

These minutes were approved at the January 28, 2015 meeting.

DURHAM PLANNING BOARD
Wednesday, September 10, 2014
Town Council Chambers, Durham Town Hall
7:00 p.m.
MINUTES

MEMBERS PRESENT: Peter Wolfe, Chair
Andrew Corrow, Vice Chair
David Williams, Secretary
Richard Kelley
Lorne Parnell
Bill McGowan (arrived at 8:06 pm)
Councilor Julian Smith, Council Representative to the Planning Board
Linda Tatarczuch, alternate
Wayne Lewis, alternate
Councilor Kathy Bubar, alternate Council Representative to the Planning Board

MEMBERS ABSENT

I. Call to Order

Chair Wolfe called the meeting to order at 7:00 pm.

II. Roll Call

The roll call was taken.

III. Seating of Alternates

Chair Wolfe said Mr. McGowan would be late and Mr. Kelley would be arriving shortly. He said Mr. Lewis would sit in for Mr. McGowan until he arrived.

IV. Approval of Agenda

*Councilor Smith MOVED to adopt the Agenda as presented. Lorne Parnell
SECONDED the motion and it PASSED unanimously 6-0*

V. Town Planner's Report

Mr. Behrendt said he had nothing to report.

Mr. Kelley arrived at 7:02 pm

VI. Public Comments

Paul Schlie, Foss Farm Road, said that at the recent Town Council meeting, there was discussion on reducing the size of the parking lot associated with Mill Plaza, and building more student housing. He said he was oppose to this, and said the proposed development should be given a great degree of scrutiny.

VII. Historic Resources Master Plan Chapter – presentation of draft chapter by Nicole Benjamin-Ma and Rita Walsh, preservation planners with Vanasse Hangen Brustlin, Inc. of Watertown, MA.

Ms. Tatarczuch arrived at 7::05 pm

Ms. Benjamin-Ma described the process of developing the chapter, and explained that she was asked to take a broad approach and to get as much input as possible. She said there were interviews with half a dozen people that had been identified, and also said an online survey and forum were done in order to get additional input. She said inventorying was done of what was on file with the State Division of Historic Resources. She spoke further about the process.

Chair Wolfe said the chapter had been reviewed and endorsed by the Master Plan Advisory Committee.

Mr. Kelley said he'd gone through the draft chapter and had a lot of editorial comments. He said he found a lot of disjointed thoughts and statements, and provided some examples of this. He also said the chapter could expand upon some of the historical description. Councilor Smith said these comments should be provided to the consultant and/or the Master Plan Advisory Committee. There was discussion.

Mr. Behrendt explained that there were two masters concerning this chapter. He noted the grant received from the State Division of Historic Resources, and said something pretty close to a finished document was due on September 12th. He said it was recognized that there were other changes that might still be made to the chapter.

Ms. Benjamin-Male said the DHR would be perturbed if the content of the chapter changed, especially the implementation plan. But she said they understood that there was a process underway, and said she thought that the historical context, etc. Mr. Kelley was speaking about could be refined without causing any problems She said the DHR wanted to see the document now because the grant and her contract with Durham ended on September 30th. She said the DHR needed time to review the chapter and get it back to the Town with requested revisions.

It was noted that Mr. Behrendt would handle any further changes made to the chapter after that. Mr. Behrendt said the draft would be handed in on Friday. He said if the

Planning Board was basically ok with the direction of the chapter, there would then be some time later to incorporate further comments from the Planning Board. He said the public hearing on the chapter would be held in October.

Mr. Kelley suggested that someone not involved with the process of developing the chapter should read through it. There was discussion, with Ms. Benjamin-Ma noting that there had been a lot of input over the past few weeks from a number of entities, and that there was a quality assurance person looking over the chapter. There was discussion about the fact that the HDC, the Division of Historic Resources, the Durham Historical Association, the Master Plan Advisory Committee and Strafford Regional Planning Commission were all involved with the chapter, and that the DHR hadn't seen recent incorporations.

Mr. Williams said from listening to Mr. Kelley, it sounded like he wanted to see a richer understanding of Durham in the chapter. He said his sense was that this wasn't where the document was headed, and that historical buildings, etc. were the universe of concerns. He asked what the focus was that they were all supposed to pay attention to.

There was discussion on wording in the chapter on threats and opportunities. Ms. Benjamin-Ma explained why that wording was there, and said more localized wording could be used instead. Councilor Smith suggested that it be deleted. There was further discussion.

Mr. Kelley said he wasn't asking for a lot of change to the chapter, and suggested that there could simply be an expanded segment under Durham Heritage and Legacies, which could fill the page.

Mr. Parnell said he would like some clarification of the procedure. He said he was particularly concerned about some things in the chapter that were important to the Master Plan and that the Planning Board would have to deal with, such as the issue of preserving the character of the neighborhoods, and setting up neighborhood heritage districts.

He said there a lot of excellent information on the existing historical assets in Town, but said it wasn't clear what this document was suggesting that the Planning Board, ZBA etc. would be doing concerning this in the future. He said this could be explained more carefully. He also said the Planning Board was setting up the public hearing process on all of this, and said he thought satisfying grant applications was irrelevant as far as this was concerned.

Ms. Benjamin-Ma noted there had been concern about saying "we will do this", and said the wording was modified to say "explore the feasibility", etc. Chair Wolfe said the language had been softened because the MPAC had the same concerns that Mr. Parnell had. Mr. Parnell said the Planning Board needed to discuss this before signing off on the chapter.

There was discussion on some of the photos on page 30 of the chapter. Ms. Benjamin-Ma said a lot of the buildings were not Historic Register buildings, but were included to illustrate the physical characteristics of the building categories that were described earlier in the chapter.

Mr. Williams said when the chapter came back from the DHR, the Planning Board should be informed about what in the chapter was not negotiable. Ms. Benjamin-Ma said almost everything in the chapter had changed since the DHR had looked at it, but said there had been very few changes to the implementation/tools portion, which was the section that the DHR was most concerned about.

Chair Wolfe asked if the Planning Board was ready to support the chapter. Mr. Kelley suggested that the Planning Board not take a vote right now, noting that Mr. Behrendt had portrayed this as a working draft. He said the process had been pretty thorough.

Ms. Benjamin-Ma said the DHR wanted to know that everyone had bought into it, but she said they understood that the process wasn't complete.

Chair Wolfe asked if the Planning Board accepted the concepts in the draft. Mr. Kelley said he could support that. Councilor Smith said there was nothing substantively wrong with the chapter, and Councilor Bubar agreed.

Councilor Smith MOVED that the Planning Board endorses the general concept expressed in the draft Historic Resources chapter. Mr. Kelley SECONDED the motion.

Mr. Williams said he thought the concept for the chapter was up for review. There was discussion. Mr. Kelley said the key thing was not to leave the past in the past in the chapter. He said it played a prominent role in what the authors described, and then disappeared. He said they didn't know from the chapter what businesses were still here, and if agriculture still existed. Councilor Smith noted that some of this would be found in other chapters.

Ms. Benjamin-Ma said she had generally tried to make the narrative in the Durham's Heritage and Legacies section flow but also stick as closely as possible to the historic resources in Durham that were still standing. She said the history included the buildings, the people who lived in them and the industry associated with them. She said the social and economic history came in, and said it was filtered through the historic resources that were still there.

Chair Wolfe said people wanted to know where Durham was now and how it got there. He said the Planning Board, etc. could still work on that portion of the chapter.

The motion PASSED 6-0-1, with David Williams abstaining.

Ms. Tatarczuch noted that the use of pictures behind the text in some places in the chapter would make it difficult for anyone wanting to copy these pages in the future. It was agreed that the pictures would be removed.

Mr. Kelley determined that the comments from the DHR would come back by October 12th. He said it would be prudent for the Planning Board to have the State's edits and the Planning Board edits incorporated into the chapter before the public hearing on the draft chapter.

Richard Kelley MOVED to schedule the Public Hearing for the Historic Resources chapter for October 22, 2014. Councilor Smith SECONDED the motion and it PASSED unanimously 7-0.

Mr. Behrendt asked the Board if he should determine which comments to incorporate into the chapter. Mr. Kelley said there could be a brief discussion about this at the October 8th meeting, in order to see if there were some things in the chapter that needed to be reconciled.

- VIII 13 Longmarsh Road – Kelly Cullen.** Modification to approved two-lot subdivision to allow overhead utilities to cross Longmarsh Road to reach one new utility pole. Kelly Cullen (applicant); Adam Fogg, Atlantic Survey (surveyor). Tax Map 15, Lot 23-0, Residence B Zoning District.

The application was withdrawn.

- IX. Public Hearing - ORLI and MUDOR Proposed Zoning Amendments.** Zoning amendments, initiated by the Durham Town Council on August 4, 2014, to change the Table of Uses under Section 175-53 Use Standards, as follows:
- A. Conference center.** Change from Conditional Use to Not Permitted in the ORLI and MUDOR Districts
 - B. Convenience store with gasoline sales.** Change from Conditional Use to Not Permitted in the ORLI District ORLI AND MUDOR

The Planning Board agreed to postpone this agenda item until later in the meeting when Councilor Welsh arrived.

- X. Public Hearing – Thompson Inn - 90 Bennett Road.** Amendment to approved site plan for new parking lot and driveway and conversion of barn for function hall for 10-room inn. Stephen and Lori Lamb, applicant; Rokeh Consulting, Site Designer. Tax Map 14, Lot 34-1. Rural Zoning District

Steve Lamb said he'd wanted to expand the leach field in order to be able to increase the number of people who they could have at events. He said at the ZBA meeting the previous evening, the question was raised concerning how many people he and his wife would want to have at an event, and he'd said the average wedding size would be 130-170 people. He said the capacity of the building to hold a certain number of people was

determined by the Fire Department, and was also determined by the capacity of the leachfield now or what it would be if it was added to in the future. He said the ZBA asked him to talk to the Planning Board about the plans, and to bring a fixed number back to them.

He said the currently approved capacity was 100 people. He said the leachfield was designed with standard plumbing fixtures in mind, and explained that he'd obtained data on water usage for events and provided this to the septic designer, who then determined that the existing septic system could handle 150 people if low flow plumbing fixtures were used

Chair Wolfe asked Mr. Lamb if he would be applying to get a new leachfield. Mr. Lamb said they wanted to avoid having to use Porto-potties, and said they would see if the leachfield could be expanded to prepare for the possibility for a larger number of people at events. He noted that the existing septic system was new.

Mr. McGowan arrived at 8:06 pm.

There was discussing on the timing of what Mr. Lamb wanted to do. Chair Wolfe asked if approval was needed from NHDES to allow the existing septic system to be used for events with 150 people. Mr. Lamb said if a new leachfield to handle 150 people could be done, a design for this would be submitted to NHDES.

Chair Wolfe said it was difficult for the Planning Board to make a decision when they didn't know exactly where things were headed. He said if they were dealing with the existing leachfield, they would have to set a limit of 150 people and require installation of low flow devices.

Mr. Lamb noted that it wasn't expected that the parking capacity would be exceeded. He said there were 48 spaces on the site, and 107 spaces off site, which would be accessed by the shuttle. He also said they had access to additional parking areas beyond this.

Mr. Kelley suggested that the Planning Board continue the public hearing and said in the meantime, the Lambs could make a decision about the leachfield and the direction they would be going in. He said he would like to see the ZBA render a decision before the Board made its decision. He said the function hall wasn't a permitted use. He said it was approved for 100 people and now the Lambs were looking to increase the number quite a bit.

Mr. Lamb said he would either plan to expand the leachfield because DES said he could, or if he couldn't, he would go to DES and see if they agreed with the water usage analysis that had been done by the septic designer.

Chair Wolfe noted that there was an event planned at the Thompson Inn for October 4th. Mr. Parnell said in with past events, this had gone to the Technical Review Committee.

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

Dick Lord, 85 Bennett Road, said he was an abutter, and had spent time with the Lambs on their plans. He said he was very pleased that they were restoring the building and making it into an active facility, and said he was in favor of the project whatever size it came in at. Mr. Kelley asked Mr. Lord if he had any concerns about the upcoming event at the Thompson Inn and it being considered by the Technical Review Committee. Mr. Lord said no.

Beth Olshansky, Packers Falls Road, spoke about how pleased she was that the Lambs had taken over the property. She said whatever arrangement could be made, she hoped that it would allow the Lambs to be successful in their endeavors. She said there were often more than 100 people on the guest list, and said it would be good if that number could be expanded upon in order to help make it a successful enterprise.

Councilor Smith MOVED to continue the Public Hearing to the October 22, 2014 meeting. Richard Kelley SECONDED the motion and it PASSED unanimously 7-0.

Mr. Williams confirmed that the Technical Review Committee would be reviewing a one-time event. Mr. Behrendt said he would let the Planning Board know the outcome of the TRC's review, and said the TRC's decision could be appealed to the Planning Board. The consensus of the Planning Board was to have the TRC deal with this one-time event.

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Councilor Diana Carroll said she and Councilor Carden Welsh had brought these proposed Zoning changes to the Town Council on August 4th. She said after discussion, the Council had voted unanimously to send the changes to the Planning Board for consideration.

She said making the Zoning change concerning "conference center" would align with the principles of smart growth. She said as currently proposed, this use could occur on the outskirts of the Town, and said it was realized that it would be better if conference attendees had full access to the commercial core. She noted the Town Council goal of revitalizing the commercial core, and she also spoke about the public and private resources being put into the core in recent years to make it healthy and vibrant.

She said the other Zoning change proposed had to do with "convenience store with gasoline sales", which was currently allowed in the ORLI district by conditional use. She

said this use in that district didn't meet the test of smart growth. She said if another convenience store was needed, it should be put closer to the core of Town in Gasoline Alley. She said putting it out on the edge of town was sprawl and would encourage more of this. She also noted that possible pollution from a gas station could affect other permitted uses such as agriculture in the ORLI district, and also noted that ORLI was close to the Oyster River.

Councilor Carroll noted that when the Planning Board set the public hearing for these proposed Zoning changes, a Planning Board member asked why these proposed changes were being brought forward now while the Master Plan process was underway. She said the reason was that the Master Plan was completed in 2000 and it then took 5 years to complete the Zoning changes based on it. She said if members of the Planning Board, Town Council or citizens saw the need to change the current Zoning Ordinance, she didn't think they could wait until the entire Master Plan update process was complete.

Councilor Smith asked if there was a reason why it was not proposed that conference center be removed from the Table of Uses for the Professional Office district or the Durham Business Park district. He said he didn't think a conference center would be wanted at the Business Park, when there would be the situation of cars having to turn left onto Route 4. He asked if the Planning Board could perhaps recommend to the Town Council that these two additional zones not permit conference centers.

Mr. Behrendt said another public hearing would need to be scheduled if the Planning Board decided to do this. Councilor Carroll said that was certainly a good topic for discussion. Councilor Smith said the Planning Board could propose this Zoning change separately.

Mr. Parnell noted that right now conference center was a conditional use but no hotel had been built, and asked how the proposed Zoning change was expected to change this.

Councilor Carroll noted that there had been discussion about possibly putting a small hotel on the ATO site, and also said at developer Tim Elliot's project would have included a conference center with a hotel. She said there were some other possible sites for this in the downtown. She said if one was going to be built, her suggestion was that it should go in the downtown core.

Paul Schlie, Foss Farm Road, said the concept of smart growth sounded good, but was deceptive. He said if an increase in density wasn't necessary, wasn't productive or beneficial to the Town at large and increased congestion, it should be called dumb growth.

Councilor Smith MOVED to open the Public Hearing. Richard Kelley SECONDED the motion and it PASSED unanimously 7-0.

Councilor Carden Welsh said the Zoning change concerning conference center was proposed because it was thought that this use would instead be a great addition closer to

the downtown, where conference attendees could use the amenities downtown. He noted that there was a conference type facility at the Three Chimneys Inn and also at Holloway Commons, both of which were located near the downtown and supported the businesses there. He also spoke about conference centers in Portsmouth's and Exeter's downtowns that were within walking distance of local attractions. He said this was smart growth that helped local businesses.

Councilor Welsh said he'd been surprised to find convenience store with gasoline sales allowed as a conditional use in the ORLI district. He said this was synonymous with sprawl, and said he wasn't sure they all would want to see this use out by Route 4, with Durham as a pit stop for traffic traveling east and west.

Chair Wolfe said if there was a conference center in Town, parking would be a major issue. Councilor Smith said the existing Town Hall property would be an excellent site for a conference center. Councilor Welsh said some of the properties in the commercial core districts had more parking. He also said there had been some discussion with UNH about providing some structured parking. He said he thought that was consistent with the future growth of Durham.

Beth Olshansky, Packers Falls Road, said she agreed with the proposed Zoning changes Councilor Carroll and Councilor Welsh had proposed. She said zoning was an imperfect art, and said it was proactive to go through the Table of Uses. She said finishing the Master Plan and then refining the Zoning Ordinance to reflect it was a long process.

She read a letter that supported both proposed Zoning change. It said allowing convenience store with gasoline sales in the ORLI district would tarnish the agricultural gateway and counter efforts to revitalize the downtown by divesting customers away from the downtown. The letter also said that having a conference center on the outskirts of Town would discourage attendees from frequenting the downtown and local businesses as compared to having a conference center in Town.

Ms. Olshansky said the letter was signed by 18 people: Nancy Webb; Ernie Nichols; Emily and Dan Smith; Nell and Chip Neal; David and Lynne Holmes; Carol Tuverson; Ellen Karelitz; Henry Smith, Susie Loder; Dianne Carson; Dolly and Homer Bechtel; Ann Knight; Linda Shutman; Malcolm Smith.

Councilor Smith MOVED to close the Public Hearing on the proposed conference center Zoning change. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

Bill McGowan MOVED to close the Public Hearing on proposed convenience store with gasoline sales Zoning change. Councilor Smith SECONDED the motion, and it PASSED 6-1, with Richard Kelley voting against it.

Mr. Kelley said he didn't think Durham would get a conference center outside of Town or perhaps in Town, outside of Town, given the facilities available today at UNH. He said what there might be in Town was a conference room associated with a hotel. He said he didn't see a problem with removing this as a conditional use from the Table of Uses for the ORLI and MUDOR districts.

Councilor Smith agreed that the Planning Board should support this Zoning change. He noted that currently there was a large meeting room at the new Town Hall where conferences could be hosted, and also said the Library could host a small conference. He said the Interoperability Lab would bring people to Town and said conference space might be needed for this. He said if there were more small conferences in Town, at some point someone might want to build a larger conference center. He confirmed that a conference center could be considered a commercial space under two stories of student housing. He said this Zoning change made it more likely that there would be more commercial space downtown, which was all to the good.

Mr. McGowan said he wasn't not in favor of this proposed Zoning change, but said he thought there needed to be a more formal overall view of what uses the Town wanted and where related to the Master Plan update process. He said he didn't see anything happening quickly concerning this use, and also said given the parking issues downtown, it might be premature.

Councilor Smith agreed that there were all kinds of uses the Planning Board should be discussing, especially after the Master Plan was adopted.

Mr. Corrow said he was favor of this proposed Zoning change. He said most conference centers he'd been to were located in downtowns, and said he thought it would be counterproductive to have a conference center on the outskirts of Town because in having it there, potential economic vitality to the downtown would be lost. He said he thought that if a conference center was ever proposed for the downtown, it would have to come with structured parking. He said perhaps a conference center could come in where the former New England Center was located, and noted that there was room out there for structured parking.

Mr. Parnell said this was the third time the Council was coming to the Planning Board to endorse what he considered to be some minor Zoning changes. He noted that hotels would still be allowed in MUDOR and ORLI as a conditional use, and said if a hotel came in and wanted to put up a conference center beside it in ORLI, he thought the Planning Board would think this was a pretty good idea. He said he wasn't against this Zoning proposal but said he didn't think it was the way they should be doing things.

Mr. Williams said he agreed that a gas station could create pollution and divert people from coming downtown, and said he therefore supported removing it from being a conditional use in the ORLI district. He also said the prospects of getting a conference center were remote, but said prohibiting it from the MUDOR and ORLI districts nudged things in the direction the Town wanted to go in. He said this would forestall projects in the area of the Town's natural gateway in the west.

Chair Wolfe said an interesting question was raised about a hotel coming in and then saying it wanted to have conferences there. Mr. Kelley said he thought the hotel would phrase this as wanting meeting rooms/banquet rooms. Mr. Parnell said he assumed that a conference center was a stand-alone facility.

Richard Kelley MOVED that the Planning Board supports the Town Council initiative regarding changing conference center from a Conditional Use to a Not Permitted Use in the ORLI and MUDOR districts. Councilor Smith SECONDED the motion and it PASSED 6-1, with Bill McGowan voting against it.

Councilor Smith MOVED that the Planning Board recommends to the Town Council that convenience store with gasoline sales be changed from a Conditional Use to a Not Permitted Use in the ORLI district. Andy Corrow SECONDED the motion.

Mr. Kelley said he was struggling more with this proposed Zoning change. He said there were a lot of people living on the outskirts of Town now, and said with this change, they would be asked to go to the Lee traffic circle or down to the commercial core. He said he thought some of the reasons provided to support the proposed Zoning change were actually reasons to support keeping it as a conditional use in the ORLI district.

Councilor Smith said the most likely place for convenience store with gasoline sales would be close to the intersection of Main Street and Old Concord Road, which was very close to the Oyster River. Mr. Kelley said he agreed with that. But he said there were only a couple of lots where putting this use would be financially feasible.

The motion PASSED 4-3, with Lorne Parnell, Bill McGowan and Richard Kelley voting against it.

XI. Public Hearing - Edgewood Road and Emerson Road Subdivision. Subdivision & Boundary Line Adjustment for 4-lot subdivision. Jack Farrell, applicant. County Line Holding, LLC and Mark Marong 1991 Trust, owners. David Vincent, surveyor. Map 1, Lot 15-0.

Mr. Kelley said he would recuse himself because a direct abutter was a friend of his. After some discussion, Mr. Williams said he would recuse himself as well. Chair Wolfe appointed Mr. Lewis in place of Mr. Williams, and appointed Ms. Tatarczuch in place of Mr. Kelley.

Mr. Behrendt noted that a few years ago, there was a proposal for a fairly dense development on this site. He said the land involved was at the rear of several houses, so the impact on them could be significant if there was a large development with a Town road going to the lots. He said Mr. Farrell's approach was to do a subdivision with only 4 lots. He said the larger 4th residual lot would be accessed from Emerson Road, and the 3 new lots would be accessed off of Edgewood Road. He said there was a Town maintained Class V section of that road, then a Class VI section that was not maintained by the Town, and also State owned right of way beyond that.

He said the Town maintained portion of Edgewood Road was 24 ft wide and paved, and the Class VI portion was a paved 10 ft wide one lane road. He said Mr. Farrell would like to not to have to improve the Class VI portion and instead keep its rural character. He said Mr. Farrell had argued that there was a market for this and that there could be a private association to maintain the road, which would include existing homeowners along this portion of Edgewood Road as well as owners of the new lots off of Edgewood Road. He said the idea was that it would be a one lane road with a turnout so cars could pass by each other.

Mr. Behrendt said the Planning Board was wrestling with whether a 10 ft wide road was reasonable. He noted that this issue was discussed by the Technical Review Committee yesterday, and said the main question was whether the road would work for the Fire Department. He said they were looking into this, and said it was possible that the road could work, and the reduced width would be acceptable if the new lots were sprinkled.

Mr. Behrendt reviewed the issues still to be addressed it with this application:

- Access for the new lots off of a private road – the Town Council would need to approve the issuance of building permits for these lots, and could also weigh in on the road issue
- Crossing of wetlands by the driveway
- burying of utilities
- design of the shared driveway for the three new lots
- The biggest issue is whether a 10.5 ft wide road width is acceptable, and if not, how wide the road should be and what the cross section should be

Mr. Farrell said based on feedback from the site walk, he was suggesting that the driveway could be more gradual and come off of the Class VI portion of the road sooner. He said this would be included in the final design. He also said there was concern that the Class VI portion of the road could get damaged during construction, and said it could be a condition of approval that the road would be re-paved. But he said the extent to which it should be widened was still a question.

He said his take from the TRC meeting was that there were a number of things that had to be clarified in terms of the code, but the Fire Department was willing to do this. He said he thought the Planning Board should wait to come up with a final determination until the Fire Department said what its requirements or the road would be.

Mr. Farrell spoke about the benefits of having a narrower access road, and said if it could be shown to be safe, it would calm traffic, create less impact on neighboring properties, preserve rural character and would also be better in terms of managing stormwater runoff. He also said a private road would mean that the Town wouldn't be asked to incur the cost of having a Town road.

He spoke about his experience with Little John Road, which remained narrow but was made flat and straight, and so became a speedway even though it was posted at 10 mph.

He said if the Class VI portion for this project was kept narrow and kept safe, the possibility of it becoming a speedway could be eliminated.

Chair Wolfe said they were actually talking about 5 lots that would be accessed off of Edgewood Road. Mr. Farrell provided details on this.

Ms. Tatarczuch determined that the Fire Department was looking at the access issue on the Class VI portion of the road as well as access off of the proposed driveway. Councilor Smith asked if the Fire Department would ask that the driveway be straightened on the other side of the swale, and Mr. Farrell said he didn't think so. He provided details on this and said there would be the ability to get a large vehicle in and turn around.

There was discussion. Councilor Smith noted that with the driveway coming off of Edgewood Road at a right angle, this made it harder to speed off of that road or onto it. He said he could see a conflict between the safety of the original plan and the safety of what the Fire Department wanted. Chair Wolfe said he had suggested that the driveway should not come off of Edgewood Road at a right angle, and now had decided that this was a bad idea. There was further discussion.

Chair Wolfe said no one he had talked to would go with a one lane road, and said 16 ft was the minimum width recommended for proper planning. There was further discussion on this with Mr. Farrell, who provided pictures of some narrow roads in Durham that serviced small subdivisions and that were successful. He said the desire for this clearly existed. Chair Wolfe said nothing done more recently would be approved because of safety reasons. There was further discussion. Mr. Farrell said there weren't complaints from the people who lived on these roads and there weren't safety problems.

Ms. Tatarczuch spoke about the idea of having a reinforced but pervious shoulder that could be used for emergency vehicles if necessary, and Mr. Farrell said that was somewhat like what he was suggesting. He provided details on this, and said it was up to the Fire Department and the Police Department to say whether this would work.

Chair Wolfe asked what else was need for this application. Mr. Behrendt said a conditional use permit was needed for the shared driveway crossing of the wetland, and said the Conservation Commission would need to look at what was proposed.

Mr. Farrell told the Board that the property owners currently living along Edgewood Road were ok with having an association for the road, so costs could be shared. Chair Wolfe asked if it would be clear to the property owners that this was going to be a private right of way, and Mr. Farrell said this would all be in the deeds. There was discussion that the documentation would need to include a maintenance agreement for the right of way; indemnification from the Town for building on a private road; and maintenance of a no cut buffer area for everything not in the buildable area other than the driveway access.

Mr. Farrell noted that a variance had been received so he didn't have to go through the formal conservation subdivision process. He said this approval included a number of conditions. He said the design for the driveway would be finalized after discussion with

the Planning Board and the Conservation Commission. He also noted that he was waiting for input from the Fire Department and the DPW.

Councilor Smith MOVED to open the Public Hearing Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.

Bob Marshall, 11 Emerson Road, said he was an abutter. He noted that he was at the site walk and had sent a letter. He said while he thought some issues would be created, he liked the scaled back nature of the subdivision. He said it would increase the amount of traffic so he was concerned about the road, which his property was next to. He said he would like to protect his buffer there and said it was a privacy issue.

He noted that he accessed his lot at the intersection of Edgewood Road and Emerson Road, and said the layout of the existing lots in the area was awkward. He said he liked the proposed subdivision, stating that it didn't seem that the larger number of lots in a previous design had fit with the neighborhood. He said this design would provide more privacy.

Chair Wolfe MOVED to continue the Public Hearing to the October 22, 2014 meeting. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0.

Ms. Tatarczuch asked if the Fire Department would consider an alternate access to the three lots at the top, off of Route 4. She noted that there were some sizable trees on Edgewood Road extension that could cause a problem if they came down in a storm. Mr. Farrell said he would be surprised if the State would allow this access because it would be physically difficult to do and would be off of what was a high speed road.

There was discussion about possible provisions that would need to be made for mail boxes, etc. Mr. Farrell said he would bring this up with the DPW. It was noted that this would be discussed at the Technical Review Committee.

Mr. Behrendt asked if it would be useful to present what was proposed to the Council sooner rather than later, perhaps at the September 22nd meeting. He said the Council could specify changes to the Class VI road, and said they might even authorize the issuance of building permits for the lots at that time. Councilor Bubar recommended waiting to bring this to the Town Council until there was Planning Board approval, and Councilor Smith agreed.

Councilor Smith determined where the access would be for the larger lot. He asked Mr. Farrell if when he said common open space would be included in the subdivision, this meant that the other people in the subdivision would be able walk on the common open space. Mr. Farrell said no, and said the definition for common open space meant the land was reserved and had restrictions on it from building. He said if Councilor Smith didn't like that definition, he should work on changing it.

Councilor Smith noted that Mr. Farrell had gotten a variance to not have to do a conservation subdivision, and asked him why he didn't want to do a conservation

subdivision. Mr. Farrell said he did this because he didn't want to address Councilor Smith's question about common open space.

XII. Public Hearing - Foss Farm Road Water Tank Wireless Facility. Amendment to approved Personal Wireless Services Facility constructed on the Town of Durham's Foss Farm Road Water Tank. The application is to add 3 antennas, 3 radioheads, and 3 cables to the tank and to add a cabinet on the ground. Sprint Spectrum, c/o Mr. Williams Ford, applicant. The land is owned by UNH. The water tower is owned by the Town of Durham. Tax Map 6, Lot 1-18. Residence B Zoning District

David Ford, Centerline Communications said he was speaking on behalf of Sprint, and he provided details on what was proposed. He said 3 antennas, 3 radioheads, and 1 additional cable would be added to the 3 antennas and 3 radioheads already on the tank. He said a cabinet would also be added on the ground. He said the existing antennas had been painted green per the last modification in 2012, but said the 3 radioheads had not been painted at that time. He said they would be painted in addition to painting the 2 new antennas and 3 new radioheads. He said they would make sure that this happened with this modification.

Chair Wolfe noted that a neighbor who had some concerns about noise was at the site walk. He said there was discussion on imposing a condition that there would be a barrier with two sides to reduce noise bouncing off the tank onto the neighbor's property. Mr. Ford said if that was a condition of approval, Sprint would comply with it. He said he would make sure the drawings were updated to reflect this before the building permit was applied for.

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

Paul Schlie, Foss Farm Road, thanked the Town for doing the right thing this time, and receiving public input on the proposed modification that would take place in what was a residential area. He said the resolution they had all come up with was reasonable and equitable to all parties.

Richard Kelley MOVED to close the Public Hearing. Councilor Smith SECONDED the motion and it PASSED unanimously 7-0.

There was discussion on the conditions of approval. Mr. Parnell said he thought the barrier should have three sides, which would mean all sides other than the one facing the facility (westerly side), in order to alleviate the noise as much as possible. Mr. Ford said he had no problems with the conditions of approval.

Richard Kelley MOVED to approve the application submitted by Sprint Spectrum for an Amendment to an approved Personal Wireless Services Facility constructed on the Town of Durham's Foss Farm Road Water Tank. The application as amended this evening is to add 3 antennas, 3 radioheads, and 3 cables to the tank, add a cabinet on

the ground, and paint all of these facilities and the existing unpainted facilities. The property is owned by UNH, Tax Map 6, Lot 1-18, and is located in the Residence B Zoning District. Councilor Smith SECONDED the motion.

Mr. Williams asked if the applicant expected to do additional modifications to the water tank in the future. Mr. Ford said he wouldn't be surprised if that happened, and spoke further on this.

The motion PASSED unanimously 7-0.

XIII. Public Hearing - Architectural Regulations. Discussion of Town of Durham's Architectural Regulations, Section 9.16 of the Durham Site Plan Review Regulations. The Architectural Regulations require that a public hearing be held within 18 months of adoption of the regulations to evaluate their effectiveness

Mr. Behrendt said the Planning Board had discussed three possible changes to the Architectural Regulations:

- Require an architect for all projects that are subject to the Architectural Regulations, which are those in the five commercial core districts, or just require an architect for projects over a threshold in terms of being on a main road or of a certain square footage
- Create an ad hoc architectural design committee composed of citizens that would make recommendations to the Planning Board
- Move the standards to an appendix in order to make the Site Plan Regulations less cumbersome

Councilor Smith MOVED to open the Public hearing. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.

Michael Sievert said he was not opposed to architectural regulations. He said Durham's regulations kind of worked, but he said that they were somewhat condescending. He also said he thought they were too indecisive, and said there needed to be a streamlined process up front, perhaps involving another committee. He said a perfect example of the need for this was with the Pauly's Pockets project, and he provided details on this. He said the design review process for that project lasted much too long and said a lot of money was spent because of this. He said Durham was getting the buildings it wanted now, but said there should be a more streamlined and decisive process.

Mr. Kelley asked Mr. Sievert if in hindsight, he thought the process would have been better if the client had hired an architect. Mr. Sievert said he didn't think so, and said the applicant had the essential building early on. He said he didn't think hiring an architect should be mandatory.

Councilor Robin Mower, Faculty Road, noted that she'd sent a note to the Planning Board concerning her comments on the regulations. She suggested that the regulations should be streamlined, focusing on the big issues, such as proportions, scale, mass and

perhaps the ornamentation elements should be moved to a separate document and considered as guidelines and not standards/regulations. She also said the regulations should say that applicants “shall” consult with these guidelines. She said she thought there should be an architectural design review committee, and also said there should be a requirement that there be an architect on a team for applications when there were prominent locations or buildings proposed. She said there was a reason why people attained professional training and standards. She also said she believed strongly that human beings responded to certain proportions, just as they responded to beauty.

Councilor Mower said she didn’t expect every Planning Board member to have an eye for this, but said she believed that the Town should seek those skills where it could get them, as assets to the community. She said she hoped the Board would require an architect as well as a committee of some sort that had professional expertise that had been demonstrated as part of the qualifications.

Barbara Dill, Packers Falls Road, said she agreed with the additions Mr. Behrendt had listed, and said the Planning Board should also think about not allowing franchise architecture, in order to avoid big box buildings throughout the Town. She noted that there was language on franchise architecture not being permitted in the Courthouse district, and said this should be clearly stated in the Architectural Regulations as well. She suggested not including the modifier language “architecture in which the building design serves as advertising”, which she said could be confusing and wasn’t necessary.

Beth Olshansky, Packers Falls Road, said she recognize that the Planning Board was a volunteer board, with a diversity of people who had various strengths. She said she thought an architectural review board would complement the skills that Planning Board members had. She said the Pauly’s Pocket process was awkward because this board wasn’t in place, and said the role of this board could be to meet with a client early on, which could save time and money.

She said it would be an asset to the community to hire a licensed architect for projects involving prominent buildings, and buildings in gateway locations. Concerning franchise architecture, she said Durham had retained its special character to some extent, and said the more the Town could steer away from what everyone else had, the more attractive a town it would be. She said all of these things would enhance the Town’s economic vitality.

Mr. Behrendt said there was some language in the existing Architectural Regulations on franchise architecture, and he specifically noted language on this under General Principles. He also said there were references in the regulations to design elements that were counter to franchise/chain architecture.

Councilor Smith MOVED to close the Public Hearing. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.

Chair Wolfe said in October, the Board would need to discuss the possible changes to the regulations. He said ideas suggested were an architectural design committee, meeting earlier with an application concerning the architecture for a project, calling some of the regulations guidelines rather than regulations, requiring an architect in some cases, and not allowing franchise architecture. Mr. Behrendt said he would provide some draft language on these changes for the October 22nd meeting.

XIV. Other Business

Pauly's Pockets -

Michael Sievert of MJS Engineering said they were trying to meet the final conditions of approval, but said the owner of Mill Plaza might or might not participate in this in regard to the park, including allowing it to be used as a staging area for construction. He said the most immediate issue was that if the park was not available for the staging area, this impacted the construction process.

He said there was a meeting with the Traffic Safety Committee today, and said the Town was more than willing to help with traffic issues. He said Chief Kurz was amenable to the Police Department helping with a Main St and Mill Road closing. He spoke about the timing issues right now.

He said he didn't think the matter of allowing access to the transformer was an issue, and noted that all of the proposed improvements to the utilities were being paid for by his client, in favor of Mill Plaza. He said the utility issue was Mill Plaza's issue and said his client was trying to make it better for them. He said if an arrangement wasn't worked out with Mill Plaza the utility work probably wouldn't happen.

Chair Wolfe noted that he didn't have to recuse himself because the work Mr. Sievert had done for him was over. Chair Wolfe confirmed that the Planning Board thought that what was proposed was an amendment to the site plan application that had been approved.

Concerning the logistics during construction and the possibility of the park not being part of the project, Mr. Kelley said the park had always been seen as an additional benefit, but noted that it wasn't on the applicant's property.

There was discussion about scheduling issues. Mr. Sievert said he had an alternative construction management plan that he could provide, which would involve not building the whole building at once. He said with this plan, the front area would be used as a staging area. He said he could come back to the Planning Board to iron out all of the changes to the construction management plan.

Mr. Parnell noted that Mr. Sievert had said he was expecting that the Planning Board would be able to make a decision on the application next week. He asked Mr. Sievert if enough information could be provided to the Planning Board to allow this.

Mr. Sievert said he agreed with what Mr. Kelley had said concerning the park issue, and said Mr. Eja didn't have to do it. He said there were utility issues that would have to be resolved though and said some minor changes to the plan would be needed. He said he anticipated that the trees on the property line would have to come down, and he spoke further on this. Mr. Kelley said the grading would spill over into the park, so revisions to the plan concerning the limit of work were needed.

There was further discussion on scheduling. It was agreed that the application would be noticed for September 17th, they would see how things went at that meeting, and the application would be continued to September 24th if needed.

Mr. Williams asked whether it was a show stopper if there was no response from the owner of Mill Plaza. Mr. Sievert said he didn't think so, and said the applicant could go forward without concurrence with the neighbor. He said there would have to be reworking of the construction staging, lane closure and sidewalk closure scheduling, alternative staging areas, etc. He said everyone had known that a possible development at Mill Plaza would encroach on the park.

Richard Kelley MOVED to extend the meeting past 10:30 pm. Councilor Smith SECONDED the motion and it PASSED 6-1, with Bill McGowan voting against the motion.

Ms. Tatarczuch noted that the Peak walkway wasn't visible from the road, and said it had been her understanding that the shrubs in front would be kept very low so it would be visible. She said that was not the case. Mr. Behrendt said there would be a meeting between UNH, Peak and the Town and UNH police departments in order to look at this issue. He said he'd let the Planning Board know what came of this.

Councilor Smith said he would like the Planning Board to initiate a change in the minimum floor area per resident in the Central Business district, Churchill District and Professional Office district from 300 sf to 600 sf. He said the purpose of this was that if anyone wished to develop any more housing in the downtown area, it would be attractive to families and married couples. He said the 600 sf requirement per resident would apply only to unrelated individuals.

Councilor Smith explained that the Council regretted having made some Zoning changes a few years back to try to develop new commercial space downtown, and making it financially attractive to do this by giving them two stories of apartment space. He said some members of the Council would now like to see a doubling of the minimum floor area in unrelated households. He said this was not a Council initiated Zoning change, and said he was suggesting that the Planning Board do this.

Councilor Smith MOVED that the Planning Board initiate a proposed Zoning change to amend the Table of Dimensional Controls to change the maximum number of occupants in unrelated households in 300 sf of habitable floor space from 1 to 0.5, and

schedule a Public Hearing for October 8, 2014. Richard Kelley SECONDED the motion

Mr. McGowan said the Planning Board was doing this at 10:30 pm and asked why the Board couldn't discuss this next week instead. Mr. Parnell said he would second that comment. Ms. Tatarczuch said she agreed. Mr. Williams asked what the sense of urgency was.

Councilor Smith said if this was done now, the Planning Board was closing a gate. He said that was why he would like the clock to start ticking now, as soon as the public hearing was voted on.

Mr. Kelley said the Board would simply be considering this proposed Zoning change, and nothing would be final yet. He said it was important to start considering it, and noted that there was a lot of development going on in Town right now. He said he would like to see what occurred with that before allowing any more development, and said this was a tool to allow them to do this, rather than a prohibition on new building permits in these districts, which was something he didn't support. He said he supported the motion.

There was discussion that this was getting the ball rolling in order to be able to discuss whether this proposed Zoning change was a good thing for the Town. There was further discussion on doing this now as opposed to in a week or so.

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

XV. Review of Minutes

July 23, 2014 - postponed

XVI. Adjournment

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

Adjournment at 10:45 pm

Victoria Parmele, Minutes taker

David Williams, Secretary