

These minutes were approved at the April 15, 2020 meeting.

DURHAM PLANNING BOARD
Wednesday, March 25, 2020
Town Council Chambers 7:00 p.m.
MINUTES

MEMBERS PRESENT: Paul Rasmussen, Chair (in person)
Barbara Dill, Vice Chair (remotely)
Richard Kelley, Secretary (remotely)
Lorne Parnell (in person)
Bill McGowan (remotely - joined meeting at 7:51 pm)
Jim Bubar (in person)
Mike Lambert, alternate (remotely)
Sarah Wrightsman, alternate (remotely)
Heather Grant, alternate (remotely)
Sally Tobias, Council Representative to the Planning Board (in person)
Jim Lawson, alternate Council Representative to the Planning Board (remotely)

MEMBERS ABSENT

I. Call to Order

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

Mr. Behrendt said pursuant to state law and a decree from the Governor, the requirement that a majority of Board members be physically present was waived. Chair Rasmussen said as Mr. Behrendt had stated, due to the emergency conditions of the virus, the Planning Board was pursuing a virtual meeting for many board members, to maintain the requirement of personal space and distancing within the Council Chambers.

II. Roll Call and Seating of Alternates

The roll call was taken. Chair Rasmussen said Ms. Wrightsman would sit in for Mr. McGowan.

III. Approval of Agenda

Lorne Parnell MOVED to approve the Agenda as submitted. Councilor Tobias SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

IV. Town Planner's Report

Mr. Behrendt said the public hearing for the Durham Point Road solar array application had been postponed. Chair Rasmussen noted that the site walk for that application was held today. He said the Conservation Commission hadn't met, and said the Board couldn't take action until it heard from them. He said their meeting was scheduled for April 27th, so the public hearing would be postponed until the April 29th Planning Board meeting.

He said the next Planning Board meetings would be on April 15th and 29th, and noted that they were being pushed up a week because of Passover.

Mr. Behrendt said at this point the Town was holding Town Council, ZBA and Planning Board meetings in a way that maintained social distance, with no more than 4 board members and a staff person in the Council Chambers, and other members participating remotely. He said according to the Governor's decree, a maximum of 10 people were allowed in the room at any time. He said those members attending remotely would be fully participating in all the discussions and deliberations. He said they'd see how this process went, and also said things were changing quickly.

He noted the frequent updates Administrator Selig was sending out on the Town Listserv. He said there was a skeleton crew at Town Hall, and said most Town business was being conducted by email or telephone.

V. Reports from Board Members who serve on Other Committees

Councilor Tobias said at the recent Town Council meeting, 3 Council members participated remotely. She said the new Councilors were sworn in earlier in the day by Town Clerk Lorrie Pitt. She said at the meeting, Council Reps were appointed to the various boards and committees. She said there was an initial discussion on Town Goals, as well as a brief discussion about promoting civil discourse at meetings.

Councilor Lawson noted that something on this would be provided at the next Council meeting, using guidelines from Strafford Regional Planning Commission.

Councilor Tobias said there was discussion at the meeting on Town preparedness for COVID 19, and the importance of keeping everyone informed. She suggested that people who were not yet on the Town Listserv should get on it.

She said Celebrate Durham continued to meet by Zoom. She said at the most recent meeting, Emmet Soldati, a business owner in Somersworth provided some great advice about the importance of local businesses continuing their social presence, and thinking out of the box about new ways to continue to do business using the Internet. She said there had been some good feedback on this from local businesses, and said they were sharing ideas with each other. She said there had been a tremendous impact on the businesses recently, and said they were supporting other.

Ms. Dill reminded everyone not to forget to fill out the Census survey they'd received.

VI. Public Comments

Mr. Behrendt received clarification from DCAT Coordinator Craig Stevens that if members of the public participated in the Planning Board meeting during Public Comments, etc. they could be heard but not seen when they called in.

There were no public comments.

VII. Review of Minutes (old):

VIII. Dover Road – Lot Line Adjustment. Lot line adjustment at 88 Dover Road to expand the lot with Yates Electric (behind the Durham Police Station). Map 11, Lot 4-2 owned by Coyote Court, LLC (Nancy Yates). 1+ acre to be conveyed from 92 Dover Road, Map 11, Lot 3-2, owned by John and Katrine MacGregor. Chris Hickey, c/o Eric Mitchell & Associates, surveyor.

Mr. Behrendt said the application was complete. He noted that Mr. Hickey was attending the meeting remotely.

Mr. Hickey said the property abutted the Police Department facility. He said the applicant had a small one acre back lot parcel that was created in 1965. He said when it was created, there was a right of way out to Dover Road. He said it was a substandard lot, and said the applicant was looking to purchase about an acre of land of the MacGregor parcel, most of which would be upland. He said Yates had portal pods now for storage, and was looking to put up a storage building in the future.

He said a waiver was being requested from having to survey the entire MacGregor property. He said some time in the future, when there were plans to put the storage building up, a site plan application might be required.

Mr. Parnell noted Mr. Behrendt's comment about the existing septic system and water supply not being expanded, and asked if there would be more people on the property with what was proposed. Mr. Hickey said he didn't think the storage building was meant to have water and sewer. He said he didn't know whether there would be additional people on the property. He said these issues would be addressed if needed in the future.

Mr. Bubar asked if a tractor trailer box sitting on wheels for a pod on the lot would require a site plan. Mr. Behrendt said he'd have to check on this. Mr. Bubar said he would be concerned about what chemicals might be stored on the property. Mr. Hickey said it would be electrical equipment. Mr. Bubar asked about transformers, and said his concern was about whether there should be restrictions on the use.

Mr. Behrendt said the Board wouldn't provide restrictions as part of the lot line adjustment. He also said the Board didn't want the applicant to have any surprises in the future, and said if there were obstacles, they all should be aware of this now. Mr. Bubar said given the location, how would the Board be aware of what the applicant was doing on the property in the future? Mr. Behrendt said the Board could ask them as part of the current review process, to see if there were potential red flags.

Councilor Lawson said someone planning to store hazardous waste had to follow state and federal guidelines for safe storage, and said it was appropriate for the Planning Board to require that these guidelines would be followed. He said it would be overreaching to predict everything the applicant might use the site for in the future.

There was discussion about whether to do a site walk. Chair Rasmussen said if there was a site plan application, that might be a better time to do a site walk.

Mr. Hickey said he didn't know the timing of doing a new building, but said when the applicant decided on this it would go through the site plan review process, and questions about what was stored would be answered. He said he didn't think it would be anything different than what they stored now.

Chair Rasmussen MOVED to accept the application as complete, to set the Public Hearing for April 15, 2020. Lorne Parnell SECONDED the motion and it PASSED unanimously on a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

- IX. Public Hearing - 253 Durham Point Road – Solar Array.** Conditional use for freestanding solar array serving a single family house located in the Wetland Conservation Overlay District. Bonnie Brown, property owner. Erik Pickhardt, Go Solar, contractor. Map 12, Lot 15. Residence Coastal District.

Chair Rasmussen MOVED to postpone the Public Hearing to the April 29, 2020 Planning Board meeting. Lorne Parnell SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

- X. Public Hearing - Historic District Amendments.** The original set of amendments was modified so this new hearing is scheduled. Proposed amendments to Article XVII. Durham Historic Overlay District of the Zoning Ordinance pertaining to purview and procedures of the HDC. Proposed by the Historic District Commission.

Chair Rasmussen noted that this was the second public hearing on the proposed amendments, and said this was being done because of some modifications that had been made to them since the first public hearing.

Chair Rasmussen MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

There were no members of the public who came forward to speak, from the Council chambers or online/by phone.

Lorne Parnell MOVED to Close the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

Chair Rasmussen MOVED that the amendment to the Historic District Overlay Ordinance be accepted as presented for this meeting. Lorne Parnell SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sarah Wrightsman</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

It was noted that the Planning Board had initiated the Zoning amendments with this motion, and they would now go on to the Town Council.

- XI. 74 Main Street – Mixed-Use Building.** Design review site plan application for new 31,000 square foot five-story mixed use building (at corner of Main Street and Pettee Brook Lane). Douglas Clark, c/o Clark Properties, LLC, owner and applicant. Zachary Smith, c/o Bergmeyer, architect. Map 2, Lot 14-1. Central Business District.

Mr. Clark said there was a previous plan presented to the Planning Board to do a restaurant. He said he got feedback that this was a critical lot in Town as a gateway to the downtown, and said he was fortunate to find a partner, the Foundation for Civic Leadership. He said together they were able to develop a plan to fully build out the lot, and said they were heavily inspired by the B. Dennis Charette, whose final report had this lot on its cover. He said the goal was for the building to fit in but also be a landmark in Town as someone came down Main St.

Mr. Smith provided an overview of what was proposed. He said the site was unique for many reasons, including the scale of the location given that it essentially abutted Holloway Commons, and the fact that it was a long and skinny lot. He described the configuration of the 3, 4 and 5 story aspects of the building that was proposed.

He said it was a zero setback lot and said the building footprint that had been designed reflected this. He said the main entrance would be off of Pettee Brook Lane, and said the pedestrian entrance would be off of the former Ballard St, Main St. frontage He said vehicle access would come under the building, and said there would be some at grade parking (7 spaces at the back), and 13 parking spaces under the building.

Chair Rasmussen asked if the foundation was existing or expanded. Mr. Clark spoke about possibly getting an easement from the Town to be able to expand the parking garage underneath the sidewalk. He said this would mean there could be head in parking, which would gain about 7 spaces underneath. He said they weren't quite sure of the location of the sewer and water lines in that area, and explained that they would need to leave 10 ft on both sides of them or move the lines. He said this was being explored before committing to the idea of expanding under the sidewalk.

Mr. Smith said the first floor would be principally a restaurant. He said there would also be a lobby for the access to the second floor uses, which would be co-working and office spaces. He said there would be a Democracy House café as well as office spaces for the Foundation for Civic Leadership on the second floor. There was discussion about the nature of the coffee shop that would be there.

Mr. Smith said the third and fourth floors would be residential space. Mr. Clark explained that they would be condominiums that would be rented, but said things would be set up so they could be sold in the future as condos. Mr. Smith said they were a mixture of 2 bedroom and 1 bedroom units, with diverse layouts.

Mr. Clark said his goal was to recolonize Durham village, and said he envisioned that the people who would live there would be unmarried couples, perhaps UNH staff, who could occupy the 600 sf 1 bedroom units, along with empty nesters like him, active retirees, and young families. He said the goal was to occupy the residential units with adults of Durham, and not to have undergraduates living there at all.

Mr. Smith said the 4th floor was more residential units, and said the 5th floor, which was set back, grew out of the idea of activating roof space and room for utilities. He said it was realized how great the floor space there would be, so additional meeting space was proposed at the front of the building, in the clock tower space.

Mr. Clark said there was an absence of dramatic meeting space in Durham that was privately owned. He said this design envisioned exciting meeting spaces that would overlook the park that would be proposed to be redone, to make this area a new gathering space for the Town, not just the students.

Ms. Dill asked if there were specific ideas in mind for exterior materials. Mr. Smith said the siding would be a fiber cement product, which would be similar to a color tone of wood. He said it would look somewhat like a brick building but would not be brick. He said the windows were aluminum clad on the exterior and wood clad on the interior. He said in the current design they were black. Ms. Grant said the black and wood tone was bold.

Mr. Smith said there would be laminated wood construction, and said the post and beam techniques that would be used would be highlighted in the building.

Ms. Dill noted the chartreuse color around the entrance. Mr. Smith said the color there would be a branding color and spoke further on this.

Mr. Kelley asked Mr. Smith to describe the modifications proposed to the existing parking, and the proposed traffic circulation to serve it. Mr. Smith noted what Mr. Clark had described about the proposed design of greenspace. He also said they would propose to remove the current angled spaces in front of Aroma Joe's, and would remove the vehicular entrance there.

Councilor Tobias said her understanding was that all the cars would come in from the back and would service the building. Mr. Clark said they would come in and out, and would not go between the two buildings anymore, which wasn't safe.

Mr. McGowan joined the meeting at 7:51 pm.

Mr. Kelley spoke about the surface lot out back, and the skewed parking there being made perpendicular. He asked if stall 7 would allow for cars to back up without hitting the building.

Mr. Clark said the engineer would verify that this would work. He spoke about possible configuration of the dumpster area so they could still get 7 spaces there. He noted that they had tried to preserve the parking that was designed in the previous site plan MJS Engineering had done.

Mr. Kelley said if it was a dumpster area, it would be good to demonstrate that a vehicle could get in and out to service the dumpster.

Chair Rasmussen noted the angle of the driveway to the road. It was noted that it would be an in and out driveway. Mr. Clark said at the TRG meeting, DPW Director Mike Lynch wondered if it would be smart to redesign the hatch mark area so there would be more protection exiting onto Pettee Brook Lane. Chair Rasmussen said plenty of people ignored that area. Mr. Clark said it was a scary area, and said there were line of site issues, especially coming out onto Main St.

There was discussion about the building lot going out onto the sidewalk on Pettee Brook Lane, and about the parking spaces. Mr. Clark said space 3 was on both lots, and spaces 4,5, 6 and 7 were on the Aroma Joe's property, He said they would dig up the area and lay it out so Aroma Joe's got its four spaces, with the balance of spaces as was outlined in the plan.

Mr. Bubar asked if the dumpster would serve all the businesses there. Mr. Clark said this would be worked out with Aroma Joe's, which had garbage cans right now. Chair Rasmussen noted there were two tenants in the Aroma Joe's building.

Mr. Kelley said it might be helpful to see some of the renderings that had been done, and to partially render the vision of how the existing parking area would look. Mr. Clark said the idea was to make this a gathering place, and said they would work together on a plan that everyone liked. He said the idea was to get parking spaces out of there and expand the park so there was more greenspace and it was more usable. He said the planning on this would be initiated soon.

Chair Rasmussen asked if the Board would like to schedule a site walk in April. Mr. Parnell said he'd like to see the site again.

Mr. Behrendt suggested that Board members could provide some preliminary comments on the design.

Councilor Tobias said she liked the look of the building with the brick, and said she loved the philosophy behind the building. She said it would be important to have everything in order concerning the easement with the Town for the underground parking. She also noted the sewer and water issue, and said it would be important to address this sooner so there would be no surprises.

Mr. Bubar echoed Councilor Tobias comments about getting the Town to move on an easement. He also said he hoped the sewer and water line locations weren't an issue. He said that building should be in a Town that was planning to grow. He said it was modern and efficient, and said it was very attractive. He wished Mr. Clark luck. He asked when the variance for the 5th floor would be applied for.

Mr. Clark said the plan wasn't to apply for a variance, and said they were working to see if there could be a Zoning change. He said the idea was to get a Conditional Use permit for a partial 4th and 5th floor in the Central Business District. He said every architect that had been designing buildings for Durham's downtown had suggested just that.

Mr. Bubar said he thought rooftop dining was a superb idea. He noted the issue of what the address was, which needed to be resolved.

Mr. Parnell said he had some concerns about the 5th floor, and said he thought there would be a fair amount of opposition to it. He said strong views would need to be provided on why it would be needed.

Mr. Behrendt said Mr. Clark hoped the Town would amend the Zoning Ordinance in some way. He said there had been discussion with some staff and Council members

about some potential general Zoning amendments that would encourage quality development downtown. He said if some proposed amendments were developed, they would go through the Zoning amendment process before the Planning Board or at the Town Council, and would be for the Central Business District.

Mr. Parnell said people might say this was spot zoning. He said it should be explained why doing this would make the building look more substantial.

Mr. Clark noted that Holloway Commons dwarfed everything around it, and said a dramatic entrance to the downtown on his property would need to have some substance to it. He said Mr. Smith had incorporated comments from Town officials, to get the design to where it was now.

Mr. Parnell said he thought there would be negative comments that this building was part of the University, because it was right next door, and was the same size as Holloway Commons.

Mr. Clark spoke about how small Durham's downtown was, and said they had to make sure that they took full advantage of the space that they had.

Ms. Wrightsman said she thought the building was a positive thing, for the Town and University be more cohesive from an architectural perspective. She also said she was a fan of Mr. Clark's philosophy on the project, and said he cared about the community he was developing in. She said she didn't think the scale of the building would be inappropriate for where it was, and said it was an underutilized lot. She said she thought that building something specifically for adult residents as well as the roof garden aspect would outweigh negative comments that would come up.

Mr. Lambert said he agreed with what Ms. Wrightsman had said, and said he'd love to see something like this go up. He also said he didn't think it was too tall for the location. He said he thought it would be a transitional building from the University to the downtown.

Mr. McGowan said he liked it, and noted that it was an improvement upon the previous design, which would benefit the town.

Mr. Kelley said he was cautiously optimistic. He said it was a big proposal, and was exciting. He said he'd like to see a rendering of the view coming down the hill, with Holloway Commons on the right. He noted two mature trees not on the property that would mask some of the building for most of the year. He said it appeared that three trees would be removed. He said it would be good to see a rendering of the view from Peoples Bank, looking back at Aroma Joe's. He asked what Jess Gangwer had in mind for his property.

Mr. Clark said Mr. Gangwer was convinced that it was a solid building, and didn't want to tear it down. He said things were at a standstill, and Mr. Gangwer was backing off of redeveloping the parcel. He said there was a long-term lease with Aroma Joe's.

Mr. Kelley asked whether if a future development went up there, that would hinder Mr. Clark's building.

Mr. Smith said they had master planned that, with uses that would be appropriate. There was discussion that the alley between the two buildings was 15 ft. Mr. Clark said he hoped to turn it into a pedestrian way, where there could be outdoor seating for all the restaurants there. There was discussion that the exit from Aroma Joe's to Main St. would close as part of this plan.

Councilor Lawson said the design provided for a significant amount of underground parking, which made the vision more viable. He said they needed more renderings for the 5th floor, but said he thought it was unobtrusive because it was partially set back. He said he liked the look of the brick and the windows. He said he had some concern about two-bedroom apartments that were 900 sf. He noted that Administrator Selig had invited him to be part of the working group that was looking at a host of issues for the downtown including TIF, RSA 9E, parking, traffic etc. He said he didn't know this was to be a 5 story building until he opened up his packet for this week.

Ms. Dill said she thought this was a substantially improved preliminary plan. She said she was concerned about the 5th floor, and said she hoped that because it was set back it might disappear into the clouds. She said she was concerned about the look of the discrepancy in height between this building and the Aroma Joe's building. She said the building looked really nice.

Ms. Grant said she liked that the 5th floor wasn't another story to jam more students into. She said another rendering would show how it would look from the street because it was set back, with the different angles and heights. She said it was a great effect, including the proposed outdoor space, and said she liked the design.

Chair Rasmussen said the underground parking might be his favorite feature. He also said he liked it that the building wasn't a cube, and said the 5th story element was like a clock tower, which was helpful.

Mr. Clark said the row of windows above the top of the tower could perhaps be lit. He spoke about the building providing a sense of community, with meeting rooms, town gathering areas, and perhaps a soap box.

Chair Rasmussen MOVED to schedule a Public Hearing for April 29, 2020, and to schedule a site walk for 3 pm on that day.

There was discussion about being able to see where the water and sewer lines were at the site walk.

Councilor Tobias SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>

<i>Lorne Parnell</i>	<i>Aye</i>
<i>Bill McGowan</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

XII. Presentation on Stormwater Management. April Talon, Durham Town Engineer.

Ms. Talon said she would talk about recent stormwater Best Management Practices (BMPs) that were being used on the most recent projects. She also said she'd go into some detail about how Durham waters were listed as impaired, and would also review the Town's site plan regulations concerning stormwater management. She said she thought it might be helpful for her to provide more regular presentations to the Planning Board, and to find other ways to share information. Chair Rasmussen said he was always open to having a conversation.

Ms. Talon showed a slide presentation. This presentation can be found on the Town website. https://www.ci.durham.nh.us/boc_planning/presentation-stormwater-management

She spoke about the importance of using BMP strategies as part of the recent Littlehale culvert project, as well as across the board when an infrastructure project was done in Durham. She noted the cost advantage of installing the BMPs during the culvert project. She also spoke about the educational panels that would be put up on the site about the BMPs that had been installed. Chair Rasmussen asked about the maintenance schedule for the bio-swale, and Ms. Talon said it would be done once a year.

Ms. Talon also spoke about the tree planter BMP that was used for the Littlehale project. Ms. Dill asked about the bypass structure in it, and Ms. Talon said it was there in the case of a storm event that couldn't be handled by the tree planter. She also said it could be used if the planter hadn't been properly maintained, and would allow water to go over into the bypass structure so it didn't flood. There was discussion that the trees in the planter were a variety of maple, most likely red maples.

Mr. Bubar asked how the tree planter functioned when there was frost in the ground. Ms. Talon said she didn't think the rate of infiltration allowed ponding to sit there long enough for water to freeze. She said with the majority of storms, the water would be filtered through, and said it should continue to work throughout the winter.

Ms. Talon spoke about the concrete drainage filter box BMP that was being used for Doug Clark's 56 Main St project. She noted that it was located within the Town right of way, and so was an offsite improvement, which was allowed. She said there was some infiltration that occurred with this structure, and also said it reduced the amount of stormwater flow going into the Town's closed stormwater drainage system.

Ms. Talon next spoke about EPA 303d List of Impaired Waters, which College Brook, Pettee Brook, Littlehale Creek, etc. were on. She explained that it was the basis for how the MS4 permit was generated. She said sampling data was used to generate the impairment lists. She spoke about volunteering sampling that was done to get this data,

and said she'd visited the sampling sites in Durham. She said College Brook had a chloride impairment, and said the Alteration of Terrain (AOT) permit and MS4 permits would deal with this.

Ms. Talon said Durham was in a good place concerning the stormwater management provisions in the site plan regulations. She said they were updated in 2015 to follow the latest Southeast Watershed Alliance standards, and said consultants, the EPA and the UNH Stormwater Center provided input on them.

She said she'd heard discussion about the heavy rainfalls, etc. in relationship to projects that were coming to the Planning Board. She said she thought the public might not understand that the stormwater regulations were in really good shape. She said for the Mill Plaza project, the rainfall amounts used in the analyses for the project were increased 15%, which was required in AOT permits for this area. She said NHDES and the Town had kept on top of the latest regulations. She said if it would be helpful to come back to discuss the regulations, do a workshop, etc. she'd be happy to do that.

She said according to the local regulations, any project with 5000 sf of disturbance needed to have a stormwater management plan. She also said the AOT permitting process was extensive and sometimes was more rigorous than the Town's regulations. She said the Mill Plaza project would have 300,000 sf of disturbance. She said the AOT application for the project could be pulled up online, and said she used it in her review of the drainage analysis for the project.

She said the Town's regulations separated new development from redevelopment, and said impervious area had to be accounted for in both of them. She said if there physically wasn't the space on a redevelopment site for stormwater management, the regulations allowed offsite improvements to be done in order to impact the drainage area in a positive way. She also said Low Impact Development (LID) techniques were required to the maximum extent possible.

Mr. Parnell asked what LID techniques entailed. Ms. Talon said they included gravel wetlands, infiltration trenches, pervious pavement, and other BMPs. She said changes to the regulations would continue to be made as needed.

Mr. Kelley asked if there would be value for the Town, or the Town with UNH to have a list of potential off-site improvements for a redevelopment project. Ms. Talon said that would be an excellent idea, and said it could be like a menu of options. She spoke about some possible locations for installing stormwater treatment systems in Town.

Ms. Grant said it had been fun to watch the Littlehale culvert project, and said it was neat to hear now the thought behind it.

Chair Rasmussen said if Board members had topics they thought Ms. Talon could educate the Board on, they should contact him and he would arrange this.

Mr. Behrendt noted the item under Other Business that the Board might take up now while Ms. Talon was here.

XIV. Other Business

Mill Plaza drainage plan. Consideration of recommendation from Town Engineer to hire a third party to review stormwater management plan for Mill Plaza project. Chair Rasmussen noted that Robin Mower had raised the issue of having a third party independent review of the stormwater management plan for Mill Plaza project. He said Ms. Talon agreed in her recent letter that it could be worthwhile to have that done. He noted the email to the Board from Mr. Taintor that the engineer to do this had been lined up. He said the question for the Board was whether to formally request this. There was discussion that there were 5 items listed for the third party review, including an optional item to do inspections during construction. Ms. Talon said she didn't ever think it was a bad idea to get a third-party review.

Mr. Behrendt said the 2015 site plan regulations update applied to Mill Plaza, but said there were some components that came afterward. There was discussion.

Ms. Talon said she thought the stormwater plan for the Mill Plaza project was a vast improvement, and said there were no measures there today. She said aside from having pervious pavement on the site and getting 100% infiltration, she wasn't sure what the applicant could be required to do that they hadn't already proposed to do. She spoke further on this, and said she'd be curious to see what a third-party review would have to say. She said a big item was snow removal, because College Brook was impaired for chloride, and said that might require the applicant to truck the snow offsite. She said based on the site plan regulations, which didn't allow any negative impact to any impaired waterways, the project was subject to the Alteration of Terrain permit.

Mr. Parnell said this was good information, but said he didn't think they should be having this conversation now. Mr. Behrendt said the question was whether to authorize the third-party review. Chair Rasmussen said a question was whether to authorize all 5 items, or just 4 right now. He said he thought they could make the decision on inspections at a later time, in part based on what the review showed.

There was discussion that Ms. Talon would still be involved in reviewing the plans, and she noted that there would be back and forth with the Planning Board on this. Mr. Bubar asked what the difference was between what the consultant would do and what NHDES would do. Ms. Talon said NHDES would only look at things from an AOT viewpoint, and wouldn't look at the local stormwater regulations. She said the local regulations were not stricter than the AOT requirements. Mr. Bubar said in other words, the NHDES review was a stricter review of the application.

Ms. Talon said she hadn't looked at the third-party review proposal.

Mr. Kelley said he thought a third-party review had merit. Councilor Tobias said she supported the third-party review. Ms. Dill said she did as well. Mr. Parnell noted that the Planning Board had asked for third-party reviews before, for example for the Madbury Commons and Orion projects. He said he supported this, for a major issue on the site.

Chair Rasmussen MOVED that additional technical services are needed to adequately review the Stormwater Management Report submitted for the proposed Mill Plaza

Redevelopment, and authorizes the engagement of Horsley Witten Group to prepare an independent peer review of the Report according to the terms of the proposal dated March 25, 2020, with the costs of the study to be paid by Colonial Durham Associates in accordance with Part III, Section 16.6 of the Site Plan Regulations.

Mr. Behrendt noted that the Board received an email from Attorney Pollock questioning whether the third-party review was necessary. He said if the Planning Board wanted to do this, the applicant agreed to do it at a cost not to exceed \$5,000. He said the action tonight shouldn't exceed \$5,000, but said if the Board wanted to go over \$5,000 in the future, that could happen after communicating with the Mill Plaza owner.

Chair Rasmussen said the motion reflected tasks 1, 2 and 3.

Mr. Kelley said he would need to abstain because the company he worked for did business with the Horsley Witten Group.

Lorne Parnell SECONDED the motion and it PASSED 6-0-1 by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Bill McGowan</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

XIII. Zoning Amendments related to Agriculture. Extensive amendments to the Zoning Ordinance relating to agriculture proposed by the Durham Agricultural Commission.

Chair Rasmussen noted the comments received from Planning Board members on the draft. Mr. Bubar noted that some of his comments had not been made recently.

There was discussion on the Definition for Irrigation, under accessory uses: 6) Irrigation of growing crops from private water supplies or public water supplies, as compared to . 17. Irrigation under the Ordinance's General Provisions: Irrigation is subject to applicable water withdrawal and use restrictions of the State of New Hampshire and the Town of Durham. Chair Rasmussen noted that 17 was a compliance requirement as compared to a definition.

Definition of Farm stand: Chair Rasmussen said he'd commented that the definition from the RSA and Durham's were identical, but then the Town went beyond it to define what could be sold at the farm stand other than farm products. He questioned whether that was within their rights.

Mr. Behrendt said he believed it was, and said the state law, especially the definition section, intended to lay things out that towns should be mindful of. He said it was written in a broad-brush way and didn't operate well for local administration. He said he worked closely with the Agricultural Commission to meet the letter and intent of the

requirements, but also made it work as an ordinance for Durham. He said he believed the adjustments and refinements were all very good, and that if they were challenged, they would hold up quite well.

Chair Rasmussen asked if coffee was considered a specialty food. There was discussion. He said he wasn't opposed to this, but said in his mind specialty food was narrow, and suggested if they wanted something broad, they could say foodstuffs. Ms. Grant said specialty food was open to interpretation. Councilor Tobias said she thought they were splitting hairs on this.

Ms. Grant said an area of concern was where farm stands were allowed. Councilor Tobias noted that they weren't allowed in the RA and RB districts, but were allowed in most other districts. She said she didn't have a problem with that.

Definition of Agriculture Tourism, Agritourism: Attracting visitors to a farm to attend events and activities that are accessory, related and subordinate to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, and active involvement in the activity of the farm.

It was noted that Eric Sawtelle said Durham's definition was different from the state definition. Mr. Behrendt said the wording was just modified slightly to fit into a local ordinance, but said it meant substantially the same thing. He read the definition in state statute and explained how the Agricultural Commission had tightened up some of the definition so it worked better in Durham. He said it was wise to be clear that it was an accessory use related to and subordinate to the prime farm operation on a property.

Mr. Behrendt said another issue related to agritourism was whether there should be site plan review for it. Chair Rasmussen said the RSA supported the fact that such reviews could still be required, to look at parking, traffic, etc. Mr. Bubar said if Emery Farm wanted to do a special weekend, this wasn't covered in site plan review. He also said he'd hate people to have to come in to get a permit for events. He said he'd raised the issue but didn't have a solution. Chair Rasmussen said the point was recognized but said he didn't have a solution he'd be happy trying to implement. Mr. Bubar said this was something he'd expressed to Commission Chair Theresa Walker but said it wasn't in regard to these specific regulations.

Mr. Behrendt said if something came up, he thought there was enough in the site plan regulations to do site plan review. Chair Rasmussen said the issue Mr. Bubar was raising was that there might be events that occurred after the site plan was approved, which exceeded the capacity of what was envisioned, and the question was how this should be handled. Councilor Tobias said wasn't there the expectation that they would have events on occasion. Chair Rasmussen said the size of the event, the parking involved, etc. were the issues. Councilor Tobias said if there was a parking issue it would become clear very quickly.

Ms. Dill said Farm Day was a good example. She said every year, the Laroche Farm got a lot of visitors, and said he opened up his field for parking. Chair Rasmussen suggested leaving things as they were in the draft.

Definition of Best Management Practices. Chair Rasmussen noted Ms. Grant had suggested adding a definition for this, and referencing a BMP document. He noted that BMPs were constantly evolving, and that there were multiple documents that listed them. He said he agreed with having a definition, but said in terms of enforcement, it would be up to the farmer to point to a document that showed the BMPs that were being followed. Mr. Behrendt said a definition could be added. Mr. Bubar said historically when there had been issues, Ms. Cline had checked with the Agricultural Commission. There was discussion that the BMPs were standards, not guidelines.

Crop cultivation. Chair Rasmussen said Mr. Bubar had suggested adding a clause prohibiting invasives and requiring a state permit for controlled species. Board members agreed with this. Mr. Behrendt said prohibiting invasives should be put somewhere in the Zoning Ordinance, and said it could also be put in the General Provisions section of the Agricultural Ordinance.

Chair Rasmussen said they probably wouldn't look at the draft ordinance again until the April 29th meeting.

Mr. Parnell noted that at the last meeting, he raised the issue of the keeping of large livestock in residential areas. He said he still felt strongly about this. Chair Rasmussen said they would discuss this issue, in regard to the Table of Uses, at the April 29th meeting.

XV. Review of Minutes (new):

February 26, 2020

Mr. Bubar said he'd provided very minor corrections to Karen Edwards.

Page 1, should say February 26, 2020 at the top.

Lorne Parnell MOVED to approve the February 26, 2020 Minutes as amended. Jim Bubar SECONDED the motion and it PASSED 5-0-2 by a roll call vote, with Chair Rasmussen and Bill McGowan abstaining because of their absence from the meeting:

<i>Paul Rasmussen</i>	<i>abstained</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Bill McGowan</i>	<i>abstained</i>
<i>Sally Tobias</i>	<i>Aye</i>

XVI. Adjournment

Lorne Parnell MOVED to adjourn the meeting. Councilor Tobias SECONDED the motion and it PASSED unanimously by a roll call vote:

<i>Paul Rasmussen</i>	<i>Aye</i>
<i>Barbara Dill</i>	<i>Aye</i>
<i>Richard Kelley</i>	<i>Aye</i>
<i>Lorne Parnell</i>	<i>Aye</i>
<i>Jim Bubar</i>	<i>Aye</i>
<i>Bill McGowan</i>	<i>Aye</i>
<i>Sally Tobias</i>	<i>Aye</i>

Adjournment at 9:57 pm.

Victoria Parmele, Minutes taker

Richard Kelley, Secretary