

These minutes were approved at the June 10, 2015 meeting.

DURHAM PLANNING BOARD
Wednesday, February 11, 2015
Community Room, Durham Public Library
7:00 p.m.
MINUTES

MEMBERS PRESENT: Peter Wolfe, Chair
Andrew Corrow, Vice Chair
David Williams, Secretary
Lorne Parnell
Bill McGowan (arrived at 7:22 pm)
Julian Smith, Council Representative to the Planning Board
Linda Tatarczuch, alternate
Kathy Bubar, alternate Council Representative to the Planning Board

MEMBERS ABSENT Richard Kelley; Wayne Lewis, alternate

I. Call to Order

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

II. Roll Call

The roll call was taken.

III. Seating of Alternates

Ms. Tatarczuch was seated as a voting member in place of Mr. Kelley.

IV. Approval of Agenda

Councilor Smith MOVED to adopt the Agenda as submitted. Ms. Tatarczuch SECONDED the motion and it PASSED unanimously 6-0.

V. Town Planner's Report

- Mr. Behrendt said at the next meeting, 3 UNH projects would come to the Planning Board for a non-binding review: the new pool, the Hamel Recreation Center and an expansion of Holloway Commons. He noted that the plans had been provided to the Board this evening.

- He said Engineer Michael Sievert had asked that the Pauly's Pockets agenda item be pushed back a bit this evening because he would be late in getting to the meeting.
- He said there was a request from Golden Goose to allow work on the Madbury Commons project to take place on Sundays, and said this could be discussed under Other Business.
- He noted that emails received concerning applications were posted under the Planning Board on the Town website, with their respective projects.
- He said the Appendix for the Historic Resources chapter had been provided this evening.
- He said at a recent UNH transportation policy meeting, Steve Pesci said UNH ridership had increased 7% every year for the last 4 years on the Campus Connector, but that Wildcat service out of town to Dover, Rochester, Newmarket and Portsmouth had decreased somewhat because of the increase in the number of student apartments in Durham.

VI. Reports from Board Members who serve on Other Committees

Councilor Smith said the Traffic Safety Committee met today, and said Steve Pesci brought up the possibility that the University and the Town would discuss with Strafford Regional Planning Commission the idea of a another roundabout on Main St because of traffic coming onto Mast Road as a result of the Peak project.

Councilor Smith said he brought the TSC a copy of the proposed site plan that the Plaza applicant had submitted, for a project that would almost triple the amount of common space at the Plaza, and would contain over 400 new occupants. He said Mr. Pesci indicated that a traffic light would be needed on Mill Road for such a project.

Mr. Corrow said the Energy Committee was finishing up the Energy chapter edits, and hoped to make the February 20th deadline to get their work done.

Councilor Bubar said the Conservation Commission would meet tomorrow and would be working on the Master Plan chapter.

Ms. Tatarczuch said she'd been participating on the ad hoc committee that was re-writing the Historic Resources chapter, and noted that there would be a report on the chapter at tonight's meeting.

VII. Public Comments

There were no public comments.

Ms. Tatarczuch said the number of emails Planning Board members received on the day of a meeting, some with lengthy attachments, had gotten excessive. She suggested that

there should be a deadline for sending these emails, stating that Board members couldn't give due consideration to agenda items when that happened.

Chair Wolfe noted that the Board had previously decided that it could choose not to consider anything that came in after the meeting packet was received. Councilor Smith said sometimes important information came in the day of a meeting. Mr. Williams said there was a large number of issues before the Planning Board, and he suggested a policy of not accepting correspondence after noon on the Saturday before a meeting.

There was further discussion. Mr. Parnell asked Mr. Behrendt if he felt obligated to send material out when it came to him, and if he instead could be a gatekeeper. Mr. Behrendt said he had to forward the material, but said the Board could choose to look at or disregard this supplemental material. He said if something really important came in, he would highlight it.

Councilor Bubar said it would be wise to have a consistent policy on this, so the public would know what it was. She suggested that if people wanted their comments to be considered, they should provide them by the Friday before the meeting. Councilor Smith said members of the public could provide their comments at the meeting. Mr. Corrow said he didn't mind getting emails as they came in.

There was further discussion on what the cutoff should be. Resident Beth Olshansky said this was an important discussion, and said there was the issue of how late the Board allowed new information from projects to come in, and how late citizen input on that new information could be received.

Mr. McGowan arrived at 7:22 pm.

Ms. Tatarczuch recommended that a proposal on a policy should be presented to the Planning Board. Chair Wolfe asked that Mr. Behrendt provide this proposal.

IX. Historic Resources Master Plan Chapter. Review of new chapter prepared by Historic Resources Committee appointed by the Planning Board.

Nancy Sandberg provided an overview of the chapter that the committee had worked on. She thanked the Planning Board for listening to the concerns that had been expressed about the previous version of the chapter, as well as accepting the offer to rewrite it. She said the chapter had benefited from their work, and had also benefitted from historical information available on the Town of Durham including information from Durham Historical Association member Janet Mackie, whose ancestors were among the first settlers of the Town in the 1630's. She said there were 8 distinct historical periods captured in the chapter, and said the ad hoc committee to write a clear, concise chapter without a lot of fillers.

Resident Janet Mackie, who was also on the Committee, said they'd looked at the way some other Historic Resource chapters in the State were structured, especially Concord's. She also noted that a purpose of the chapter was to do an inventory of Durham's historic resources including archeological sites, and said this kind of inventory hadn't been done before. She said there needed to be a procedure to check with the State on this when there was an application.

Mr. Williams said he found the writing in the chapter lucid, linear and easy to access, and also said he appreciated the tabulations of properties and graphics. But he said he only saw one reference in regard to the winners and losers of history, and suggested that it should be acknowledged what/who wasn't included in Durham's history. Ms. Mackie said she had wanted to get more information on Native Americans, but explained why so little of this information could be accessed. There was further discussion.

Historic District Committee member **Andrea Bodo** said the chapter wasn't meant to be a history book, and was meant to be a document that allowed the Town to do strategic planning, taking into consideration where it had come from, where it was now, and where it was going in the future. She noted that there were references in the back of the chapter for people who wanted more details, and also said she wished she'd had this document as a resource 10 years ago.

Councilor Smith said he appreciated the brevity of the vision statement and the goals in the chapter. It was noted that there was a great list of historic preservation recommendations at the end of the chapter, and that this had been presented to the Historic/Heritage Commission last week.

Mr. Parnell said since this chapter would be part of the Master Plan, it would be useful if before the chapter was sent on to the MPAC, wording was included on who would implement the recommendations in the chapter, for example survey development and the funding for this work.

Chair Wolfe thanked the committee for all of the work they had done on the chapter.

Councilor Smith MOVED to send the Historic Resources chapter onto the Master Plan Advisory Committee. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

- VIII. 49 Main Street – Pauly's Pockets.** Review of architectural designs for approved site plan for a three-story mixed-use building. Commercial on the first floor with 6 residential apartments on the upper 2 floors. Paul Eja, proprietor of Pauly's Pockets, applicant; Michael Sievert, MJS Engineering, engineer; Clint Forrest, building designer; Shannon Alther, TMS Architects, architect. Tax Map 5, Lot 1-2. Central Business

Zoning District. Recommended action: Approval of designs and details. Target completion: 7:35 p.m.

Michael Sievert of MJS Engineering noted that a committee had been put together at the end of the site plan review process to address final exterior design issues. He reviewed in some detail the design issues that were discussed with the committee and how these were resolved. There was some discussion on the details.

Chair Wolfe confirmed that the committee had approve the final design details.

Ms. Tatarczuch said the north and west elevations looked awkward, and noted specifically that the additional window put in for show had no purpose. Councilor Smith agreed. There was discussion on this with Mr. Sievert, and he noted among other things that there was a hallway in that area of the building.

Resident Barbara Dill noted that she had participated on the ad hoc committee that discussed the architectural design details, and said at one of their meetings, architect Shannon Alter explained that the additional window would help mitigate the big blank area on that side of the building. He noted that Administrator Selig thought that putting something there would look better than having blank space.

Mr. Behrendt explained how having the window there balanced things out aesthetically. There was further discussion. Chair Wolfe said he was willing to trust the committee, architect and Mr. Behrendt on this. Mr. Sievert said he would check to see if it could be a real window. Resident Beth Olshansky said without the window, the look was lopsided. She said Mr. Alter had recommended the window, and the committee said he was the expert on this.

Mr. Behrendt reviewed changes to the recommended conditions:

- Western façade, add railing
- Southerly elevation, add door approximately in the middle
- The window at the corner on the first floor will be sized properly and centered.
- If appropriate, the square window on the southern elevation will be a real window and the size will be adjusted as needed.

Councilor Smith MOVED to approve, as amended this evening, the architectural designs for the approved site plan for a three-story mixed-use building, with commercial on the first floor and 6 residential apartments on the upper 2 floors at Pauly's Pockets, located at 51 Main Street, Tax Map 5, Lot 1-2 in the Central Business Zoning District. Bill McGowan SECONDED the motion and it PASSED unanimously 7-0.

Mr. Williams said he would like to note in passing that this structure wasn't intended to represent the historicity of the Town.

X. Public Hearing - Great Bay Animal Hospital - Boundary Line Adjustment.

Application to adjust the lot lines between 2 existing lots to place the house on its own lot and the kennel, veterinary hospital, and dog day care facility on one lot. Dr. James McKiernan, Great Bay Animal Hospital, property owner and applicant; Kevin McEneaney, Surveyor; Mike Sievert, MJS Engineering, agent. Map 6, Lots 11-7 and 11-8. Residence C Zoning District.

Mike Sievert of MJS Engineering represented Dr. McKiernan, and noted that he was at the meeting. He said at the last meeting, concern was expressed about maintenance of the existing buffer, so it was put in writing that Dr. McKiernan and not the owner of the new lot with the house on it would be responsible for maintaining the buffer. He said the easement, shown on the plan and recorded, would be part of the subdivision approval.

Mr. Parnell said he couldn't vote in favor of this application, and said he thought the lot line should go to the road. He said the easement was a good thing, but said properties could change hands, and said it could be difficult for a new owner to have to enforce an easement on someone else's property.

Ms. Tatarczuch agreed that it would be better if the lot line went out to Route 108 instead of having an offset, which was only there to provide frontage. She said a variance could be requested concerning the lack of frontage, and noted that there was already a prohibition on access in that area anyway. Councilor Smith agreed, and said gerrymandering of the lot would cause problems in the future.

Councilor Bubar said this kind of thing happened all the time in Durham, and said easements ran with the land. Chair Wolfe said the buffer would be there forever. Mr. McGowan said he was comfortable with what proposed. Mr. Corrow said he was ok with what was proposed, and said a future owner would have to be aware of the situation. Mr. Williams said as long as everything was in the deed, he was ok with what the applicant proposed.

Councilor Smith said a concern was that a future owner might not want to maintain the buffer. Mr. Parnell said there was a chance this would happen, which put the onus on the Code Officer. Ms. Tatarczuch said she wasn't comfortable with what was proposed, and said she knew of a similar situation that worked out badly.

Councilor Smith said he was uncomfortable with the proposed design of the new lot, but said he was comfortable with voting in favor of the application. He said he hoped the applicant would start over again, go for a variance to rejigger the property line, and then

come back to the Planning Board with another boundary line adjustment application. But he said he didn't think that would happen.

Councilor Smith MOVED to open the Public Hearing on a Boundary Line Adjustment Application submitted by Great Bay Animal Hospital to adjust the lot lines between 2 existing lots to place the house on its own lot and the kennel, veterinary hospital, and dog day care facility on one lot. The properties are located on Map 6, Lots 11-7 and 11-8. In the Residence C Zoning District. Andy Corrow SECONDED the motion and it PASSED unanimously 7-0.

Beth Olshansky, Packers Falls Road, asked if Dr. McKiernan could fill everyone in on his plans for the property. She noted that the neighbors were relieved to know that the old plans were null and void.

Dr. McKiernan said the commercial lot would stay as it was now, with the kennel, veterinary hospital and dog day care. He said the dog day care building planned for the bottom of the driveway for 60 dogs was now off the table. He said with the proposed subdivision, the commercial uses and residential uses would be separate. He said the plan was to get a permit to rebuild the structure at the top of the hill, using the same footprint. He said there would be no apartment in the building. Mr. Sievert spoke briefly about these plans.

Ms. Olshansky said she was sure the neighbors would appreciate this change in plans for the properties.

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

Chair Wolfe noted Mr. Behrendt's recommendations concerning the application. Mr. Sievert said he and the applicant had seen them. Mr. Behrendt asked if the Planning Board wanted the easement language to be sent to the Town Attorney. Councilor Bubar said the language was pretty straightforward. Mr. Behrendt noted the condition of approval concerning protection of the buffer, and any changes to it.

Councilor Smith MOVED to approve the Boundary Line Adjustment Application submitted by Great Bay Animal Hospital to adjust the lot lines between 2 existing lots to place the house on its own lot and the kennel, veterinary hospital, and dog day care facility on one lot. The properties are located on Map 6, Lots 11-7 and 11-8, in the Residence C Zoning District. David Williams SECONDED the motion and it PASSED 5-2, with Lorne Parnell and Linda Tatarczuch voting against it.

XI. Public Hearing - 10 Pettee Brook – Sign Master Plan. Application for a sign master plan for a mixed-use building. Dennis Kostis, Ionian Properties, property owner and applicant; Mike Leary, Sundance Sign Company, designer. Map 2, Lot 12-11. Central Business Zoning District.

Nick Kostis described the amended proposal for the sign master plans. He said it included one 4-panel plus header multi-tenant sign that would be mounted on the eastern façade of the building. He said this would include a decorative gooseneck light fixture mounted above the sign. He said there would also be 4 individual hanging projecting signs hung from 4 of the columns of the front porch. In addition, Mr. Kostis said there would be 4 individual tenant signs mounted to the southern façade of the elevator tower.

Councilor Smith said he was glad the applicant had come back with a more comprehensive design for the signage. He said he liked what he saw, and said the south facing sign on the elevator tower would be a good sign for pedestrians. Mr. Parnell said he assumed that there would only be 4 individual tenant signs on the elevator if there were 4 tenants. Mr. McGowan confirmed that there would be no lighting of the signs on the elevator. Mr. Kostis said this could be done later if desired. There was additional discussion.

Councilor Smith MOVED to open the Public Hearing on the Application submitted by Ionian Properties for a sign master plan for the mixed-use building located at 10 Pettee Brook Lane, Map 2, Lot 12-11 in the Central Business Zoning District. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

Beth Olshansky, Packers Falls Road, said with the recent discussion around the Memorandum of Understanding between the Town and the University, there had been a lot of undercurrent about what belonged to UNH and what belonged to Durham, and the feeling that UNH was slowly gobbling up the Town. She asked if there was another option besides UNH blue for the colors in the signs, and noted that the applicant's property wasn't on UNH property. She suggested using black with gold lettering instead.

Mr. Kostis said the background would be black, and the header would be blue. He said the panel color would be up to the tenants.

Barbara Dill, Packers Falls Road, said she didn't think it would do the building or the tenants justice to allow a rainbow of colors for the signs. She also agreed that using black instead of blue on the signs would look better on the building. In addition, she said the typeface for the signs looked like it had been stretched, and wasn't very readable. Ms. Dill also said the individual signs didn't seem to be located near where the tenants would be located, and said it would be more useful if they were put near the common space.

Ms. Olshansky noted that Ms. Dill had been a graphic designer for 35 years. She said with a sign master plan, the idea was to unify the aesthetics, and said she didn't think the signs should be a mish mash. She spoke further on this.

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

Mr. Behrendt said he hadn't developed any conditions, and suggested that the Planning Board could craft them now. Mr. Corrow said in his 5 years on the Board, he only remembered approving one sign master plan, which was for the 9-11 Madbury Road property. He said he thought the Board would do a disservice to business owners in dictating sign colors because some businesses would have distinct brands. He spoke further on this, and said he didn't think that the different colors on the signs at the 9-11 Madbury Road property were unappealing.

Mr. Behrendt noted that he had emailed some concerns about the proposed signage plan to the Planning Board. He said the sign on the easterly face was fairly large, and said he thought it should be smaller and also centered horizontally and vertically. He said the 4 proposed projecting signs on the front wouldn't correspond with the commercial spaces and would be advertising. In addition, he said the signs on the tower would be pretty large, and asked the Board to consider whether it wanted that number of signs, and if their size was excessive. He said the proposed colors were handsome but didn't match the building well, and spoke in some detail on this.

There was further discussion. Councilor Bubar said the last time the applicant was before the Board concerning the sign master plan, he was asked to come back with more details on all the signage the applicant might need, and said now the Board was complaining that there was too much signage.

Chair Wolfe determined that the four panels on the parking lot side would only be filled if there were four tenants in the future. He said he agreed with Mr. Behrendt that the signs on the tower were too big. Mike Leary of Sundance Sign Company said the signs on the tower wouldn't be readable from the street if they were smaller. He noted that the entire package was below the maximum amount of signage allowed in that zone.

Mr. Parnell said he was ready to approve what the applicant had provided. Mr. Williams said he agreed with Mr. Corrow that it was good to allow the commercial tenants some flexibility so they could provide signs that were distinctive. There was further discussion, including about whether people would be able to read the 4 projecting signs as they were driving by in a car. Councilor Smith said he was ok with being flexible about the signage.

Ms. Tatarczuch said she liked having some uniformity to signs, and said this added some class, as one of the first ways someone looked at a grouping of businesses in a town. Chair Wolfe agreed.

Mr. Behrendt suggested that some flexibility could be allowed for the individual panels, but the background could be required to be something like black, with a gold border, in order to provide some unity to the look. Chair Wolfe said he would support that approach.

There was discussion. Mr. Parnell said it was important to allow potential future tenants the optimum opportunity to advertise themselves. He also said when all the signs looked the same in a town, it was hard to find particular businesses.

Bill McGowan MOVED to approve the Sign Master Plan Application submitted by Ionian Properties, with the dimensions and layouts supplied by the applicant, for the mixed-use building located at 10 Pettee Brook Lane, Map 2, Lot 12-11 in the Central Business Zoning District. Councilor Smith SECONDED the motion.

Mr. Behrendt confirmed that each panel would be designed at the discretion of the tenant, and that there would only be as many panels as there were tenants.

The motion PASSED unanimously 7-0.

Break from 9:05-9:09 pm

XII. Public Hearing - 50 Newmarket Road – Mill Pond Center Property. Design review (preliminary application) for a 2-lot subdivision. *Note that the application has changed from a 3-lot to a 2-lot subdivision. Seacoast Repertory Theatre, property owner; Matt Faginger-Auer for Doucet Survey, Surveyor. Tax Map 6, Lot 9-8. Residence B Zoning District.

Mr. Faginger-Auer noted that he'd spoke before the Board on December 10th, 2014 as part of the design review process, when the plan was to divide two lots off of the original lot. He said the test pits hadn't been done at that point, and said since then, test pits had indicated that creating two new lots would not be feasible.

He said what was proposed now was to remove the line dividing proposed lots one and two and thus create one new lot containing 107,000 sf, with 131 ft of frontage on Route 108 and 403 ft of frontage on the private road that was the existing access to the house and barn. He said the test pit data supported doing septic systems for both the original lot and the new lot. He said access to the new lot would be from the private right of way.

Chair Wolfe asked what improvements to the right of way were anticipated. Mr. Faginger-Auer said Mike Sievert would address this, and he noted that there had been

discussions with NHDOT. He said the applicant proposed to keep the existing 12 ft pavement and add 4 ft of gravel shoulder to each side. He said the Fire Department and Police Department said that was sufficient to support access.

Councilor Smith MOVED to open the Public Hearing on the Design Review for a 2-lot subdivision at the Mill Pond Center at 50 Newmarket Road, Tax Map 6, Lot 9-8 in the Residence B Zoning District. Linda Tatarczuch SECONDED the motion, and it PASSED unanimously 7-0.

Nancy Webb, Woodridge Road, read a letter from **Amanda Merrill, 87 Meadow Road**. The letter asked that concerns about a new house on the new lot, which would be located in the Historic District, would be addressed by the Planning Board. The letter also asked that the Board give careful consideration to the preservation and potential future uses of the existing house and barn, and provided some detail concerning this issue.

Chair Wolfe said the Board wouldn't be addressing the existing variances for the property at the design review stage, but would discuss them with the subdivision application.

Nancy Sandberg, Durham Point Road, said she saw this as one of Durham's most important properties because it was part of the Town's gateway. She said it would be very important that the Planning Board ensure that the current view scape was preserved to the greatest extent possible, noting that it was an historic property and that residents cherished that view. She said it would be very important that a house built on the new lot would be buffered with vegetation so that the rural, open feel of the property would be preserved.

Beth Olshansky, Packers Falls Road, said she seconded Ms. Sandberg's comments. She asked if the Board was just looking at the shape of the house lot with the design review process and also asked if there was acknowledgement that the building would be located in the Historic District. Chair Wolfe said yes.

Jeff Hiller, Laurel Lane, said he liked what was proposed and supported it, stating that it would be a win for the Town, the owner and the abutters. He said the intention of the owners was clear in their letter, which was that they wanted both the new and existing property to contain single family, owner occupied dwellings, which was a sustainable use.

Ms. Olshansky noted an email from Helen Goransson of Seacoast Repertory Theatre saying she would prefer not to have the rear lot limited in its use. Mr. Hiller said he therefore withdrew his previous statement, and said there would be future discussion on this.

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

Mr. Behrendt said that concerning the proposed design of the private road, his sense was that the Board thought it was generally workable. He said if the applicant did a formal subdivision application, the section of the road up to the driveway for the first lot would retain the existing 12 ft driveway, and there would be 4 ft gravel shoulders on each side. He said the TRG thought this was a good approach.

He noted that a separate right of way was shown for the portion of the road coming in, and said this issue could be clarified later. He said it was shown as a separate parcel right now, which had been necessary to meet the frontage requirements when there were three lots, but this wasn't necessary now. There was discussion. Chair Wolfe said whatever happened, there would need to be a maintenance agreement for the right of way.

Councilor Smith MOVED to close the Design Review process. Andy Corrow SECONDED the motion, and it PASSED unanimously 7-0.

XIII. Public Hearing - 257 Newmarket Road – Two New 3-Unit Buildings. Application for construction of two multi-dwelling buildings with three two-bedroom units each. The site contains an existing student housing building. A variance was granted in 2009 for the additional units – for a maximum of 15 occupants in the existing building and 24 occupants in the new buildings. Christopher Meyer and Edward Marquardt, Seacoast OPM of Durham, owner; Matt Silva, coordinator; Dennis Quintal, engineer; Roscoe Blaisdell, surveyor; Nick Isaak, architect. Tax Map 18, Lot 3-2. Rural Zoning District.

Matt Silva represented the applicant and reviewed the project. He reviewed a list of items that had come up since the last meeting. He said he and the applicant had met with Town staff regarding the plans. He said fire access had been addressed and said this would be tied in with NHDOT plans for Route 108. He said a parking adjustment had been made on the site for access purposes and would be noted in the plans. He also said bike racks would be set up to accommodate tenants.

He said the landscaping plan had raised some issues, mostly regarding the abutter. He said the applicant was required to create a landscaping buffer, and he spoke further on this. He also noted that the idea of using permeable pavement on the site had come up, and explained that there was a lot of ledge on the site, including half of the parking lot, which would require blasting. He said this permeable pavement approach therefore didn't seem to be necessary, and noted that a drainage plan for the site had been created, which Town Engineer April Talon had given initial approval to.

Mr. Silva explained that a drainage swale was proposed to be located in the direction of the neighbor's property but said there were no drainage problems there as compared to locating the swale in the location the abutter preferred, where there was ledge. He spoke about proposed grading of the site, and said it would be done in a way that would allow proper drainage the site as described in the drainage plan.

He said PSNH would determine where the transformers would be located on the site. He also said the applicant would install an 8 ft high fence to hide the dumpster. He the septic system location was the most appropriate spot on the site for it.

Mr. Silva said there had been discussion with architect Nick Isaak on some design ideas for the buildings. He said he personally thought the buildings looked fine, and said they wouldn't be visible from the road. He said the applicant would rather put money into the energy efficiency of the buildings. He said there would be no additional laundry facilities on the site. He said a property management plan had been submitted, which was the same as the one for the existing building out front. He said there wouldn't be outdoor space for tenants, in order to avoid noise and other issues.

He said the specifications for the lighting plan would be provided, and said lighting would be provided on the south side of the parking area and would reflect away from the abutter's property. He said the Energy checklist had been provided.

Chair Wolfe noted that he had suggested that a patio outside would be a wonderful idea and said his thinking had been that it wouldn't be fair to the tenants not to include this. But he said he would respect the abutter on this.

He noted the sloping shed design over the front door of the proposed buildings, and said he was concerned that snow would be dumped there. He also said the design looked ugly. Mr. Isaak said the shed design was a simple design, and said a gutter could divert the rain and snow. But he said they could go back to the gable design. He noted that there was a tradition of shed roofs in the community.

Mr. Parnell said there was a note from the abutter about an agreement concerning a landscaped buffer, and asked if the agreement was in the current landscaping plan. Mr. Silva said the species and there exact locations hadn't been included in the plan yet. Mr. Parnell said the Board needed to see this information on the site plan, and there was further discussion on this. Mr. Silva said if the applicant couldn't get confirmation on these details from the abutter, they would have to leave this up to the Planning Board to discuss further.

Ms. Tatarczuch noted comments Mr. Kelley has made at a previous meeting about site preparation, and asked how the issues raised had been addressed. Mr. Silva said site

preparation issues were now addressed in more detail in the plan. He also noted that an alteration of terrain permit wasn't needed for the site.

Chair Wolfe said Ms. Talon would need to sign off on the drainage plan. Mr. Behrendt said there would also need to be sign off from the Police and Fire Departments on site plan details. He said the remaining issues were fairly small, and he reviewed the issues Mr. Silva had spoken about earlier.

Mr. Behrendt asked the Board what they thought about the permeable pavement issue. Mr. Parnell said he didn't think permeable pavement was needed for this project. There was discussion. Chair Wolfe said it didn't make a lot of sense if blasting was needed. Mr. Silva said blasting would damage the well. Councilor Smith said this site was far from the Lamprey River, so he didn't think having permeable pavement mattered there.

There was discussion on what was being provided for a property management plan, and what was needed for this given the location of the property. Mr. Parnell said contacts and good back up needed to be included in the plan, and also said if there were problems with the property, the management requirements could change.

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

Beth Olshansky, Packers Falls Road, asked if people in cars going in both directions on Route 108 would be able to see the new buildings, including looking at the property from the sides. Mr. Silva said the farmhouse completely blocked anything behind it, so the new buildings wouldn't be visible. There was additional discussion.

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

It was noted that the plan was for the applicant to come back for the first meeting in March. Mr. Silva asked that the application be voted on at the February 25th meeting instead. There was discussion. Mr. Parnell said putting off the vote on this application to March was not a good idea, and said it should happen at the next meeting. Councilor Smith and others agreed.

XIV. Public Hearing - Eldercare Facility – Durham Business Park. Design Review (preliminary application) for an eldercare facility with a total of 116 dwelling units situated in three large buildings and 14 cottage and duplex units. Grant Development, LLC, c/o Eric Chinburg, property owner and developer. Mike Sievert, MJS Engineering, Engineer. Tax Map 11-27-1 through 11-27-7. Durham Business Park Zoning District.

Mike Sievert of MJS Engineering described the existing conditions at the Business Park, including details on the fresh and salt water wetlands as well as the setbacks from them,

and the shoreland setback from the Oyster River, which impacted the buildable area on the site. He noted the previous plan that showed seven lots on the site, and then showed a graphic of the development proposed on the site now. He said it used the existing roadway and said a larger cul de sac would be put in to provide better access to the units. He said 116 units were proposed, 102 of which were in the three large buildings, and the remainder that were in 14 detached units.

He said the buildings were laid out in a way that made use of the usable area and the topography, and also said landscaping had been included to address issues that had been brought up. He said the plan showed existing vegetation that would remain as part of the landscaping planned for the site. He said the density would be somewhere around 12,000 sf per unit, and noted that there was actually no specific density requirement for the Business Park.

He said it was important to get the eldercare definition issue fleshed out before going any further, and Chair Wolfe agreed. Mr. Chinburg said the assumption had been that this use was by right. He said eldercare facility was a permitted use, and said a life care community was a subset of this and was a permitted use. He said eldercare facility provided intensive services, while a life care facility was a hybrid between this and independent living. He provided the State definition of a life care facility.

He said with the development he proposed, a manager would oversee provision of services to residents, and said some of these services would be available on the site and some would be provided on an a la carte basis from outside the site. He said he had thought it was pretty clear that this approach was allowed, but said some people weren't sure. He said the project wasn't viable unless there was agreement on this.

Chair Wolfe said he thought an eldercare facility was a good idea for the Business Park. But he said his concern was that he wasn't sure what was proposed was that kind of facility. He said the definition Mr. Chinburg had quoted from tried to catch as many people as possible so it could regulate in order to protect the public, and said it wasn't a health and human services definition. He also said it wasn't a land use definition.

He said Durham's definition discussed ADLs (activities of daily living), and also said people would get an integrated package of services to meet their needs. He said continuum of care facilities could start with independent living, and as residents got more frail, they would move into the part of the facility where they would get more assistance so could age in place.

He said Mr. Chinburg talked about providing a life care community and a continuation of services, but said this concept only supplemented what the Durham definition included. He said people paid fees to continuum of care communities, and were guaranteed that

they would be taken care of for life, with progressive care as their needs increased. He said he didn't think doing this as an a la carte relationship met the definition.

Mr. Chinburg said he thought what he was proposing met the definition of eldercare facility. Chair Wolfe asked whether a package of services would be provided to residents. Mr. Chinburg said there would be an a la carte list of services, and said it was an affordable option that was in between Riverwoods and independent living. There was further discussion.

Ms. Tatarczuch said her issue was that the assumption was that seniors aging in place would be competent enough to avail themselves of a la carte services. She said this very often wasn't the case, especially as people became more frail. She said they might need someone to help them determine what they needed. She said she didn't think what Mr. Chinburg proposed was the intent of Durham's eldercare facility definition, and said she didn't think it would provide the kinds of services people looking to live in such a community would need.

Chair Wolfe said various definitions of eldercare community didn't follow what Chinburg had proposed. Mr. Chinburg said he was trying to go by what Durham's definition was. He said if the Board said he needed to do a full Riverwoods, that wasn't what was proposed. He said he needed to hear what the Board wanted.

Councilor Smith suggested that a way around this conundrum was a Zoning change to allow elderly housing. There was discussion that a similar Zoning change was proposed recently and was turned down by the Town Council. Chair Wolfe said he would love to see an elderly housing Zoning change proposed again. Councilor Smith suggested that the Planning Board could initiate a Zoning change to make multi-unit, duplex and single family elderly housing a conditional use in the Business Park. He said right now these uses were not permitted there.

Councilor Smith also said he thought it would be better if the Business Park was rezoned to become part of the RA district, so houses suitable for that district, including 55 and older housing could be built there. In addition, he noted that he would rather see elderly housing on the Mill Plaza site.

Mr. Parnell said he really liked the proposal for the site, and thought it would be very commercially successful, but said what was proposed appeared to be elderly housing.

Mr. Behrendt said the previous Zoning amendment proposed was pretty complicated. He suggested that the Board could initiate a Zoning amendment tonight and as part of this could come up with a number for the dimensional table. There was further discussion.

Councilor Bubar noted that the biggest issue the Council and Planning Board had with the previous Zoning change proposal was concerning the density. She asked what the proposed density for this project was. Mr. Chinburg said with the previous Zoning change proposed, there was some pressure that the density had to be high enough to create an adequate amount of taxable revenue, and also pressure to keep the density low. He said he thought changing the Zoning as proposed now without the verbiage about producing a maximum amount of revenue was the way to go. Mr. Behrendt said the language in the proposed Zoning change last time included an effort to shape a project. He said the currently proposed project accomplished those goals.

Ms. Tatarczuch said if the eldercare facility project went forward, she would be very committed to seeing that it was an accredited process. She noted her professional background in healthcare policy, and said accreditation served the interests of residents and their families, as well as those who provided the services. She said it made that kind of project very desirable. She said if the move was going to instead be toward providing senior housing, the Board needed to be very clear what the density limitations were. She noted the site access issue and said it would need to be considered.

Chair Wolfe suggested opening the Public Hearing at this point.

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

John Kraus, 7 Cutts Road, said he would favor a facility like this, which was needed and important for Durham. He also said the issues being discussed tonight should be clarified. He said there seemed to be an undercurrent to the discussions that was disquieting, regarding what kind of older people they wanted in Durham. Councilor Smith said there was no such undercurrent to the discussion.

Kathy Leach, Fairchild Drive, noted the email she had provided to the Board on this proposal. She said she was in favor of the project as presented. She also said she was encouraged by this discussion, and said it made the issues more understandable. She said the solutions that had been brought up should be pursued, and said they all should try to make this desirable project work.

Councilor Smith MOVED to suspend the 10:30 pm adjournment time. David Williams SECONDED the motion and it PASSED unanimously 7-0.

Lynn Homes, Meserve Road, said she'd asked the EDC last year if anything beyond student housing was planned for Durham. She said this proposal now seemed to fulfill a need of residents and the developers. She said done the right way with the right density, it was a great proposal. There was discussion that the Zoning change proposed last time had failed because of the density issue.

Karl Van Asselt, Fairchild Drive, said what was proposed was a good idea, and said they needed to make it work. He noted the letter he had sent to the Planning Board. He said Durham needed a facility where people could age in place, and said it the proposal could be made to fit a definition. He said Durham didn't have the kind of elderly community Mr. Chinburg was talking about, and said there was a huge demand for it. He provided details on this. He said an important aspect of this project was that there was a developer who was willing to work with the Town, to develop a property that had been vacant much too long.

Nancy Sandberg, Durham Point Road shared her historical perspective on the property that now comprised the Durham Business Park. She said what was proposed by Mr. Chinburg now was on a scale never contemplated for this parcel, and said this was in direct conflict with the vision for the Business Park expressed in the 2000 Master Plan. She said it didn't fit in terms of the density or the buildings proposed for the site, and failed to protect an important gateway into Durham. She said there was no way to protect the wonderful views capes on the property if 3 three story buildings were built, surrounded by 14 cottages on 28 acres.

Ms. Sandberg also questioned whether the proposal fit the definition of eldercare facility. She also noted the hazards involved with entering and existing the site, especially for an older population. In addition, she questioned Mr. Chinburg's statement that the facility would not need to be licensed because the entrance fees would be under \$10,000. She asked the Board to ask Mr. Chinburg to go back to the drawing board, and come back with a smaller scale eldercare facility of 50-75 units that preserved landscapes and viewsapes and was in line with the vision of the community.

Ute Luxem, Ross Road, said she disagreed with Chair Wolfe on what the definition of eldercare facility included, and she spoke in detail on this. She said an a la carte approach made sense, and was a very cost effective way to provide services. She said not everyone had the funds to live at a place like Sprucewood. She also said someone beyond the mental capability to decide what services were needed would get assistance from family members.

She spoke about the density that would be needed in order to be able to provide an Alzheimer's unit as part of a continuum of care community, such as was the case at Sprucewood. She said Mr. Chinburg wanted to provide a place where people could age in place, get services, and then if it came to the end stage with Alzheimer's, would have to go to a nursing home. She said it would be a beautiful environment out there, and said eldercare facilities shouldn't be a storage place for old people.

Chair Wolfe asked for suggestions on how to proceed. Mr. Sievert said he and Mr. Chinburg didn't agreed with the Chair Wolfe's interpretation of eldercare facility. He

said if the Board was going to make a determination on this, he would like them to provide it in writing. There was discussion. Chair Wolfe said he wasn't ready to make a determination, and said attorneys could be consulted concerning the definitions issue. He also said he was looking for a way to move forward positively this evening.

Mr. Sievert said there were 13.5 acres of developable area, so this needed to be taken into consideration.

Janet Mackie, Dover Road, said as someone who lived on Route 4, she was concerned about the density of cars as part of a development at the Business Park. She said there was no way an over 55 housing development would work because of all of the people who would be driving their cars. She said every day there were convoys of oil trucks on Route 4, and also said no one went less than 60 mph on that road. She said the only way she could see a development working there was if the people living there weren't mobile. She also noted that staff at a facility would be coming in and out.

Chair Wolfe said many people had said they liked the project, and said the question was how to make it work. He asked if it would be appropriate to establish a committee on this. Mr. Parnell said a simple solution was the Zoning change that had been proposed. There was discussion about whether the Planning Board could simply make a determination that what Mr. Chinburg proposed was acceptable. Mr. McGowan said the interpretation of the definition was subjective. Chair Wolfe said having the Planning Board make a determination would set a bad precedent, and Mr. Parnell said the Board might later wind up in court on this.

Mr. Behrendt recommended that the Board give serious consideration to initiating a Zoning amendment now or soon to change elderly housing multiunit, duplex, and single family to a conditional use, and to make the minimum lot area per dwelling unit 20,000 sf.

Beth Olshansky, Packers Falls Road, said it was after 11:00 pm so it was a bad time for the Board to make a decision on this. She agreed that some kind of Zoning amendment should be proposed, but not tonight. Councilor Smith agreed, and also said conditional use would allow the Planning Board a great deal of latitude to say no to a project.

There was discussion about creating a small committee to consider the issues and make a recommendation to the Planning Board at its next meeting. Mr. Chinburg agreed with this approach, and said he could meet with Ms. Olshansky and others to see if there was something that could move forward. Ms. Leach said if this approach was taken, it should be clear who was on the committee and what their roles would be. She said one of the questions for such a committee to consider was how to change/adapt the eldercare facility definition. Ms. Tatarczuch noted that there was also the issue of other definitions and standards for eldercare facility.

Councilor Smith MOVED that the Planning Board encourage the applicant to put together an ad hoc committee.

Mr. Chinburg said he would like to meet with Ms. Olshansky and Chair Wolfe, and said if they could agree on something there could be momentum.

Bill McGowan SECONDED the motion.

THE MOTION WASN'T VOTED ON.

Linda Tatarczuch MOVED to adjourn the meeting. Bill McGowan SECONDED the motion, and it FAILED 2-5, with Linda Tatarczuch and Bill McGowan voting in favor of it.

It was noted that the Public Hearing would be continued to the March 11th meeting.

- XV 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

Postponed due to busy agenda

XVI. Other Business

Madbury Commons

Chair Wolfe noted that the applicant wanted to be able to do construction work on Sunday. There was discussion that the Board could say no to this now if it chose to do so, and could then discuss this further at the March 11th meeting. Ms. Tatarczuch said the last paragraph in the request from Mr. Rubin was outrageous. The consensus of the Board was to not allow work to proceed at the site on Sundays.

XVII. Review of Minutes – October 22, 2014

Postponed

XVIII. Adjournment

Linda Tatarczuch MOVED to adjourn the meeting. Bill McGowan SECONDED the motion, and it PASSED 6-1, with Councilor Smith voting against it.

Adjournment at 11:17 pm.

Victoria Parmele, Minutes taker