

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

**DURHAM PLANNING BOARD**  
**Wednesday, November 5, 2014**  
**Community Room, Durham Public Library**  
**7:00 pm.**  
**MINUTES**

**MEMBERS PRESENT:** Peter Wolfe, Chair  
Andrew Corrow, Vice Chair  
David Williams, Secretary  
Lorne Parnell  
Wayne Lewis, alternate  
Councilor Julian Smith, Council Representative to the  
Planning Board

**MEMBERS ABSENT** Richard Kelley  
Bill McGowan  
Linda Tatarczuch, alternate  
Councilor Kathy Bubar, alternate Council Representative to  
the Planning Board

**I. Call to Order**

Chair Wolfe called the meeting to order at 7:01 pm.

**II. Roll Call**

The roll call was taken.

**III. Seating of Alternates**

Chair Wolfe said Mr. Lewis would sit in for Mr. McGowan.

**IV. Approval of Agenda**

Mr. Behrendt said the Edgewood Road subdivision application had been postponed until the December 10<sup>th</sup> meeting. He also said the discussion on the bridge for Madbury Commons had been postponed until the November 12<sup>th</sup> meeting.

***Councilor Smith MOVED to approve the Agenda. David Williams SECONDED the motion and it PASSED unanimously 6-0.***

## **V. Town Planner's Report**

Mr. Behrendt noted that the Planning Board held a site walk at the Peak property yesterday, and looked at the landscaping as well as the inside of one of the units, as part of the request to increase the occupancy of some units in the development.

He said Economic Development Director Mary Ellen Humphrey was almost finished with the RFP for the old Town Offices. He said proposals would be accepted until the end of January.

He said on Monday the Town Council did the first reading of the proposed Zoning change to increase the minimum habitable square footage for apartments to 600 sf. He said the public hearing would be held on November 15<sup>th</sup>.

He noted that the Energy and Agriculture chapters of the Master Plan were created in portrait format, but said Strafford Regional Planning Commission had developed three chapters that were in landscape format. He said the Master Plan Advisory Committee would discuss the formatting issue further, and Chair Wolfe said the Planning Board should also discuss the formatting of the Master Plan chapters.

Councilor Smith noted that Town Attorney Laura Spector Morgan had indicated that the proposed Zoning amendment, to change the minimum square footage of habitable floor area per occupant in an apartment from 300 sf to 600 sf 600 sf of habitable area, would pass muster and did apply to recent applications.

## **VI. Public Comments**

**Robin Mower, Faculty Road**, asked if it would be possible to ask Peak if a site walk could be scheduled with DPW Director Mike Lynch and Conservation Commission member John Parry, prior to the November 12<sup>th</sup> Planning Board meeting. She said they hadn't seen the area at the top of the retaining wall and the parking area, which were under discussion in regard to the landscaping issue. She said one question was how much space there was between the edge of the wall and the edge of the parking, and therefore how much could actually be planted there.

On another topic, Councilor Mower said she wasn't wild about the landscape formatting for Master Plan chapters. She noted her professional experience in graphic design, and said this layout wasn't wise unless the text was broken up into columns or there was a larger type size. She also said it was hard to hold a document in this format. She said the real question was what the intent of the Master Plan was. She said it should be readable, useful and user friendly, and said this was probably the intent of the landscape formatting.

She said there were alternatives, and said one was to keep the formatting vertical but break up the text a bit more. She also said there could perhaps be different

formatting in a web version of the chapters. She said she wasn't sure how much the current images and diagrams in the chapters were needed, and said it was important to be selective about this. She said it would be great for the Planning Board and Master Plan Advisory Committee to have a meaningful discussion about all of this.

**VII. Automobile Service Facility – 3 Dover Road.** Redevelopment of former Cumberland Farms property into facility with 4 service bays, an office and 12 parking spaces. James Mitchell, Tropic Star Development, applicant; Cumberland Farms, property owner; Barry Gier and Wayne Morrill, Jones & Beach, Design Engineers. Map 4, Lot 49. Courthouse Zoning District.

**Barry Gier**, an engineer from Jones and Beach, represented the applicant, and described the proposed project to redevelop the Cumberland Farms property. He said the project included 4 service bays, an office and 12 parking spaces. He said sewer and water would come into the site from Dover Road, and said stormwater would be collected in a closed system, directed to an underground detention system and discharged to an existing catch basin on Dover Road. He said lighting would be provided by a single pole on the east side of the parking lot.

He described the proposed traffic flow on the site. He said cars would enter the site at the east driveway, would be serviced in one of the bays and would exit the site to the west through an existing access easement. He said turf block pavers would be used for areas exiting from bays in order to minimize imperviousness. He said no parking would be allowed in these driveways.

Mr. Gier said the ZBA had granted several variances for the project.

- to allow 12 parking spaces although 16 spaces are required
- to allow less than 5% of the parking and driveway areas to be landscaped
- to allow parking in the rear yard
- to allow an ADA parking aisle within the front yard
- to allow a refuse container and dumpster pad within the side and rear yards

He said the applicant had requested a waiver from Section 9.02 of the Site Plan Regulations, which required 1200 feet of separation between driveways. He said the property only had 100 ft of frontage.

Mr. Gier said the applicant had received Mr. Behrendt's recommendations, and had no objections to them. Mr. Williams said it would be very helpful if there was a legend for the pages of the site plan. Mr. Gier apologized and said this would be provided. Councilor Smith noted that the Planning Board hadn't received the hard copy of the most recent plans until today, although it had been received digitally and was hard to read. Mr. Behrendt said there were only a few minor changes from the original set of plans provided a few months ago. Mr. Gier said the change was that there was now a correct property boundary in the front and the setback distance had been changed.

There was discussion on where the 12 parking spaces would be located, and it was noted that this included two spaces in the back. Chair Wolfe asked how cars would be able to exit with those parking spaces there, and Mr. Gier explained that the back of the site was not for cars to drive through, and was for parking. Mr. Parnell asked for more details on the proposed traffic flow, and there was discussion on this, including the access easement granted on the west part of the property. Mr. Gier noted that cars exiting the service bays would turn left and would not be able to turn right and exit the site at the back of the property.

Mr. Parnell noted the 7.7 ft setback on the plan, and said he didn't see that a variance had been applied for. Mr. Gier said the current setback was 15.3 ft, and said the chart on the plan hadn't been updated to reflect this. He said the building had been made smaller, which allowed for this increased setback.

Chair Wolfe asked for details on who would use the facility, and what the front of the building would be used for. Mr. Gier said there wasn't a tenant yet, and said the front of the building would be the office for the business that decided to use the site. Chair Wolfe said if it was a quick stop auto service business, a traffic study would be needed because this use could create traffic issues. He also said the structure would have to conform to the architectural regulations, and Mr. Gier said the applicant was well aware of this. He said architectural details on the building had been provided.

Mr. Parnell asked if there were any environmental issues related to Cumberland Farm's previous ownership of the property. Mr. Gier said there were still monitoring wells on the site, and said they would have to be maintained. He said he could look into whether there were still environmental issues concerning the property. There was discussion on whether there were any gas tanks on the site, and Mr. Gier said the tanks were gone.

Mr. Behrendt said the application was complete. Mr. Williams asked that there be a legend on each page of the site plan. There was discussion that page C-3 of the site plan should be provided in color to the Planning Board.

Chair Wolfe said the Planning Board needed to see information on what the State regulations were regarding removing oil from cars. Mr. Williams asked when it would be known who the tenant would be. He also asked if there would be a management plan that provided clues as to how the site would be used, how many autos would be serviced and what the estimated amount of oil would be on the site.

Mr. Gier said that depended on the tenant, and said he wasn't sure that it was appropriate to require having a tenant before the site plan application was approved. Mr. Williams said the idea of approving the application was unsettling if the Board didn't know the specifics of how the site would be used. He said the use of hazardous substances on the site would be a concern for the Town. Mr.

Gier said it would be an auto service facility, and said all of the appropriate environmental regulations would need to be followed. Mr. Williams said the applicant should describe with as much accuracy as possible the companies that might be located there.

Chair Wolfe said the Planning Board would assume that it would be a high volume business, and said there would need to be criteria concerning this if the specifics of the business weren't known. Mr. Behrendt said ultimately, the applicant would need to address some very specific questions before the Planning Board voted on the application. Mr. Parnell said otherwise, the Planning Board would assume that there would be a use on the site that could have the greatest possible impact.

Mr. Corrow noted that the site was located close to the intersection, and said a traffic study would be needed. He noted that there was already cuing of cars at the intersection.

Councilor Smith asked if there would be room to have two cars in each of the 4 bays, so there could be as many as 8 cars in the building at one time. Mr. Gier said yes. There was discussion on the parking spaces outside of the building. There was also discussion that a site walk was needed in order to be able to visualize the sight distances, etc.

***Lorne Parnell MOVED to accept the application submitted by James Mitchell, Tropic Star Development for the Redevelopment of the former Cumberland Farms property into a facility with 4 service bays, an office and 12 parking spaces, and to set the public hearing for December 10<sup>th</sup>, 2014. The property is located at 3 Dover Road, Map 4, Lot 49, in the Courthouse District. Andy Corrow SECONDED the motion.***

There was discussion about whether there was a right of way to travel around to the back of the Holiday Inn hotel. Mr. Gier said there was an access easement for limited egress from the subject property to the hotel property, but there was no other access. Councilor Smith said that was the only legal access, but said a question was what there was to stop a car from going around to the back of the hotel. He said this should be discussed at the site walk.

***The motion PASSED unanimously 6-0.***

There was discussion about whether the Board should do the site walk before or after the public hearing. Mr. Corrow said the site walk and the public hearing could both be noticed, so members of the public would see this. Board members agreed the site walk would be held on Friday, December 5<sup>th</sup> at 4:00 pm.

#### **VIII. 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 Morong 1991 Trust, owners.

David Vincent, surveyor. Map 1, Lot 15-0.

Postponed

- IX. Madbury Commons – 17 & 21 Madbury Road.** Clarification on type of design sought for bridge to be built over Pettee Brook. The applicant has been meeting with an ad-hoc committee to discuss various details of the designs for the approved project, including the new bridge. Direction is needed for whether the bridge should have a stone veneer or if a timber bridge might be acceptable. Approved site plan for multi-unit dwellings for 525 occupants, a new street, and commercial space. Golden Goose Properties, Barrett Bilotta, Ken Rubin, and Eamonn Healey, applicant

Chair Wolfe noted that the bridge discussion had been postponed. He asked if there would be time for the applicant to meet with the design committee to discuss the bridge before it came back to the Planning Board.

Mr. Behrendt said Madbury Commons would like to accomplish three things with the Planning Board at the meeting next week. He noted that one issue was the previous direction from the Planning Board that there would be a stone veneer bridge. He said that for a number of reasons, Madbury Commons had been looking at doing a timber bridge.

Chair Wolfe said the design committee was focusing on the applicant doing a stone veneer bridge. Mr. Behrendt said Madbury Commons was hearing that the stone bridge was preferred, and was currently trying to find such a bridge that would work. He said if the design committee met and this looked promising, the applicant wouldn't need to come back to the Planning Board immediately. He said if it looked like Madbury Commons couldn't do the stone bridge, they would like to ask the Board for some flexibility to explore a timber bridge with the committee.

Mr. Behrendt also said there were a number of design details for the project that were still to be worked out with the applicant, including materials, colors, pavers, street furniture, the glass front, the IOL letters, etc. He said there had been a half dozen meetings with the design committee, and said he believed there was consensus now on everything but the bridge. He said these details needed to come back to the Planning Board for approval. He also said the applicant proposed to relocate the transformers.

Chair Wolfe said he would like to be present for the Planning Board's discussion on the bridge, but wouldn't be at the meeting next week. He asked if the discussion could be postponed. Mr. Behrendt said the only thing that would be discussed next week about the bridge was that if it was clear the stone veneer bridge wouldn't work, the applicant would like to ask the Planning Board if doing a timber bridge could be explored. He said either way, it would be weeks before the details of the bridge would be worked out.

Chair Wolfe said he felt strongly that the Planning Board had approved a stone bridge, and said he would like to be present for the bridge discussion. He said Mr. Rubin came before the Board and said if he got 525 beds for his project, he would do wonders for the Town. Chair Wolfe said he wanted to see those wonders. Mr. Behrendt asked if the Board wanted to postpone having the discussion on the bridge until Chair Wolfe was present.

Mr. Lewis asked if there was a technical reason why the stone bridge couldn't be built. There was discussion. Mr. Behrendt said Mr. Rubin had said he couldn't find a contractor and workable design nor do a stone veneer bridge. He also noted that over the past week, Mr. Rubin had said there was one potential contractor to do the stone bridge. Councilor Smith said a nice stone veneer bridge had been built over the Lamprey River at Wiswall, so it could be done.

There was further discussion. Chair Wolfe said the design committee didn't think their authority to look at a bridge went beyond the bridge that landscape architect Robbie Woodburn had designed. He said the conditions of approval required that the stone bridge would be built.

Mr. Behrendt said it was possible that the applicant would say the stone bridge wasn't workable, and would ask for some general direction from the Planning Board. He said if that direction was needed, the question was whether this should be on the agenda for the December 10<sup>th</sup> meeting.

Mr. Williams said he thought the guidance was clear, that Robbie Woodburn's bridge design was the one that they were all to look at. But he said he understood that there were real life issues to be considered. He said Mr. Rubin should come to the Planning Board to explain that an alternative course of action needed to be taken, and said he would listen to what Mr. Rubin had to say. Mr. Corrow agreed, and said Mr. Rubin should explain the constraints.

Chair Wolfe said he had talked to Mr. Rubin's engineer, who said it wasn't that hard to build the stone veneer bridge. Mr. Lewis said if there weren't any technical issues, he thought Mr. Rubin should build what he said he would build. Mr. Corrow said the applicant could explore a timber bridge, but said he didn't think they all wanted to look at timber. There was further discussion, and Board members expressed support for the stone bridge. It was agreed that the applicant would come speak to the Planning Board about the bridge on November 12<sup>th</sup>.

**X. Public Hearing – Site Plan Regulations.** The Durham Site Plan Regulations have been overhauled with a new draft including Part I – General Provisions, Part II – Site Plan Review Process, and Part III – Development Standards.

Chair Wolfe noted that he had previously suggested that the Planning Board first look at Part I and Part II of the Site Plan Regulations, where there weren't that

many changes proposed. He said they could then address one or two Articles of Part III at each Planning Board meeting.

***Councilor Smith MOVED to open the Public Hearing on the draft update of the Site Plan Regulations. Wayne Lewis SECONDED the motion, and it PASSED unanimously 6-0.***

Councilor Robin Mower provided a handout of some additional changes she and Councilor Kathy Bubar had proposed concerning Parts I and II of the Site Plan Regulations, beyond changes they had discussed in meetings with Chair Wolfe and Mr. Behrendt on the update of the Site Plan Regulations. She noted that these were legal documents, and said it was important to be very careful to include statements in the regulations that were legally defensible, instead of using the words “encourage” and “should”. She said the changes she and Councilor Bubar had proposed reflected this, and she noted that the word “shall” had been used.

She said the proposed changes were the result of looking at a lot of regulations from neighboring towns, including, Portsmouth, Exeter and Rochester, and included details that developers in the area were familiar with. She noted that Durham’s regulations hadn’t included a lot of these details, and said the Town had been very lucky to get the quality it had requested, through negotiations.

She said she and Councilor Bubar had proposed some small changes as well as some large changes to Part I of the Site Plan Regulations. She reviewed what they had proposed.

#### Article 7. Validity

Proposed language:

Section 7.1 Interpretation “These Site Plan Review Regulations in no way relieve a developer, agent or individual from compliance with the Zoning Ordinance, Subdivision Rules and Regulations, Building Codes, Historic District Commission, standard construction plans and specifications of the Department of Public Works, or any other local ordinance, regulation, or code that pertains to the proposed development.

The standards contained in these regulations shall be interpreted as minimum requirements, and compliance with said minimum requirements shall in no instance obligate the Planning Board to approve any particular application solely on that basis. The Planning Board may at its discretion require higher standards in individual cases or may waive certain requirements for good cause in accordance with the procedures outlined in these regulations. Only after the Planning Board is fully satisfied that a proposed application is in accordance with the Durham Master Plan and Durham Town Ordinances [MAY/WILL] the application be approved.”

Councilor Mower said she and Councilor Bubar believed that this proposed



language reinforced the authority of the Board. Councilor Smith said he preferred that the last sentence said MAY.

#### Article 10. Definitions

Councilor Mower said definitions should be included only for words that were actually used in the regulations. She said she and Councilor Bubar had proposed that a few definitions be added to Article 10.

1. She noted the current definition in the regulations for Buffer:

“A vegetated area or zone separating a development from a sensitive resource or neighboring property in which proposed development is restricted or prohibited.”

She said she and Councilor Bubar were recommending that buffers should be identified and defined by type, such as a riparian buffer along a stream, or a buffer between a building and a street.

2. Councilor Mower spoke about including a definition in Article 10 for Green roof. She said it was important not to define green roof in a narrow way, and she referred to the wording on green roofs that she and Councilor Bubar had recommended.

3. She said she and Councilor Bubar were recommending that the definitions for Development and Redevelopment should be identical except for the wording “previously improved land” wording in the Redevelopment definition. She said currently, the definitions were not identical.

4. She said some options for the definition for Streetscape were proposed.

Councilor Mower said that concerning the overall approach of going through the Site Plan Regulations, she agreed that it made sense to address a couple of Articles in Part III at a time. But she said there were several instances where the Articles in Part III were related to each other, and she noted the parking, landscaping, erosion control and stormwater management standards in regard to this. She said these relationships should be taken into consideration in going through Part III.

She also said Jamie Houle from the UNH Stormwater Center, who had helped craft the Town’s stormwater regulations, had a few suggested updates for the stormwater regulations. She asked that the Planning Board keep this in mind.

Chair Wolfe recommended that the Planning Board go through Part I of the Site Plan Regulations from beginning to end.

Councilor Smith noted the definition that had been proposed for “Mast Stand”:

“‘Mast’ is a term commonly used by foresters and wildlife biologists to describe the seeds of shrubs and trees that are eaten by wildlife.” SOURCE:

[http://www.vtfishandwildlife.com/cwp\\_elem\\_spec\\_ms.cfm](http://www.vtfishandwildlife.com/cwp_elem_spec_ms.cfm)

Councilor Mower said she had included this definition because it was referenced somewhere in the Site Plan Regulations. There was discussion that Councilor Mower and Councilor Bubar had also included the definition for Vernal Pool in the Definitions section. Councilor Mower said it was included somewhere in the Site Plan Regulations, and she also noted that it was mentioned as part of the Capstone application.

Chair Wolfe passed around some changes he was recommending concerning Part I. He said the first was regarding Article 1 - Authority. He said the existing wording in the Site Plan Regulations on the Planning Board’s Authority was legally correct, and said he had therefore used this same wording for the updated regulations. He noted that this was the exact wording of the State Statute, and said he had used it because it said the Town’s Site Plan Regulations took the grant of authority to the full extent that the Legislature had given it. There was discussion.

Chair Wolfe said he had recommended some changes to Article 7 - Validity in order to eliminate redundancy. It was noted that these changes were similar to those Councilor Mower and Councilor Bubar had recommended for Article 4. Chair Wolfe also noted a change he had recommended to Article 5 - Waivers, section 5.1.3. He said he was fine with the rest of the recommendations Councilor Mower and Councilor Bubar had made.

Mr. Williams recommended that Article 5, Section 5.3.1 should say: “The application shall address how any waiver request comports with one of the two justifications for granting waivers, listed in sub-section 5.1.1”

Councilor Smith recommended the following language for Article 3 - Purpose, #9: “Encourage attractive, harmonious, and high-quality design that is compatible with the architectural heritage of the Town of Durham, the State of New Hampshire, and New England. “

Councilor Smith noted wording in Article 5 on page 4 regarding the carrying out of the spirit and intent of the regulations: “2) Specific circumstances relative to the site plan, or conditions of the land in the site plan, indicate that the waiver will properly carry out the spirit and intent of these regulations.” Chair Wolfe said this wording came directly from State Statute, and he and Councilor Smith agreed that this was unfortunate.

Concerning the proposed definition of Disturbance, “Any activity that significantly alters the characteristics of the terrain in such a manner as to impede or alter the hydrology or natural runoff pattern, or creates an unnatural runoff”,

Councilor Smith said he didn't think one could impede hydrology, but one could alter hydrology. Councilor Mower suggested that this should say "alter the hydrology, impede the natural runoff pattern or create an unnatural runoff."

Concerning the proposed definition of Stormwater, Water that originates from precipitation events and accumulates on land.", Councilor Smith asked if this should also say "water that is running off of land". Councilor Mower said it was reasonable to question this definition, but recommended that they check with some stormwater experts on this wording. There was further discussion.

There was discussion about the fact the proposed auto service station at the Cumberland Farms site would be subject to the new Site Plan Regulations, but the Mill Plaza redevelopment would not be subject to them. Mr. Williams asked what the applicant for the service station would be held to. There was discussion, with Mr. Behrendt noting that conceivably that application would be voted on before the Site Plan Regulations were completed and adopted.

There was discussion that a legal opinion on this was needed. Mr. Williams said it was important that the Planning Board be as clear as possible as to what was being asked of applicants. He said the language of the regulations wasn't settled yet. There was further discussion.

Mr. Behrendt suggested that he could coordinate a second draft of Part I, which identified changes to the initial draft, and said he would make these proposed changes very clear in the document. Councilor Mower said Microsoft track changes could be very helpful in regard to this. Mr. Behrendt said he wasn't sure track changes was the best format for working with the Planning Board. He said with clear drafts, there could be notations, which could be continually updated.

Mr. Williams said he was trying to protect the integrity of the Board. He said he wanted to create the impression that the Board was working in good faith with this process of updating the Site Plan Regulations. Chair Wolfe said the Board should get guidance on this from the Town Attorney.

Mr. Parnell said the language proposed in Article 3 - "Purpose" wasn't clear in some cases. He noted the language in #3 in particular: "Achieve high-quality site appearance that conserves and protects natural resource systems, helps to reduce infrastructure costs, conserves energy, and provides for a pleasant, walkable environment for the future users and residents."

Chair Wolfe said the Purpose language was the aspirational goals of the Site Plan Regulations. There was discussion that this kind of purpose language was in the existing Site Plan Regulations. Mr. Williams noted that the purpose language included action verbs, and asked if it was understood that this was aspirational language. Chair Wolfe noted that he had drafted statutes and ordinances before, and said most of them had a Purpose section. He said the purposes themselves

weren't enforceable.

Chair Wolfe suggested that the Planning Board go through each of the Articles in Part I, from start to finish.

#### Article 1 - Authority

Chair Wolfe noted again that he was asking that the wording in the existing Site Plan Regulations be adopted, because this wording was based on the State Statute. Members of the Planning Board agreed with this.

#### Article 2 - Title

After discussion, the Board agreed that the Title should say "Site Plan Regulations of the Town of Durham, New Hampshire".

#### Article 3 - Purpose

There was further discussion on the purpose language in Article 3, especially #9. It was agreed that #9 would say "...the architectural heritage of the Town of Durham, State of New Hampshire, New England".

Mr. Parnell asked what exactly was meant in #10 by "prevent scattered and/or premature development". There was discussion. Councilor Mower noted that this wording was in the State statute.

Mr. Behrendt said #11 should probably say "Include such provisions as will tend to create conditions favorable for health, safety, convenience, prosperity and general welfare."

#### Article 4 Compliance

##### Existing language:

"Compliance with these Site Plan Regulations does not relieve the applicant from compliance with the Zoning Ordinance, Subdivision Regulations, Building and Fire Codes, Historic District Ordinance, specifications of the Department of Public Works, or any other local, state, or federal ordinance, regulation, code, or statute that pertains to the proposed development.

The standards contained in these regulations shall be interpreted as minimum requirements, and compliance with these minimum requirements shall not obligate the Planning Board to approve any particular application solely on that basis. The Planning Board may at its discretion require higher standards in individual cases or may waive certain requirements for good cause in accordance with the procedures outlined in these regulations. Only after the Planning Board is reasonably satisfied that a proposed application complies with all pertinent requirements of the Site Plan Regulations and other applicable requirements and objectives, will the application be approved. "

Chair Wolfe noted that the wording in the 1<sup>st</sup> paragraph was similar to what Councilor Mower and Bubar had recommended should be added to Article 7 - Validity. It was agreed that the wording in Article 4 would remain.

There was discussion on the last sentence of the second paragraph. Board members agreed the sentence should read: "Only after the Planning Board is reasonably satisfied that a proposed application complies with all pertinent requirements of the Site Plan Regulations and other applicable requirements and objectives, may the application be approved."

#### Article 5 - Waivers

After discussion, it was agreed that the wording as proposed by Mr. Behrendt in the draft was acceptable.

#### Article 6 - Administration, Enforcement, and Appeals

Planning Board members said they were fine with the wording in Article 6.

#### Article 7 - Validity

There was further discussion about wording in Section 7.1 - Interpretation, and whether it was redundant because of the proposed language in Article 4 - Compliance. It was agreed that Section 7.1 could be eliminated, and Section 7.2 Conflicting Provisions would then become Section 7.1, and Section 7.3 - Saving Clause would become Section 7.2.

#### Article 8 - Amendments

Councilor Mower recommended that the word "board" should be capitalized. Board members agreed.

#### Article 9 - Word usage

Planning Board members had no issues with the wording in Article 9.

#### Article 10- Definitions

Buffer. There was further discussion on this definition and whether it should be expanded upon.

Deer Yard It was noted that this term was referenced in the proposed revisions to Part III of the Site Plan Regulations (Article VIII). Councilor Mower noted some possible definitions for deer yard.

Deer Yard - "Softwood **trees** that provides cover for deer in winter."

<http://woodlot.novascotia.ca/book/export/html/241>

ALTERNATIVELY: “A small area of land that attracts a large number of deer during winter months. These areas are usually attractive to deer because of the shelter and proximity of food sources.” SOURCE:

<http://www.foremosthunting.com/Deer/Library/DeerHuntingTerms.aspx>]

Councilor Smith said he liked the second definition, and other Planning Board members agreed.

Mast Stand - It was noted that this term was used in Part III, so was being recommended for the Definitions section in Part I.

There was discussion on the definitions proposed by Councilor Mower and Councilor Bubar for “Development” as well as “Redevelopment”:

Development - “Any man-made change to improved or unimproved land, including but not limited to changes to buildings or other structures, paving, adding parking spaces or driveways, excavation or mining, dredging, significant filling or grading, drilling operations, or storage of equipment or materials, or significant change of use.”

Redevelopment - “Any man-made change to previously improved land, including but not limited to changes to buildings or other structures, paving, adding parking spaces or driveways, excavation or mining, dredging, significant filling or grading, drilling operations, or storage of equipment or materials, or significant change of use.”

There was discussion on the definitions proposed by Councilor Mower and Councilor Bubar for “Disturbance” and “Disturbed Area/Area of disturbance”.

Disturbance [also under Stormwater] “Any activity that significantly alters the characteristics of the terrain in such a manner as to impede or alter the hydrology or natural runoff pattern, or creates an unnatural runoff.”

Disturbed Area/Area of disturbance [also under Stormwater] “An area in which the natural vegetative soil cover has been removed or altered and, therefore, is susceptible to erosion.”

There was discussion on including a definition for “Green roof”. Councilor Mower said in the current draft of Part III, the term green roof was included in Section 5.13 under Innovative Landscaping Practices. She said a definition of green roof was needed, and said the question was how to define it. She noted that a green roof wasn’t necessarily a vegetated roof. It was noted that there was a definition for Green roof in the draft update of Part III, in Section 5.14.

“Also known as rooftop gardens, green roofs are planted over existing roof

structures, and consist of a waterproof, root-safe membrane that is covered by a drainage system, lightweight growing medium, and plants. Green roofs reduce rooftop and building temperatures, filter pollution, lessen pressure on sewer systems, and reduce the heat island effect.”

Councilor Mower said she and Councilor Bubar had pulled this definition out of the Landscaping section of Part III because a green roof was more than an innovative landscaping technique. She also noted that they had provided suggestions for a better definition for green roof. She said all of this could be considered in the context of whether green roofs should be required or allowed. Planning Board members agreed that they would return in the near future to a discussion on a good definition for green roofs.

There was discussion on the definition proposed by Councilor Mower and Councilor Bubar for “Porous pavement and pavers”: “Porous pavement and pavers [also Stormwater] Alternatives to conventional asphalt that utilize a variety of porous media, often supported by a structural matrix, concrete grid, or modular pavement, which allow water to percolate through to a sub-base for gradual infiltration.” Planning Board members said they were fine with this definition:

There was discussion on definitions proposed by Councilor Mower and Councilor Bubar related to solar energy:

Solar access “Ability of sunlight to strike a solar energy system.

Solar orientation “1. Orientation of a structure in a way that encourages energy efficiency by creating optimum conditions for the use of passive and active solar strategies. 2. Orientation of a structure for controlled solar gain. 3. The relation of a building and its associated fenestration and interior surfaces to compass direction and, therefore, to the location of the sun. It is usually given in terms of angular degrees away from south, i.e., a wall facing due southeast has an orientation of 45 degrees east of south.”

Solar zone “Spaces on a roof that are un-shaded, un-penetrated, and free of obstructions and may thus serve as a suitable place where solar panels can be installed at a future date. Systems may be installed in the future without need for the property owner to return to any Durham land use board.”

Councilor Mower said the State statutes allowed Planning Boards to address issues of solar access and orientation. She noted that these solar related terms were included in the proposed additions to Part III that she and Councilor Bubar had provided. There was discussion that the wording in the definitions for these terms could be worked on more at a future Planning Board meeting.

There was further discussion on the proposed definition for “Redevelopment”:

Redevelopment: “Any man-made change to previously improved land,

including but not limited to changes to buildings or other structures, paving, adding parking spaces or driveways, excavation or mining, dredging, significant filling or grading, drilling operations, or storage of equipment or materials, or significant change of use.”

Councilor Smith said this definition could also speak about adding or eliminating parking spaces. Others agreed, and it was noted that the definition of “Development” should also include wording on adding or eliminating parking spaces.

There was discussion on two possible definitions for “Streetscape” provided by Councilor Mower and Councilor Bubar:

Streetscape: “The view along a street from the perspective of a driver or pedestrian, particularly views of natural and built elements in the street right-of-way, including street trees, signs, street lights, above-ground utilities, sidewalks, bus shelters, bike racks, street furniture and public art. The quality of a streetscape has a major impact on the perception of an adjacent retail or mixed-use district. [SOURCE: City of Cleveland, OH, Planning Commission <<http://planning.city.cleveland.oh.us/cwp/glossary/glossary.php>>]

STREETSCAPE: the urban element that establishes the major part of the public realm. The streetscape is composed of thoroughfares (travel lanes for vehicles and bicycles, parking lanes for cars, and sidewalks or paths for pedestrians) as well as the visible private frontages (building facades and elevations, porches, yards, fences, awnings, etc.), and the amenities of the public frontages (street trees and plantings, benches, streetlights, etc.). [

Board members agreed that Mr. Behrendt would work with these two options and would develop a definition for the Board to look at.

After discussion, it was agreed that Mr. Behrendt would provide the Planning Board with a revised draft of Part I, and would also get clarification from the Town Attorney on whether the changes proposed tonight, etc. would apply to current site plan applications. Mr. Behrendt said he would get the revised draft of Part I to the Board in advance of the December 10<sup>th</sup> meeting. It was agreed that Part II would be worked on at that meeting as well.

## **XI. Other Business**

Chair Wolfe said a member of the Planning Board was needed to work with the committee that was doing further work on the Historic Resources chapter. There was discussion.

Mr. Behrendt noted that Strafford Regional Planning Commission had used landscape format for the drafts it had developed for three Master Plan chapters.



He said when these chapters were provided to the Master Plan Advisory Committee, the committee had thought it looked fresh and exciting. There was discussion. Some Planning Board members said they preferred the portrait format. It was noted that the text could be broken up into columns, in landscape format, which would make text easier to read.

The Board agreed to get further input from SRPC and the MPAC on why they thought the landscape formatting was preferable, before making a decision on what the formatting for the Master Plan should be.

There was discussion that as of now, it looked like one Planning Board meeting in December would be adequate.

Chair Wolfe noted that a question from the Town Council when he gave his yearly presentation to them on the work of the Planning Board was whether the Board was getting enough education resources for the work it did. He said he asked Administrator Selig if the Town would be willing to pay to have people come in to discuss legal and other aspects of Planning Board matters. He said this could be done as special meetings, and said members of the Town Council, ZBA and other boards and committees could be invited to attend.

Mr. Williams said the issues the Planning Board dealt with were dynamic and said as a new member of the Board, he had faced a steep learning curve. He said new people should be joining the Board, and said it would be good if there could be a regular cycle of continuing education presentations that were brief, digestible, and focused on issues the Planning Board should be concerned about.

Chair Wolfe noted possible topics like conditions of approval and having developers pay for infrastructure improvements. Councilor Smith said he thought that was why they had a Planner. There was discussion. Mr. Behrendt said he could perhaps share information and prepare seminars on particular topics, or an outside person could be hired to do this. Chair Wolfe said he didn't think the Planning Board was getting enough education. He said he would report back to Administrator Selig on the Board's discussion on this issue.

## **XII. Review of Minutes**

### July 9, 2014

Page 3, bottom paragraph, remove "The motion FAILED 3-4, with Richard Kelley, Councilor Smith and Bill McGowan voting in favor of it."

***Councilor Smith MOVED to approve the July 9, 2014 Minutes as amended. Andy Corrow SECONDED the motion, and it PASSED unanimously 6-0.***

### July 23, 2014

Page 1, should say Chair Peter Wolfe and Vice Chair Andrew Corrow

***Lorne Parnell MOVED to approve the July 23, 2014 Minutes as amended. Andy Corrow SECONDED the motion, and it PASSED unanimously 6-0.***

**XIII. Adjournment**

***David Williams MOVED to adjourn the meeting. Lorne Parnell SECONDED the motion, and it PASSED unanimously 6-0.***

Adjournment at 9:40 pm.

Victoria Parmele, Minutes taker

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David Williams, Secretary