

*These minutes were approved at the April 11, 2018 meeting.*

**DURHAM PLANNING BOARD**  
**Wednesday, December 13, 2017**  
**Town Council Chambers 7:00 p.m.**  
**MINUTES**

**MEMBERS PRESENT:** Paul Rasmussen, Chair  
Barbara Dill, Vice Chair  
Bob Brown, Secretary  
Lorne Parnell  
Councilor Jim Lawson, Council Representative to the  
Planning Board  
Nathaniel Morneault, alternate

**MEMBERS ABSENT** Bill McGowan Councilor  
Carden Welsh, alternate Council Representative to the  
Planning Board

**I. Call to Order**

Chair Rasmussen called the meeting to order at 7:03 pm.

**II. Roll Call and Seating of Alternates**

The roll call was taken. Chair Rasmussen said Mr. Morneault would be a voting member this evening.

**III. Approval of Agenda**

*Councilor Lawson MOVED to approve the Agenda. Nate Morneault SECONDED the motion and it PASSED unanimously 6-0.*

**IV. Town Planner's Report**

Mr. Behrendt noted that there were some vacancies on the Planning Board.

**V. Reports from Board Members who serve on Other Committees**

Chair Rasmussen said given Andrew Corrow's recent resignation from the Planning Board, there was a vacancy for the Planning Board representative seat on the Conservation Commission.

Councilor Lawson said he advised the Town Council at its last meeting that the Planning Board was still taking comments on the Future Land Use chapter, and that the review of the chapter would extend into 2018. He said no concerns were expressed about that.

## **VI. Public Comments**

**Robin Mower, Faculty Road** noted that there had been some chatter about the most recent Planning Board meeting. She said she believed strongly that the Planning Board needed to make fair and judicious decisions, and she spoke in some detail on this, including quoting from the NH Constitution. She said a question was when and how members of the Board could make their opinions strongly known. She said this wasn't something for the members to make a call on, and said her opinion was that the Board needed some legal guidance on this.

**Matt Komonchak, Thompson Lane** said he echoed the same concerns, and he read from a written statement, noting that he wanted people watching the meeting at home to know what had happened, including at the end of the last Planning Board meeting. He said Mr. Behrendt provided his unvarnished opinion of the latest Mill Plaza redevelopment proposal at that time, and noted the specific drawbacks of the proposal, as compared to a previous proposal.

Mr. Komonchak said following this, Administrator Selig cited the comments as grounds for terminating Mr. Behrendt's oversight of the project, instructed him not to engage in any discussion about the project with the Board, and subsequently appointed a new contract Town planner for the project. Mr. Komonchak spoke further about his concerns about the process, and said it raised a number of questions. He said one was the precise grounds for Mr. Behrendt's removal, another was whether there was any precedent for doing this in NH, and another was how the Town was distinguishing personal opinions from professional judgment. He read further from his written statement concerning the process.

## **VII. Review of Minutes (old):**

### September 27, 2017

Page 7, line 2, should read "discrete"; line 41, should say "Planner's Report"

Page 8 line 20, should remove the underscore

Page 9, last paragraph, spelling should be "McGregor"

Page 10, 3<sup>rd</sup> paragraph, should read "Councilor Lawson noted that the PILOT ultimately will be going to the Town Council for approval."

line 2, should read "...he said they were clearly serving a different population."

***Councilor Lawson MOVED to approve the September 27, 2017 Minutes as amended.  
Lorne Parnell SECONDED the motion and it PASSED unanimously 6-0.***

**VIII. Public Hearing - Future Land Use Chapter.** The Durham Land Use Committee, working with Strafford Regional Planning Commission (SRPC), has developed a draft Future Land Use Chapter of the Master Plan. The Planning Board revised the draft at the workshop on November 8. Presented by SRPC's James Burdin, Regional Economic Development Planner, and Cynthia Copeland, Executive Director. The Planning Board adopted ten other chapters of the Master Plan in 2015.

James Burdin explained that the Land Use Committee had been considering all of the existing Master Plan chapters that had been adopted, especially the Vision and Community Character chapter, and he said the Future Land Use chapter was intended to be the physical embodiment of that chapter. He said the Committee did its best to be true to the chapter, and to be consistent with the other Master Plan chapters. He said GIS mapping techniques were used to develop some strategies, especially the transect technique, and also said research was done on some case studies of locations in NH and elsewhere in the country.

He said the committee used public input that was obtained from a variety of sources, and he reviewed these sources in some detail. He said while some people at the last Planning Board meeting spoke about feedback obtained from the forum, that was only one part of the feedback received from Durham residents.

Chair Rasmussen asked if members of the public had any comments to make about the Future Land Use chapter.

**John Carroll, Canney Road,** said he was there on behalf of the Agricultural Commission and also noted that he was the Commission's representative to the Land Stewardship Committee. He read a detailed written statement into the public record. He congratulated the Land Use Committee for recognizing the importance of local agriculture and local food and farming as an economic force and amenity value in Durham. But he said there were some things he wanted to bring to the Planning Board's attention.

He said what was being called Main Street West was not only an important gateway of rural character, it was an area of truly prime agricultural soils, that were of statewide significance and also contained the Town cemetery. He said this area should be protected as much as possible to the Lee town line.

Mr. Carroll also spoke about the idea of urban agriculture for the downtown core, an area of Town that was located very close to a large number of people as well as local businesses that could benefit from having fresh produce. He said this was a significant idea for economic development in Durham, and noted the Town and Campus project that

was in the works as an example. He said allowing agriculture and food production in all zoning districts was the Commission's commitment to a working landscape.

He said the Commission was pleased that the Town wanted to use the urban transect concept, which was an important planning tool as part of the planning agenda. But he said that meant density stayed in the core and didn't float out to West Main St, and didn't mean sprawl associated with spreading neighborhoods onto open space land and places where they didn't now exist. He said the transect was a fine tool and should not be misused. He said it should be used in part to encourage local food production, and not to discourage it.

Mr. Carroll said this region was the flesh of NH, with relatively open flatter lands with good soils, while most of the rest of the state was the bones, - the land of ledge and swamp. He said it was the reason why Durham hosted the State's land grant College of Agriculture. He said residents recognized this by producing the food they could produce, and said Durham's land use planning was crucial to this effort. He thanked the Land Use Committee and Planning Board for a meaningful document for the future, and for honoring agriculture in the chapter.

Councilor Lawson asked Mr. Carroll if his comments about West Main St. included the UNH developed area between Mast Road and Route 4, on the west side. Mr. Carroll said he was referring to the area west of the intersection of West Main St and Route 4, to the Lee town line, and wasn't referring to the University lands.

Councilor Lawson asked Mr. Carroll if what he'd said should apply to the University land that was to the east of Main St. Mr. Carroll said he thought that University land, which was covered by buildings and parking lots, was appropriate for redevelopment. He said the area north of Main St. on UNH agricultural land hadn't been discussed by the Agricultural Commission, but said it was an important part of the reality of agriculture in Durham. He said as a retired faculty member of the UNH College of Life Sciences and Agriculture, he'd fought long and hard internally to protect UNH agricultural lands.

**Dennis Meadows, Laurel Lane**, said the Future Land chapter was the most important chapter in the Master Plan, and needed to be as accurate as possible. He read from a detailed prepared statement, and said the current draft was an excellent start, and was a comprehensive and clear statement that was incredibly useful. But he said it was based on an assumption that was clearly wrong.

He noted that the summary report of the land use forum mentioned the value of undeveloped land in many ways, and he asked how this was reflected in the chapter. He said the central focus of the chapter was on ways to organize and accommodating future growth, which typically meant less open land. He provided examples of what he called

growth bias in the chapter, concerning building height and a proposed zoning audit that would potentially increase density.

Mr. Meadows asked why there was this pervasive push for more construction in Town, and said the Master Plan answered this, in speaking about how the tax base would need to continue to expand to meet projected spending needs without increasing the tax rate. He asked the Planning Board not to base future decisions on that fantasy.

He said he'd looked at the Town Reports for 2005 and 2016, and said three variables, taxable valuation, general fund appropriations and long-term indebtedness, and said all three had increased significantly during that time, but didn't result in lower taxes. He said they'd reduced the growth in taxes not by building, but by borrowing, which wasn't a viable long-term solution. He said they would have to face the fact that growth didn't pay for itself. He said other parts of the Master Plan acknowledged that, and said this chapter should deal with it as well.

**Beth Olshansky, Packers Falls Road** read into the public record a letter from **Dudley Dudley, Woodman Road**, which raised several points concerning the chapter, regarding the recommendations on building height; the recommendations concerning housing; the proper use of the urban-rural transect; and the recommendations on the gateway overlay district.

Ms. Olshansky noted Peter Wolfe's take on the data Councilor Lawson had provided, and asked Councilor Lawson to respond concerning this. She also said the 2011 Master Plan survey data was collected before the massive redevelopment occurred downtown, and said she thought residents' attitudes about building downtown had changed quite a bit since that time, so some of this data should be taken with a grain of salt. She said the Land Use committee had made an effort to get input from a lot of people, but she said having participated in the forum, there was the benefit there of residents having conversations to think things through and gain different perspectives, as opposed to being interviewed on the street. She said she hoped the Board could consider weighting the value of the different ways that comments were received.

**Robin Mower** read a detailed letter from **Diana Carroll, Canney Road**, which first thanked those who had done the work on the Future Land Use chapter. She said she applauded the concept of open space as it appeared in the Vision section, which reflected residents vision for Durham. She said she had difficulty with two aspects of the chapter. She first questioned relooking at Conservation subdivisions in the chapter. She also questioned the call for new neighborhoods in Durham, when there were already neighborhoods that had more workforce housing than residents had thought was the case. She asked what sections of open space would be used for these new neighborhoods.

Ms. Mower said Mr. Meadows' comments reminded her of an approach for considering land uses that including looking at the cost of development. She said the evidence on this wasn't clear, and said preservation of open space might provide better benefits economically to towns, including the ecological services open space provided. She said these things would have been useful to include in the chapter.

**Lynn Homes, Meserve Road**, said she agreed with the comments others had made. She said one of her concerns was that somehow the recommendation for building heights downtown had gone from 2-4 stories to 3-5 stories. She asked how this had happened and urged the Planning Board to adopt 2-4 stories.

There was discussion that no decision had been made yet concerning building height. Mr. Burden said 3-4 stories came from the Downtown Commercial Core chapter, and said he'd suggested a partial 5<sup>th</sup> story since there had been a large number of comments about not spreading density beyond the downtown, and the extra height was suggested to see whether in exchange for preserving rural areas, this might be acceptable. He said there hadn't been pushback on this idea until now, and said if there was clear direction to remove the partial 5<sup>th</sup> floor, it would be gone.

Ms. Mower said her impression was that a Master Plan was supposed to evolve from the community, and said she was a bit concerned about accepting impositions from outside of the community.

Councilor Lawson explained that he did the housing analysis periodically, so changes could be measured. He said the threshold for workforce housing was specified in the RSA, and came from data developed by the NH Housing Finance Authority. He said he was very confident concerning the numbers he'd provided based on the threshold, but said if the Planning Board wanted to develop a new threshold, he'd be happy to take that on. He said his calculations were based on very different input than what Mr. Wolfe's letter spoke about, and he spoke further on this.

Mr. Brown said it was interesting to hear Mr. Wolfe's comments, and said there was some merit in his numbers. There was further discussion on the numbers with Councilor Lawson.

Ms. Dill said she was struck by Mr. Wolfe's letter, and said it sounded like the real world. She also said regarding workforce housing that there were professionals and families who were saddled with enormous college loan debt, which wasn't reflected in the figures provided, and said she thought that could impact them significantly.

Councilor Lawson said the Board shouldn't make land use decisions based on what were gut feelings, or on one set of numbers. He said if the Board wanted to use different criteria, he would measure them. But he said if something other than Housing Finance

Authority and the RSA guidance was used, they needed to be very careful in terms of what they defined.

Mr. Brown said he would like to see some additional real-world data. He noted that Mr. Morneault was a realtor in the Seacoast area. Mr. Morneault asked what they wanted to achieve, and what they wanted the community to look like. He said if Durham stayed as it appeared now, it would be a wealthy town with not a lot of diversity.

Councilor Lawson said he disagreed, and asked people to take a critical look at the information he'd put together, which dismissed the idea that Durham was where only wealthy people could live. He said of 2000 sf homes in Town, a third were below the workforce housing standard, and said there was a large inventory of homes above and below the threshold. He noted that if interest rates and taxes went up, the number of homes under the threshold could decrease.

Mr. Morneault spoke about including real life details in an analysis, and said property taxes would price a lot of people out of buying a home. He also said because of young professionals' debt to income ratio, they didn't qualify for mortgages. He said the housing data wasn't always reflective of what was really going on in the market, and spoke further on this.

Chair Rasmussen said he'd reviewed the Town Council Goals for the year, and said they spoke about providing greater opportunities for housing for the aging members of the community. He spoke in some detail about how this might be addressed in the chapter.

Mr. Burdin said his understanding from the committee was that there was still a lot of conversation to be had on housing issues, and there were concerns about whether the issue of providing greater housing diversity, and where this would be implemented could be completely resolved. He said the goal was to have some kind of policy on this, and he spoke further.

He said the Vision and Community Character chapter, the Demographics and Housing chapter, as well as the comments in every form the committee had received suggested that people would like to foster more diversity. He said the reason the chapter was suggesting a residential zoning audit rather than implementing a particular type of housing policy was recognition that this was an unresolved issue in some sense. He said if the chapter hadn't done a very good job of expressing this, they could try again.

Mr. Burdin said there weren't many comments in the written feedback from residents that contradicted the idea of providing a greater diversity of housing. He said there were some comments about certain types of housing and said there were also comments from the forum that suggested that if an explicit statement was made about particular housing types, there might be some things that were being left out. He said the Land Use

Committee and SRPC staff didn't have the chance to focus in on those kinds of details. He said the residential zoning audit would provide the opportunity to continue those discussions.

Councilor Lawson said he thought the zoning audit was an interesting concept, and he spoke further on this. But he questioned an audit to accommodate increasing density in existing neighborhoods, where there was pretty high density already. He said he felt there was more diversity in market rate housing in Durham than most people appreciated. He said until there was data that showed something else, his vision and what he believed was the vision of the community was to take the existing diversity of housing and fill it with as many families as possible, and make it less desirable for students.

**Realtor David Choate** provided details on his background that included workforce housing development, and said there was interest in doing a project in Durham because there was a demand for this kind of housing. He said workforce housing, and rental housing lived or died with low income tax credits. He also said a program that prohibited student housing needed to have a verifiable source of income. He spoke in some detail on the numbers involved. He noted that there was a bill before the Legislature this session to create a State Housing Appeals Board, which would operate much like the State Board of Land and Tax Appeals. He said the reason there weren't a lot of projects was that most towns didn't want them.

Mr. Behrendt said the sense of the Land Use Committee members was that Durham should be more diverse, and should welcome people who couldn't now afford to live here. He also said there was a decent inventory of housing in Durham that met the definition of workforce housing.

Mr. Choate said not everyone could afford to buy house, and said there was a lack of housing for rent or lease. He said this was a very important subject, and said it might be worthwhile to have a work session to talk through the nuts and bolts of a multifamily project.

Councilor Lawson said an assumption people made was that workforce housing was needed downtown for young professionals, police officers, etc. But he said people with those types of jobs had incomes above the workforce housing threshold for rental property.

Mr. Choate said young professionals living downtown were needed in order to drive business downtown, and said this was a process that was hopefully starting with Peter Murphy's project.

Councilor Lawson said Mr. Murphy's building was away from downtown neighborhoods. He said there were 160 homes in Durham with ancillary apartments in



them, and said he always wondered what they were being used for. He considered whether some of this was workforce housing, and said he didn't have a way to measure this.

Ms. Mower said she hadn't heard anyone mention the school funding formula, and how the suggestions in this chapter would affect that. She said her understanding was that half of the formula was based on property value, and said since a big draw for young families was school quality, she wondered how bringing in lower value properties would affect that. She said just as many people would like to see a theater, hardware store, or bakery in town, it came down to understanding what went into what made that possible. She said it wouldn't be an easy transition.

Ms. Olshanksy said there was a lot of very modest housing in in-town neighborhoods. She said this housing suffered because a lot of students were renting them, but said they could be great starter homes. She said the hope had been that with a thousand new student housing beds in Town, students would be pulled out of the houses in the neighborhoods. She asked about possibly tweaking the Zoning Ordinance to discourage students from renting these houses, and encouraging property owners to turn them into family and workforce housing, with something like a no more than 2 related provision, instead of the existing no more than 3 unrelated provision.

Chair Rasmussen asked if there were other items in the chapter that the Board needed to provide Mr. Burdin with guidance on.

Mr. Burdin said there were two issues that had come up in comments from the public. He said one was the appropriate density downtown and concerns about 5 stories, and said he'd like to get clear direction from the Planning Board on this. He said a second issue was concerning the Main Street West area, and he noted Mr. Carroll's comments this evening and a previous letter from the Agricultural Commission on the quality of the soils in that area.

Chair Rasmussen asked if there were any objections to removing the 5<sup>th</sup> story from the chapter. Mr. Burdin explained again that in including the 5<sup>th</sup> floor, he'd been trying to accommodate a variety of opinions about focusing development downtown, combined with how much development they could actually expect to happen downtown. He spoke further on this

Ms. Dill said she wasn't sure how necessary it was to specify a height, and said it depended on the location of the building. She said her concern about Main St. was that it was very narrow and had narrow sidewalks; she said the situation on Main Street West could be different. She noted a building design she'd seen where there was a 4<sup>th</sup> floor but it was stepped back and didn't come out to the sidewalk. She spoke further, and said the floor to area ratio approach was good, but said on Main St there wasn't room for it.

Chair Rasmussen said the reference to 5<sup>th</sup> story would be removed, but said there would still be some flexibility allowed with the use of the floor to area ratio.

There was discussion about how the Main Street West chapter was addressed in the chapter. As part of this, Chair Rasmussen asked if the Durham Community Transect map was a starting point that wasn't meant to provide exact lines and was meant to show a general concept that would be developed further. There was discussion on this by the Board. Councilor Lawson said it could provide good guidance as a concept, and noted that it could be used in the future to rethink the ORLI district. He also said West edge was different than further out Main St, and said it would take awhile to hash that out.

There was further discussion on details of the transect map and the transect concept itself as it applied to Durham. Chair Rasmussen summarized that the Transect map would be left as it was now, in a conceptual form. Mr. Burdin said it fulfilled the purpose of a Future Land Use Map without being zoning, and said language on this in the chapter could be strengthened.

Mr. Behrendt said he and SRPC staff would strengthen the chapter based on discussion this evening. It was agreed that discussion on the chapter would continue on January 10<sup>th</sup>.

- IX. 14 Oyster River Road. Conditional use for landscaping and site work for single-family residence within the Shoreland Protection Overlay District.** Applicant – Elizabeth and William Stine. Owner – David Robert Ransome. Landscape Architect – Terrence Parker, Terra Firm Landscape Architecture. Map 6, Lot 4-28. Residence A District.

Ms. Stine said she and her husband would like to landscape the immediate area around their house. She noted that they'd moved back in recently after a prolonged period of renovation, and said the land around the house wasn't landscaped. She said they would like to restore it to a good condition and improve the drainage and soil stability. She explained that the house was on a small plateau, with a steep bank down to the Oyster River. She noted that all of this area was located within the shoreland protection zone.

Chair Rasmussen said it sounded like a site walk would be needed. There was discussion, and it was agreed the site walk would be held on January 10<sup>th</sup> at 3 pm, and that the public hearing would be held at the Planning Board meeting scheduled for that day.

- X. Public Hearing - 5-7 Jenkins Court and 60 Main Street. Preliminary (design review) application** for redevelopment of 5-7 Jenkins Court into 3-story building with retail, office, residential, and parking garage & addition of roof deck and third floor to 60 Main Street (Town and Campus Building). 60 Main R.E. LLC, c/o Pete Murphy,

property owner. Mike Sievert, MJS Engineering, design engineer. Nick Isaak, architect. Map 2, Lot 14-4. Central Business District.

Mr. Sievert provided some updates. He said at the last meeting, they discussed going to talk with the Planner and Code Officer about the existing number of units, and the issue of an expansion of a nonconforming use and maintaining the number of units that were there now. He also said there was some new information to provide this evening on the proposed architectural design. He showed a visual of the current second floor, with the existing residential units.

He said they wanted to retain the existing 4 units over Town and Campus, do 2 new units on the second floor, and not lose any residents. He said he'd met with staff to discuss this, and the fact that the units had been there since the last 1980's and were under the 200 sf/person requirement. He said 23-24 residents were allowed, including all of the units.

Mr. Parnell said an issue was how many occupants were in the part of the existing building that would be destroyed. There was discussion that this portion contained about 1500 sf, and Mr. Murphy said there were about 10 people living there now. Mr. Sievert said these residents would move to the back of the second floor of the new space. Mr. Parnell said 1500 sf, at 200 sf/occupant came to about 7 occupants. Mr. Sievert said staff said that the nonconforming use language spoke about the size of the existing use that had been used, and said the number arrived at was a combination of that square footage and the historical use. He said the square footage would support more than 23 occupants, but said the historical use supported less.

Councilor Lawson asked how many people lived in units 5 and 6, and Mr. Murphy said there were 8 people living there. Councilor Lawson said that matched up closely with the 200 sf/unit standard.

Mr. Sievert provided a visual of the new 2<sup>nd</sup> floor that was proposed, with the new residential units included, and there was discussion on the location and extent of the particular units. He said the rest of the 2<sup>nd</sup> floor would be commercial. There was discussion that Ms. Cline said 23 occupants was ok. Mr. Behrendt said she considered the existing square footage to be a nonconforming use that stayed with the property. Councilor Lawson said that made sense.

Mr. Sievert spoke about the 600 sf/occupant units proposed on the third floor. He also noted the potential 4<sup>th</sup> floor area, which would be set back somewhat. He showed some architectural renderings of it, viewed from Main Street and also from Jenkins Court. He said it showed the event space on the 3<sup>rd</sup> floor set back, and the possible green house on the upper floor. He provided details on the rendering, and there was discussion about various elements in it. He spoke about having an exterior awning space over the retail

space on the first floor, so people could get under it in a rainstorm. He said this would be beneficial to the businesses. Mr. Murphy said it would be made of glass to allow light in but protect people from the weather.

Ms. Dill asked about the deck on the proposed top floor that went all the way around, and down Jenkins Court, and as part of this asked if there would be anything to keep people from falling off. Mr. Sievert said there would be a parapet and railings, and he provided details on this.

Mr. Behrendt said he hadn't had a chance to make comments on the most recent drawings of the project. He said there were some issues with the design, and he recommended keeping the design review open. He said a main issue was that the design of the 3<sup>rd</sup> floor on the Main St side was quite strong and dark, and included big windows that didn't seem to fit. He said the 3<sup>rd</sup> floor on the Jenkins Court side seemed to fit in better. He also noted that the greenhouse wasn't allowed at this point, and said more clarity was needed on the design for it.

He also recommended that Mr. Murphy consider not having the parking garage on the first floor, because it created some challenges. He said it took up half of the nonresidential space in order to provide 9 parking spaces, and he questioned the efficiency of this. He also said the insertion of the garage threw off the architectural integrity of the first floor on Jenkins Court, and said it would be challenging to present the façade in a way that met the street well.

Councilor Lawson said he was taken aback by these comments. He said the proposed parking conformed with the Zoning Ordinance, and he questioned telling Mr. Murphy what he should do with the first floor of his building.

Mr. Behrendt said it was a suggestion and said the design presented challenges. He said the previous building elevations fit with the provisions in the architectural regulations, but said the current elevations presented some problems. There was discussion about the fact that there were a few different versions around of the design.

Councilor Lawson said his opinion was that the Planning Board had no authority to tell Mr. Murphy what he should or shouldn't do with the first floor, and said this area was critical for making the 3<sup>rd</sup> floor viable for the occupants Mr. Murphy was looking for, who were either couples or others who would like to have a 600-sf apartment. He said he'd look at the architectural design standards, and said he thought this design met them unless the Board wanted to apply some very subjective criteria under the guise of being objective. Mr. Behrendt said he could pull out specific provisions at some point if this would be useful.

Mr. Sievert said the garage entrance was shown slightly wrong in the most recent drawing, and said the pedestrian door wouldn't be there. He said the architectural design regulations said garages couldn't be in the front, but didn't say they couldn't be on the side. He said perhaps the proportions could be worked on.

He also said they were trying to show the upper areas generally and said the colors weren't finalized. He also spoke about the awning aspect of the building facing on Main Street, and said this wasn't the final design. He suggested closing the design review process for now, and then stepping back and figuring out some things. He spoke further on this.

Ms. Dill said that sounded like a good plan, and noted that Mr. Behrendt hadn't had a chance before the meeting to ask questions and make comments on the most recent design. Mr. Behrendt said this was a great project, and said there was a bit of work to do.

Mr. Murphy said they would ask his architect Nick Isaak and staff to get together to make sure people were comfortable with the exterior so that it fit in downtown. Mr. Sievert said if there was an event space, there would need to be a large window, for a space that would be open and that would look out over the University. He said it would be hard to put little windows there, and Mr. Behrendt suggested that a larger window could be broken up with mullions, etc. Mr. Sievert also suggested there could be arches, etc.

**Nancy Sandberg, Langley Road**, said in terms of the massing of the building and the interrelationship with the 3<sup>rd</sup> floor, the floor needed to be made visually less important. She said it would be good to pull in the left side and have it indent, as it did on the right side. She also said the window fenestration on the 3<sup>rd</sup> story didn't work with the other window fenestration, and said she was sure it could be made to relate better.

She said in the Durham Historical Society museum, there were old photos of the downtown, and said she'd be happy to pull some of them out to show how the building was originally conceived. She noted that it was a colonial revival building that was made to work with the UNH dorms across the street. She said it was important to try to make the downtown as compatible with history and what still existed there. She said the architect was preserving the colonial revival elements already there, such as the brick façade and detailed cornice moldings.

Ms. Sandberg said the **third story** was depicted in the design as very modern and dark, and said those large windows could be lightened up with a different kind of window that was light in color, broken up with mullions and Muntons, and arranged in a more regular pattern. She said looking at the original entrances might inspire the architect to find a way to incorporate elements from them. She said the proposed awning was a strong element, and said it would be important that it be as light as possible. She said she liked

the idea of having glass material that would provide protection but let light come through, so it would keep the Main Street feeling.

She said the greenhouse effect could work well and said she liked the idea of an upper floor set back from the front and sides, but she said she wasn't excited about a 4<sup>th</sup> floor downtown, and provided details on this. She said she realized the building wasn't in the Historic District, but said there was a history downtown, and said there could be a building that was handsome and that had many of its features intact, as was done with the Grange property.

There was discussion about getting the old photos of the building. Councilor Lawson said he'd scan them and get them back to Ms. Sandberg.

**Beth Olshansky, Packers Falls Road** said she respected Ms. Sandberg's comments, and also said she appreciated the overall concept of the project. She asked if keeping the third floor with brick facing, window design, etc. would make it tie in better with the rest of the building and connect with the UNH buildings across the street. She said she didn't like 4<sup>th</sup> floors but liked the greenhouse idea and was fine with it being on the 4<sup>th</sup> floor because she didn't think it would be visible from Jenkins Court because the road was so narrow. There was discussion that one would have to be across Main St. to be able to see the 4<sup>th</sup> floor, with the design that was proposed. Ms. Olshansky asked about the colors for the **first** floor, noting that this would be very visible.

Mr. Murphy said the current design showed it as black, but said he didn't think it would stay that way. He said he agreed with all of the design points she and Ms. Sandberg had made.

Ms. Olshansky said there would be a lot of support from the community for this, noting that people were already enthusiastic about the greenhouse concept. She said she'd be interested to see the evolving design. She noted that the description of this agenda item should include the proposed 4<sup>th</sup> floor.

Mr. Sievert said he and Mr. Murphy would like to close the design review process. He said they were amenable to almost everything that had been said. He said they liked the more modern look for the back but were open to changes to the design for the front of the building.

***Councilor Lawson MOVED to close the Design Review public hearing. Bob Brown SECONDED the motion and it PASSED unanimously 6-0.***

- XI. Public Hearing - Great Bay Animal Hospital. 31 Newmarket Road. Conditional use and site plan** for 555 square foot addition to the kennel, new parking lot, and relocation of shed. Great Bay Animal Hospital, LLC, c/o Dr. James McKiernan, property owner.

Mike Sievert, MJS Engineering, design engineer. Bill Schoonmaker, architect. Map 6, Lot 11-8. Residence Coastal District.

Mr. Sievert noted that there had been a site walk, and said no changes had been made to the plans. He said the small orange portion of the building on the kennel was the office addition, and noted the proposed parking lot for about 14 cars so there would be enough parking overall on the site for patrons and employees. He said on the lower portion of the parking lot there would be a rain garden to treat runoff, and said it would discharge into a lawn area. He said there was about 100 ft between this area and Newmarket Road.

Chair Rasmussen asked Mr. Sievert if he'd reviewed the conditions in the Notice of Decision. Mr. Sievert said yes and said the applicant had no issues with any of them.

Mr. Parnell noted a comment on submitting landscaping plans for screening, but said it wasn't submitted. Mr. Sievert said this issue was discussed at the site walk. He said the area in question would be shielded in the summer but not in the winter. He explained the screening that was proposed on the site, and said some could be added to the area in question. He said the applicant might like to put trees along the property line instead of by the parking lot, and spoke further on this.

Mr. Behrendt said whatever was reasonable would be good, and said a handful of small trees or shrubs could be put in. Mr. Sievert said the landscape architect could propose something that could be looked at.

Mr. Parnell asked if adding a bike rack was required, and Dr. McKiernan said he planned on doing this. Mr. Sievert said one was added at the corner of the parking lot on the right-hand side, for a few bikes. He said he didn't think it would be in the way of snow removal, and provided details on this.

Mr. Parnell said at the site walk there was discussion about putting in some temporary fencing to protect a tree during construction. Mr. Behrendt said that could be added under Plan Modifications as 1.d. Mr. Sievert said it could be added to the construction sequence detail on a plan sheet.

Chair Rasmussen went through the Conditional Use application checklist, and Planning Board members had no issues with any of them.

***Lorne Parnell MOVED to approve a Conditional Use Application and Site Plan Application submitted by Great Bay Animal Hospital, LLC for a 555 square foot addition to the kennel, new parking lot, and relocation of shed, with the conditions included in the Notice of Decision dated December 13, 2017. The property is located at 31 Newmarket Road, Map 6, Lot 11-8 in the Residence Coastal District. Nate Morneault SECONDED the motion and it PASSED unanimously 6-0.***

It was realized the Public hearing hadn't been opened.

***Bob Brown MOVED to open the Public Hearing. Nate Morneault SECONDED The motion and it PASSED unanimously 6-0.***

**Nancy Sandberg, Langley Road** said the kennel parking lot was in a residential zone and abutted the Historic District, and said in the landscape plan, trees and shrubs should be placed so that one couldn't look up the drive at the cars in the parking lot. She said trees were probably needed on both sides of the driveway to cover that. She said this was a commercial venture but said it was important that it worked in this residential zone, which was also the gateway to Durham. She said she'd like to see a better landscape plan for the project and be reassured that it wouldn't be a problem in the future.

Mr. Behrendt said 11 cedars would shield things, and then there was a gap by the retention basin. He asked if a few more cedars would be put around the bottom of the basin or closer to the road. Mr. Sievert said the 11 cedars were adequate to shield the lot from Route 108. He also said there was a pretty dense mix of trees that would remain, and said everything would be more than adequate to shield the lot. He recommended putting trees in to screen the parking lot from the residential lot.

There was further discussion, with Mr. Behrendt suggesting that they could meet on the site to discuss this. Chair Rasmussen said right now, the only visibility from Route 108 to the proposed parking area was when one was actually going past the driveway. He said the cedars would screen that quite well, and said it might be good to shift a few of them down a bit.

Mr. Behrendt confirmed that the existing language in the Notice of Decision was ok, and said he could meet with Mr. Sievert on site to look at what was proposed. Mr. Sievert said he'd have the landscape architect be there as well.

***Councilor Lawson MOVED to close the Public Hearing. Bob Brown SECONDED the motion and it PASSED unanimously 6-0.***

It was agreed that the motion to approve the applications should be approved again.

***Lorne Parnell MOVED to approve a Conditional Use Application and Site Plan Application submitted by Great Bay Animal Hospital, LLC for a 555 square foot addition to the kennel, new parking lot, and relocation of shed, with the conditions included in the Notice of Decision of Dec 13, 2017. The property is located at 31 Newmarket Road, Map 6, Lot 11-8 in the Residence Coastal District. Nate SECONDED the motion and it PASSED unanimously 6-0.***



**XII. Public Hearing - Riverwoods Continuing Care Retirement Community (CCRC) – Stone Quarry Drive. Site plan, lot line adjustment, and conditional use application** for CCRC to be located on a vacant 11.3-acre site in the northeast quadrant of the junction of Route 108 and Route 4 (one lot in from Route 108). The project will contain 150 independent-living apartments, 24 assisted-living apartments, 24 memory-care units, and 24 skilled-nursing units. Applicant - The RiverWoods Group, c/o Justine Vogel, CEO. Property owner - Rockingham Properties, c/o Dave Garvey, partner. Engineer – Jeff Clifford, Altus Engineering. Landscape architect – Robbi Woodburn. Architect – AG Architecture (Milwaukee). Attorney – Sharon Cuddy Somers, DT&C. Map 11, Lots 8-1 through 8-15. Office Research District.

Attorney Somers said they had reviewed the draft Notice of Decision carefully and were in agreement with the vast majority of the conditions. She said the plan was to finish this discussion on January 10<sup>th</sup>. She noted that she'd determined that the Fire Department was ok with the Notice of Decision, and it was only Ms. Cline who hadn't signed off on it. She reviewed the following items in the Notice of Decision:

24) Impact upon Stone Quarry Drive from truck traffic. - Mr. Behrendt said he would confirm with Mike Lynch that the intent of this condition was to ensure that Stone Quarry Drive can handle the truck traffic structurally.

33) Waste management – written plan for single stream recycling - It was noted that the applicant had submitted plans to the IWMAC. Mr. Behrendt said he hadn't received word back and assumed things were ok. He said there was a fairly detailed recycling plan for the project.

87) Electric charging stations - Attorney Somers said there would be electric charging stations, and also said Zip cars was an option that was being looked at. Mr. Clifford said they weren't on the plan yet.

Chair Rasmussen asked if the Board had anything further to discuss about the draft NOD.

Councilor Lawson noted that one of the conditions should say “the entrance to the project would accommodate an ambulance”, not “the entrance to the building would accommodate an ambulance....” There was discussion on the correct wording.

There was discussion that condition 100) on Tax Implications could be deleted.

35) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments. - Councilor Lawson said the Fire Department and not the Police Department had purview over this.

Mr. Parnell said the NOD should say cars could not park on Stone Quarry Drive or Route 108. There was discussion.

Mr. Parnell asked if there was an update on the Land transfer. Attorney Somers said Riverwood representatives had been having discussion with staff and Town Council members on the PILOT issue, and had also discussed the land swap. She said the result would be coming forward next Monday and she said the status of these issues would be made clear.

27) Blasting - Attorney Somers said there had been discussion that because of the volume of material that would be occurring, and within a certain distance of a public well, state regulations would kick in to provide an extra layer of protections for the Town.

There was discussion that both a DOT driveway access permit and a DPW driveway permit were needed, even though the project was located off of Stone Quarry Drive and not off of Route 108. Mr. Behrendt said DOT needed to determine if any improvements to Route 108 were needed as a result of the project. Mr. Clifford said the DOT driveway permit was issued to the Town when Stone Quarry Drive was created, and said Riverwoods had to amend that permit because of the change of use involving greater density. He said the Town would sign the amended DOT driveway access permit.

Mr. Behrendt said waiver requests for bike storage, impact fees and lighting would be discussed at the January meeting. He also said the Conditional Use permit application for excess parking and wetland impacts would be discussed.

Chair Rasmussen asked if there were members of the public who wished to speak.

**Malcolm Sandberg, Langley Road**, said this project was at an advanced stage, but said as the Zoning Ordinance had recently been revised, there were two important issues to address: preservation of gateways and broadening of the tax base. He said the project was proposed in the Office Research 108 District, and was designed to broaden the tax base and enhance taxes. He said it was his understanding that there was still some question as to whether Riverwoods would pay the taxes the Town had anticipated when it developed the Zoning Ordinance. He said a Conditional Use permit was required for this kind of development, but said Section 175-23 of the Zoning Ordinance said that the Planning Board's obligation was to ensure that all of the conditions were met before granting the Conditional Use permit. He noted Section 175-23 a 3 and 4 related to character of the site development and the character of the buildings and structures proposed.

Councilor Lawson said what Riverwoods proposed was a permitted use, not a Conditional Use. Mr. Sandberg said if they were going over 50 ft, it became a Conditional Use. Mr. Behrendt said with the recent changes to the Zoning Ordinance,

going over 50 ft was a Conditional Use, but said this application was under the previous Zoning Ordinance, which said a building could go over 50 ft at the reasonable discretion of the Planning Board.

Mr. Sandberg challenged the Planning Board to keep in mind the character of the site development and buildings, and said when he looked at the drawings, they seemed quite enormous and not consistent with the character of the area. He said this wasn't consistent with the vision of having an office research facility that would broaden the tax base, and said all of these things should be considered.

Chair Rasmussen suggested that Mr. Sandberg might attend the next Town Council meeting to get some of his questions answered.

The hearing was continued to the January 10<sup>th</sup> Planning Board meeting.

**XIII. Other Business:**

**XIV. Review of Minutes (new):**

July 12, 2017

postponed

**XV. Adjournment**

*Councilor Lawson MOVED to adjourn the meeting. Nate Morneault SECONDED the motion.*

Mr. Parnell noted that at the last meeting, there was discussion that the issue of extending the time period for Mill Plaza to be able to submit a formal application would be discussed at the December meeting. He said the Planning Board should decide what it was going to do about this. Chair Rasmussen said they were waiting for further guidance from the Town Attorney on this. There was discussion.

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

Adjournment at 10:36 pm

Victoria Parmele, Minutes taker

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Bob Brown, Secretary