a new term "developable area" and placement of it in the definitions seems unwise. This introduces a whole new way of determining density that has not been well vetted by the community. Following developable area calculations will result in

considerable more density than what is currently permitted. This should not be added as a definition as it should be part of a much larger discussion.

- 2) I object to inserting this unvetted concept into the definitions section of our ZO as it will then be able to be applied more widely—beyond the Durham Business Park. Please recall that we got into trouble once before by making a large scale change for a particular developer for MUDOR & ORLI, which resulted in significant negative unintended consequences. Let's not make the same mistake twice (or even a slightly different mistake)!
- 3) If I am correct, the density that would be permitted is 4x greater than what is currently allowed! This in an area that is not only environmentally and but also scenically sensitive (being along our gateway and the Great Bay).
- 4) The significant increased density also flies in the face of Smart Growth principles and the concept of "the transect," which I thought we were committed to following. Specifically, in the Durham Business Park, (zoned for the equivalent to RB density), we would be permitting density equivalent to that of our downtown Professional Office District. This makes no sense!
- 5) I am not convinced that the prospect of having elderly drivers regularly pulling out onto Rt. 4 (a tricky intersection) is a wise idea.
- 6) I have a hard time believing that the density proposed will allow us to meet the Durham Business Park Design Guidelines which are written into the deed. Specifically note: Purpose statement: "These guidelines seek to promote compatibility between the development of the Park and the rural-residential quality of the riverfront neighborhood. The view into the site from the bridge on Route 4, the Oyster River, and Johnson's Creek are of particular importance. The desired outcome is to have the buildings sited to preserve the significant views.

And the following specific guidelines:

- Buildings shall be sited to preserve significant views from Route 4 and the Oyster River, vegetation, and existing landforms.
- Buildings shall be designed to complement rather than dominate their surroundings.

Given the kind of density being discussed, I fail to see how significant views will be preserved.

Finally, regarding the venting of the Waste Treatment Center on a regular basis, I heard someone on the EDC state that there would have to be a clause written into buyers' or renters' agreements that they could not sue due to waste treatment odors. If we are already concerned about future lawsuits, I would say that this plan represents very poor planning!

Please reject this proposed amendment. While this is a noble effort by the EDC to generate tax revenue, I feel like the proposed amendments do not reflect the broader values of this community. In my opinion we should wait until a more suitable project comes forward.

Emily Smith, Orchard Drive, said she represented the elderly, and said this was another example of spot zoning the Town was still trying to avoid. She said people she had spoken with were deeply concerned about traffic there, and said clustering elderly by the treatment plant wasn't new urbanism. She said elderly people wouldn't be able to walk to Wagon Hill, etc. She said she would like to see this land used well and said she respected Mr. Chinburg and the work the EDC had done. But she said it made her think about disposing of the elderly by putting them near the sewage treatment plant. She asked if they were sure if this was a safe area for development, looking forward, giving possible flooding in the future. She also said she couldn't find this area on the flood insurance maps. Mr. Behrendt said this would be precisely delineated if there was a site plan application.

Councilor Jay Gooze said typically elderly housing wasn't downtown and said shuttle buses were commonly used. He also said he didn't think that odor from the wastewater treatment plant was an issue anymore because it had been mitigated.

He said he agreed with Ms. Olshansky that there could be issues down the road with the term "developable area" and said a way to address this was by referencing the Business Park specifically in the definition of developable area in the Definitions section of the Zoning Ordinance.

Carol Tuveson, Watson Road, asked if this amendment was ready to be approved tonight, or was just being discussed. She said she shared the concerns expressed about developable area and would like a clear definition of what that was.

Eric Chinburg, said under the current Business Park zoning, 50,000 sf of office space could be put up, which could mean 200 employees, and he said the traffic impact of that would be greater than from 50-70 housing units and the 100-120 people that would be allowed under the density calculation for elderly mixed housing development. He also said that regarding the proximity to the wastewater treatment plant, he understood the comments. But he said the request was to have another possible use available so there could be a successful project there for the community. He also said a 55 plus development would involve independent living by those who lived there.

Councilor Smith asked Mr. Chinburg if he'd talked to developers of this kind of project about what percentage of residents would be retired. Mr. Chinburg provided details on his experience concerning this. Councilor Smith said the Table of Uses wasn't being tweaked concerning home occupations in regard to the Business Park. He also said the Board should consider allowing uses there that would make it less likely that people living there would need to go on the road to get basic services.

Chair Wolfe asked Mr. Chinburg if he'd calculated the minimum number of units needed to make a project financially viable. Mr. Chinburg said no, but said he liked the EDC's concept of having a mix of housing. He said the design guidelines were an economic hindrance to commercial development but said they would work with independent living, 55 plus housing and would make the view shed better.

He said even with the design guidelines, the Town might eventually get a commercial development, but said there would still be a bunch of big buildings out there and there would be an impact, so it wouldn't look like a field. He said an elderly mixed housing development could potentially allow a better view shed and a nicer mix of buildings. He said the height limit would be 40 ft.

Councilor Smith asked if the housing would exclude children. Mr. Behrendt said Durham's regulations said everyone had to be 55 or older. There was discussion.

Ms. Tatarczuch said she was concerned about the density that would be possible with what was proposed for the Business Park. She said 75-100 adults there would most likely all have vehicles, and she asked about parking and access roads on the site for these vehicles. She also said the wastewater treatment plant next door also concerned her.

Mr. Chinburg said he hadn't studied the numbers concerning density in detail, but noted that whatever was proposed would be as a conditional use, so the Planning Board would have a lot of discretion concerning what happened there. He also said he'd done a lot of 55 plus projects, and said one person on the deed needed to be 55 or older. He said it was possible that someone who was 60 might have a child, but said this wasn't that likely. It was noted that the issue of a development resulting in more children in local schools wasn't the same issue as it had been 10 years ago.

Mr. Lewis said it would be important for the Board to be specific about the age requirements for a development, noting his experience in looking at such developments when he and his wife were looking to retire in NH. Mr. Behrendt read Durham's definition of elderly housing, and said for previous elderly housing developments in Town perhaps it had been interpreted to mean that federal requirements had to be met. He said perhaps that could continue. He said the Board could also add some language to the elderly housing definition to clarify things and said that would apply to all elderly housing in Durham. Mr. Lewis noted that he lives at Spruce Woods, where one person in 80% of the units needed to be 55 or older. Mr. Behrendt said this was the federal requirement.

Ms. Luxem asked why it would be so important that everyone would be 55 or older. She noted a possible situation where a grandparent was taking care of a grandchild, and said she would appreciate it if this kind of situation wouldn't be excluded. She spoke about being a community where everyone had a place and was welcome. Mr. Behrendt said if the language "... as provided under federal law..." was added to the definition of elderly housing, this would provide some flexibility concerning the age requirement. Chair Wolfe said the Board would need to talk through that issue.

Emily Smith said her daughter could live at Fitts Farm because she was disabled, and asked how a development at the Business Park would be managed in terms of meeting eligibility requirements. Mr. Chinburg said if the housing was a rental product, the leasing agent needed to follow town ordinances. He said if the housing was sold as

condominium units, the deed would require that federal law/local ordinance would need to be met. He said a condominium association would act as the steward of the rules. Ms. Smith asked if elderly housing meant the same thing to everyone. Chair Wolfe noted the definition in the Ordinance.

Councilor Smith MOVED to close the Public Hearing. Wayne Lewis SECONDED the motion, and it PASSED unanimously 7-0.

Chair Wolfe noted that Ms. Tatarczuch was concerned with density, and said he had some questions on the dimensional requirements. Mr. Lewis said a sea level rise of 4 ft was expected within the next 100 years, and suggested that this would need to be taken into consideration. Mr. Behrendt noted the Town's Hazard mitigation plan, which mapped future scenarios and how they would affect Durham. There was discussion.

Chair Wolfe noted that Councilor Gooze had questions about the proposed term "developable area", and whether this should be limited to the Business Park. Mr. Parnell asked why this definition was needed. Mr. Behrendt recommended leaving it as proposed, and said he didn't understand the concern about it. He said it was the structure upon which the minimum density was based in this proposal. Mr. Parnell asked if the buildable area would still be calculated the same way if the definition didn't exist.

Mr. Behrendt said it would only be used as a tool for this proposal, but said it would be available to use elsewhere in the future if that was desired. He said the two other density related definitions in the Zoning Ordinance were for buildable area, which pertained to an individual lot and subtracting out setbacks, and wouldn't apply here. He said the other was a fairly complicated definition of usable area for conservation subdivisions, which wasn't relevant to this. He said the only reference to developable area now was in this Zoning proposal. He said it was that portion of a tract that could be built on.

Chair Wolfe said he agreed with Ms. Olshansky on this, and said the Planning Board hadn't thought enough about how it would impact the rest of the Town. There was discussion. Chair Wolfe said he thought Councilor Gooze's suggestion to keep the definition just with the Business Park was a great idea. Councilor Smith agreed. There was further discussion.

Councilor Bubar asked what the definition would add. Mr. Behrendt said in order to get good tax revenue from a project, the EDC wanted there to be a minimum density, and said this was determined based on this definition. Councilor Bubar said the new definition stated what they already knew, but said she was fine with that, and also was fine with restricting it to the Business Park. Mr. Parnell said he was concerned about unintended consequences in other areas of Town if this language was added. There was further discussion. Ms. Tatarczuch said she agreed with Mr. Parnell and Ms. Olshansky on this.

Councilor Smith suggested that the definition of developable area could be included in the definition of elderly mixed housing development. Chair Wolfe said the definition

could instead be put in the performance standards, under f. There was discussion about this and about the other approach that the definition of developable area in the Definitions section could say it only applied to elderly mixed housing development. Councilor Smith said the definitions should be done right, noting that this kind of development might work in other districts in Durham. He said he believed the definition belonged in the performance standards.

There was further discussion. Mr. Behrendt continued to suggest that it would work best if developable area should be defined in the Definitions section. He recommended the following: Developable Area – That portion of any lot, lots or tract of land within an elderly mixed housing development that does not include wetlands, buffers/setbacks.....”

Board members agreed that this would work.

There was discussion that traffic would be addressed by NHDOT, and that there would be real limits on development based on the number of trips allowed in and out of the site at the peak hour. Ms. Tatarczuch asked if it mattered, concerning density, whether cars would be turning left or right onto Route 4. There was discussion about this and about density in general. Ms. Tatar spoke further about her concerns about having too much density on the site, depending on how it was designed.

Chair Wolfe said if this use and density were allowed in another district, it would be significant, but said at the Business Park it wouldn't be as dense because of the specific site and the amount of developable land.

Mr. Behrendt said the development density for this site wouldn't be a concern for several reasons, including the design guidelines, the traffic limitations, the fact that it would be a conditional use, the site constraints, etc. He noted that the minimum lot area per dwelling unit would be 3000 sf for the BP, and said it could easily be made 4200, which was more in line with some other zones. He also said if it was made less than 3000 sf, it still wouldn't affect how this site was developed.

Mr. Parnell said using 3000 sf minimum, there could be about 80 units. He said if it was 4000 sf, there would be much fewer dwelling units, and also said there would be other constraints. He said 60-80 units was probably the kind of number the Board should be thinking about, and said with 1.5 people per unit, that was 90-120 people.

Mr. Behrendt said the density for the other zones was set in the Table of Dimensional Requirements. He said the only thing proposed now was the density for the Business Park, and it was known that this density would be constrained for the reasons he'd mentioned. He said he wasn't sure there was anything else to deal with concerning density right now.

Mr. Wolfe noted the 75 ft frontage, 15 ft front yard setback and the 10 ft sideyard setback proposed for units, and said they would be right on top of each other. He said this was

closer than what was allowed in the PO district and the Coe's Corner district and was more like the Courthouse and Churchill Districts. He questioned people being packed in this close with separate units. Councilor Smith said when he first came to Durham, those setbacks were pretty standard.

Ms. Bubar said she was less concerned about the setbacks because the development would be on a site where there would be a lot of separation and green area. Councilor Smith said given the wetland and shoreland setbacks, the higher density was appropriate. He noted that he was against sprawl.

Ms. Tatarczuch noted that Ms. Olshansky had brought up the issue of the deed and retaining views. There was discussion about the design review committee that would address these things. She said she wasn't opposed to developing this land, but was opposed to squeezing as many units and people into a development as possible in order to inflate the number of tax dollars that would come in. She said she understood the need for fiscal responsibility, but said it might do a disservice to people living in rental units that could very well be developed in a more attractive way.

Councilor Smith said the Planning Board didn't have to adhere to what the EDC had recommended, and could make other density requirements/limits. He also said other uses were permitted there, and some commercial uses might very well be developed.

There was discussion that Mr. Chinburg had said that a residential development here would be less dense than a commercial development, and that it would be more economically feasible at this point in time because there was money available in the investment community for rental housing. Ms. Tatarczuch said she didn't necessarily think that was the best use of this land, for a specific population of older adults who wouldn't necessarily be able to walk to Town. She said she felt badly being a naysayer on this. There was discussion.

Councilor Smith said using right-of-way land, it was possible to walk from the Business Park to Old Piscataqua Road. Ms. Tatarczuch questioned whether this would be possible in bad weather, and said it wouldn't be a convenient walk. Councilor Smith recommended that the Planning Board take that walk.

Councilor Bubar said she was not concerned about the density because in order for people to live there it would have to be a really nice place to live. She said she didn't feel she needed to make those decisions for a developer.

There was further discussion about the idea of including in the definition of elderly housing, the words "... in accordance with federal law...", which meant one person in 80% of the units would have to be 55 or older. Board members agreed with this.

Councilor Smith said there were some other uses in the Table of uses that might be appropriate for the Business Park, such as home occupation, art center, restaurant, club, etc. which were currently not permitted. He also said there should be a use in the Table

of Uses for “convenience store without gasoline sales”. Chair Wolfe suggested that this could be discussed at the planning session in two weeks. Councilor Smith said there should be uses that were complimentary to the residential uses at the Business Park.

Chair Wolfe said the and/or language suggested at the last meeting for CCRC had turned out to be contradictory, and he suggested that it be taken out and that the Board discuss a definition for CCRC at the planning session meeting. He said he thought they should have this use for Durham. Councilor Bubar agreed

Councilor Smith spoke about wording changes needed to the definition of eldercare facility. Mr. Behrendt recommended discussing this at the planning meeting.

Councilor Smith recommended: deleting the word “various” from Q.1.a. and removal of “best planning practices” from Q.1.b. Other Board members agreed.

He questioned the wording “retain a sense of personal identity” in Q.1.c. and said it was too abstract. He recommended removal of the word “natural” that described walking paths in Q.2.c. He recommended that Q.2.e. say “all exterior building elevations shall be provided to the Planning Board as part of the application.”

Under Q.2.h., Councilor Smith recommended the following replacement wording: “Mixed use projects may incorporate Elderly Mixed-housing Developments and other allowed uses.”

Mr. Parnell noted that Q.2.f. said “The project may be phased...”, while there was already Q.2.i. on Phasing. Mr. Behrendt recommended keeping Q.2.i. He recommended that Q.2.f. should say “If the project is phased, the Planning Board shall ensure that development density is maintained as appropriate.”

Councilor Smith MOVED to initiate the Elderly Mixed-Housing Development Zoning Amendment to create a new residential use which would be allowed in the Durham Business Park Zoning District by conditional use, as amended this evening. Bill McGowan SECONDED the motion, and it PASSED unanimously 7-0.

Mr. Behrendt said his sense was that the amendments made this evening were minor, and another public hearing by the Planning Board was therefore not necessary. Board members agreed with this.

- X. *Public Hearing - 5-7 Dennison Road – The Coops.*** Site plan for “The Coops” to relocate the dumpster to the rear of the lot. GP Dennison LLC, c/o Fred Kell (applicant). Tax Map 2, Lot 11-5. Professional Office Zoning District.

Postponed to May 21, 2014 Planning Board meeting..

XI. Public Hearing – Lights at Cowell Stadium - UNH. Presentation on a proposal for an array of new field lights directly adjacent to the Field House on the University of New Hampshire Campus. Submitted for comments pursuant to RSA 674:54.

UNH Planner Doug Bencks, said the project was before the Planning Board because it was a change to the stadium that would provide lights so there could be a variety of games and events held there after dark. He went through a series of slides on what was proposed.

He said there were currently a number of lit fields at UNH, and said there were sometimes activities on them running until midnight. He noted a plan that showed levels of lighting proposed for Cowell Stadium, and said the foot candle numbers within the field area itself were quite high, but dropped off quite quickly as one moved to Main street, the woods and other locations. He said the lighting systems were designed to focus on the field and minimize light beyond that.

Mr. Bencks noted the proposed locations of the 5 light poles that would project the light onto the field, and said each pole was 120 ft tall. He provided details on the various levels of lighting that would be available, and said the highest level of 100 foot candles would only be used for a game that was broadcast for TV. He provided further details on the lighting proposed.

He said this was an immediate project to complete for the upcoming football season. But he said an expansion to the stadium was planned, and still needed to be approved. He said 4 of the new poles wouldn't be impacted by the design for the new stadium, but said one pole might need to be adjusted as part of the design for the new stadium.

Mr. Williams asked who might be offended by the lighting proposed. Mr. Bencks said the lighting would be well under a foot candle at Main Street. But he said people would be able to see the light element from some locations. Mr. Williams asked if wildlife would be affected. Mr. Bencks said some concern had been expressed about impacts from lighting nearby on the wildlife in College Woods. But he noted that there were already recreation fields close to College Woods that had night lighting, so this potential impact already existed. After further discussion, Mr. Williams summarized that Mr. Bencks wasn't aware of any concrete example of impacts on wildlife from that lighting.

Ms. Tatarczuch asked if the lights would just be on when there were events, and Mr. Bencks said that was the intent. He said UNH tried hard to have lighting on only when events were scheduled. There was discussion that the caps on the lights would mitigate light pollution to a large extent. Ms. Tatarczuch said at Fitts Farm, they could see the glow from the UNH campus, and said she assumed this would be increased significantly with these new lights. Mr. Bencks said he didn't have specific information on this.

Mr. Parnell confirmed that the lighting wouldn't be used for practice, and that it would be used for football and soccer games, track and field events, and other events. There was discussion. Mr. Bencks said late afternoon games as well as night games would be lit.

Mr. Williams said he thought a relatively accurate figure could be determined of how many hours per year the lights would be on. He also said it might be useful to give the Conservation Commission a chance to look at this. Councilor Smith said any town board that reviewed this had no authority to stop this project.

Mr. Williams said if it was known that there would be an empirical impact on wildlife, this would be at least a moral problem. Chair Wolfe said there had been lights on stadiums for a long time, and said if there were a problem it would have come to someone's attention by now. Mr. Williams said the stadium was pretty close to the woods as compared to being in downtown Manchester. Mr. Bencks again noted that there were already well-lit fields that were already close to College Woods, and said they were open for more hours than the field being discussed now. Mr. Williams said looking at the impact on wildlife in some way was worth the effort.

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

Bill Hall said he wasn't there to complain about the lights, and said what was proposed was reasonable. But he said when the University came before the Planning Board regarding the wind tunnel, the Board heard about a sound attenuation feature that was to be included that it turned out was not included in the project. He also said the University chose to sometimes run the wind tunnel at night. He spoke about the noise from the wind tunnel.

Councilor Smith provided details on the wind tunnel project and previous discussion on it with the Planning Board, noting that the shell to enclose the tunnel wasn't built because of funding issues. He said in this instance, the lighting plans provided to the Planning Board provided specific details on the lighting proposed, and also indicated that if this changed, the University would tell the Board. Mr. Bencks said that was correct.

Mr. Hall said there should either be attenuation of the noise from the wind tunnel or a limit on the hours it operated. He said he was making that point now because there was no other place to make it. He said the wind tunnel didn't bother him that much, but said when he went out at midnight and heard it, he was glad he didn't live closer to it. Chair Wolfe said the Board appreciated Mr. Hall's concerns.

Councilor Smith noted an email from Diane Freeman asking the Town to say no to light pollution, including this project.

He said what Mr. Bencks had proposed was reasonable. Mr. Parnell noted that he was on the Planning Board when the wind tunnel was proposed. He said he appreciated Mr. Hall's concerns, and said there had been what appeared to be bad faith discussion on the wind tunnel project. He also noted that while the Planning Board was allowed to provide comments on a UNH project, after that the Board couldn't do much.

Councilor Smith MOVED to close the Public Hearing. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

Chair Wolfe noted that UNH needed these lights in order to stay in the CAA League.

- XII. *Public Hearing - Election Signs and Snipe Signs*** (opportunistic temporary signs) - Zoning Ordinance Amendment. Initiated by the Town Council on April 7, 2014. Proposed amendments to the Sign Ordinance regarding placement of signs, dimensions of signs, and a statement of purpose of the intent of the ordinance.

Chair Wolfe said this Zoning change was proposed by the Town Council. Mr. Behrendt said the proposed change was made because of inconsistency with State law on signage, and also because of difficulties in enforcement concerning snipe signs. He said it seemed reasonable. There was discussion about why this proposed Zoning change was coming forward now.

Lorne Parnell MOVED to open the public hearing on the Election Signs and Snipe Signs Zoning Ordinance Amendment. Andy Corrow SECONDED the motion and it PASSED unanimously 7-0.

There were no members of the public who came forward to speak.

Lorne Parnell MOVED to close the Public Hearing. Dave Williams SECONDED the motion and it PASSED unanimously 7-0.

Councilor Smith noted B 1 : “The size of any snipe sign shall not exceed thirty two square feet; nor be more than five feet above the adjacent finished ground level.” He said it needed to be clarified what part of the sign this referred to. Chair Wolfe suggested that the Council could provide this clarification.

Councilor Smith MOVED that the Planning Board refer the Election Signs and Snipe Signs Zoning Ordinance Amendment back to the Town Council. Bill McGowan SECONDED the motion.

Mr. Behrendt provided some details on enforcement issues that had led to this proposed Zoning change.

The motion PASSED unanimously 7-0.

It was noted that there was no specific recommendation to the Town Council concerning the proposed Zoning change.

XIII. Other Business:

Mr. Behrendt said he had invited Doug Bencks to speak with the Planning Board about the ORLI and MUDOR districts, but said he then wasn't clear what it was that the Planning Board had wanted to discuss concerning these districts. He said if there was anything significant the Board wanted to do in terms of Zoning changes, this would best

wait until the Master Plan was updated. He also noted that the Board had wanted Mr. Bencks to talk about whether UNH planned any new housing in these districts. Chair Wolfe said the Council passed the Zoning amendment anyway, and was not happy with the Planning Board's vote. He said Mr. Behrendt was probably right that discussion on ORLI and MUDOR should wait until the Master Plan was updated.

There was discussion, and Board members agreed to wait until the Master Plan was updated. Mr. Parnell said he didn't see any point in the Planning Board discussing these zones until at least after the Council had come up with additional proposed Zoning changes for them. The consensus of the Board was to wait, as had been suggested.

Chair Wolfe asked Planning Board members to email Mr. Behrendt things they would like to discuss at the planning meeting on May 28th. He said one of the things he would like to discuss was the fact that two primary residences were allowed on a single parcel in Durham. Mr. Behrendt said in Durham, it wasn't defined that single family home meant one house on one lot. There was discussion.

Chair Wolfe said he'd also like the Board to discuss the fact that the Town allowed development on right of ways, and noted that a lot of towns didn't allow this.

He said there had been an issue as to whether common land in a conservation subdivision needed to be contiguous, and said he would like to get some clarification on this.

Mr. Lewis said an issue to discuss was that streets included in new subdivisions should not be private roads. Councilor Smith said he believed that the Council was in agreement with this. Chair Wolfe noted the subdivision on a private way that was currently proposed on the Mill Pond property.

Mr. Williams said he would like to see discussion at the meeting on the Master Plan process and the purpose of it.

Councilor Smith said at the next Town Council meeting, he would ask the Council what it would like to see discussed at the Planning Board's planning meeting.

XIV. Adjournment

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

Adjournment at 10:06 pm

Victoria Parmele, Minutes taker

David Williams, Secretary