

*These minutes were approved at the June 24, 2020 meeting.*

**DURHAM PLANNING BOARD**  
**Wednesday, May 13, 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)  
Jim Bubar (in person)  
Mike Lambert, alternate (remotely)  
Heather Grant, alternate (remotely)  
Sarah Wrightsman, alternate (remotely)  
Sally Tobias, Council Representative to the Planning Board  
(in person)  
Jim Lawson, alternate Council Representative to the  
Planning Board

**MEMBERS ABSENT:**

**I. Call to Order**

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

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

The roll call was taken.

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Mike Lambert</i>	<i>Yes</i>
<i>Heather Grant</i>	<i>Yes</i>
<i>Sarah Wrightsman</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>

Chair Rasmussen appointed Mr. Lambert for Mr. Kelley, and Ms. Grant for Mr. McGowan.

### **III. Approval of Agenda**

*Jim Bubar MOVED to approve the Agenda as distributed. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:*

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Mike Lambert</i>	<i>Yes</i>
<i>Heather Grant</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

It was noted that Mr. McGowan was at the meeting, remotely.

Chair Rasmussen said he'd place an hour limit on each agenda item because there was a full agenda.

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

Mr. Behrendt noted that the Planning Board held its workshop last week instead of on May 27<sup>th</sup>. He outlined the Agenda for the May 27<sup>th</sup> meeting.

He said the Council passed its Goals for 2020, and was asking Town boards and committees to discuss them. He said he'd coordinate with Chair Rasmussen and Vice Chair Barbara Dill to find a meeting to go over the Goals.

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

Councilor Tobias said there was an update from Town Engineer April Talon on the dam feasibility study for Mill Pond at the April 20<sup>th</sup> Council meeting. She recommended that people watch the video on this. She said on May 4<sup>th</sup>, the Council approved hiring Richard Reine as the new DPW Director, noting that Mike Lynch was retiring after 43 years of service to the Town. She said Mr. Reine would work with Mr. Lynch in early June.

She said Durham town offices would hopefully reopen on June 1<sup>st</sup>.

Councilor Tobias said the Council got an update from the Police Dept at a recent meeting about its activities during the COVID-19 pandemic. She said some students had come back to Durham, and seemed to be a bit challenged in terms of their distancing behavior. She said there had been some calls regarding outdoor parties with large gatherings, which had been broken up. She noted that there was no law to enforce social distancing. She said it appeared that Cinco de Mayo was quiet. Councilor Lawson said the students were

very cooperative, and the arrest record was very low. He said UNH's efforts were extremely effective.

Chair Rasmussen said most participants had pulled out of Farm Day for this year. He said the Agricultural Commission would look at whether it could take place this year and would decide on this by the end of June. He said there was talk about using a Facebook page to create opportunities for bartering, sharing of goods, and supporting local gardening and other agricultural efforts. Mr. Bubar said that was a great idea.

Mr. Behrendt said he'd recently been contacted by Eversource. He noted the tree cutting the Board had approved for Packers Falls Road in 2019, and said there was a little more tree cutting work to do there. He said he'd asked Mr. Farley to make sure that whatever cutting was done was as approved by the Planning Board, and said he was waiting to hear back from him on this.

## **VI. Public Comments**

**Matt Komonchak, Thompson Lane** asked if people without Internet access had access to the meeting this evening. Chair Rasmussen said they were welcome to come to the Council Chambers. Mr. Komonchak asked if there was safer access, where they perhaps were able to call in by phone. He was told there was, and that call-in instructions were noted. Mr. Komonchak asked that this be emphasized for residents, and said perhaps some people who were not participating would do so if they could make a phone call. Chair Rasmussen thanked Mr. Komonchak for noting this.

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

March 11, 2020

Mr. Bubar and Ms. Dill said they'd sent minor corrections to Karen Edwards.

*Chair Rasmussen MOVED to approve the March 11, 2020 Minutes with the minor corrections. Councilor Tobias SECONDED the motion.*

It was noted that Mr. McGowan had left the meeting.

*The motion PASSED unanimously 7-0 by roll call vote:*

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Mike Lambert</i>	<i>Yes</i>
<i>Heather Grant</i>	<i>Yes</i>

*Councilor Tobias*                      *Yes*

**VIII. Public Hearing - Durham Business Park – Zoning Amendment.** Proposal to change density standard for Durham Business Park Zoning District from 35,000 square feet of land per dwelling unit to 20,000 square feet. This zone includes three parcels of land. Recommended by Christine Souter, Durham Economic Development Director.

It was noted that Mr. McGowan had returned to the meeting.

*Chair Rasmussen MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:*

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Mike Lambert</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Mr. Behrendt reviewed the previous Planning Board approval of the facility there. He said at the time, the Board approved the site plan for phase II, which was for a matching building. He said that wouldn't happen for a while, but hopefully would come on board in the not too distant future. He said a Phase III was not approved by the Board and would require a new site plan application.

He said in the last few months, Harmony Homes had noted that it was having difficulty finding employees, and therefore wanted to build a small building with some dwelling units for employees. He said the only housing allowed in the district was senior housing, so a variance was needed and was obtained, for 7 one-bedroom units that would be specifically, for employees.

Mr. Behrendt explained that he'd realized that looking at the density allowed for the whole project, including the bonus for senior housing and 7 non-senior employees, the density for the whole project was thrown out of whack. He said what they wanted now would probably qualify as workforce housing, and said it was therefore a very worthwhile project for Durham. But he said with the 35,000-sf required per dwelling unit, there would be problems for the density of subsequent development.

He said he, Economic Development Director Christine Souter, and Administrator Selig agreed with the proposed zoning amendment to change the density from 35,000 sf per dwelling unit to 20,000 sf, since the main user at the Business Park was Harmony Homes, and because the zone had changed from the original intent, which was that it be largely

commercial. He said they were therefore recommending that the Board initiate this Zoning amendment.

There were no members of the public who came forward to speak.

***Lorne Parnell MOVED to Close the Public Hearing. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mr. Behrendt Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

Mr. Bubar referred to the wording in the Planner's Review that said Ben Frost, attorney with NH Housing Finance Authority, indicated that it was legal to designate apartments for employees. He also noted the issue of conversion to student housing, and asked if it really had to be employees there.

Mr. Behrendt said it would be a condition of the site plan approval, which would extend if the property was sold. He said a developer in this case was creating apartments to go with his commercial use, and said there was a demand for this housing. He said housing could be restricted if it was explicitly employee housing. He said if there were concerns about this, the zoning amendment couldn't address, but said the issue could be raised with Mr. Randolph.

There was discussion. Mr. Behrendt said the only housing allowed in the zone was senior housing, and said a variance was obtained to allow apartments for employees. Ms. Dill noted that a lot of the land was in conservation easement, which went with the property. There was discussion that it would be hard to subdivide the Harmony Homes property further. Mr. Behrendt also noted that the only other property this amendment would affect was a piece of land owned by UNH, which had constraints, and he said there were no plans for it. He said only senior housing was allowed there as well since it was in the zone. He spoke further.

Mr. Bubar said making this change gave Harmony Homes the ability to add Phase II and III down the road if approved. Mr. Behrendt agreed it would give Harmony Homes a lot more flexibility, and said without it, they wouldn't be able to have as many beds in Phase II as was allowed in Phase I.

Councilor Lawson said this Zoning change would not turn on multiunit apartments in this zone, and said the density would need to be much greater in order to do that, such as was the case in the Central Business district and other districts downtown.

***Chair Rasmussen MOVED to initiate the amendment as submitted to the Town Council. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mr. Behrendt Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

- 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 and Arthur Butt, property owners. Erik Pickhardt, Go Solar, contractor. Map 12, Lot 15. Residence Coastal District.

***Jim Bubar MOVED to Open the Public Hearing. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mr. Behrendt Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

Bonnie Brown said they were there to answer questions if needed. There were no members of the public who came forward to speak.

Mr. Parnell noted letters received from some neighbors who were in favor of the project. Mr. Bubar noted the site walk of the property.

***Jim Bubar MOVED to Close the Public Hearing. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>

***Mike Lambert***                      ***Yes***  
***Councilor Tobias***                      ***Yes***

Chair Rasmussen noted the Notice of Decision that had been developed. He then went through the conditional use checklist.

Site suitability - Mr. Bubar said it would be in the wetland buffer, but it wasn't wet there, and said he didn't see a more suitable place on the property, especially given the condition of the barn roof. Councilor Tobias said they pushed it as far back as possible from the wetland, and said it was a flat area.

External impacts – There was discussion.

Mr. Behrendt noted that the criteria only applied to the issue of the solar array being in the wetland buffer.

Character of site development - Chair Rasmussen said no digging would be done.

Character of buildings, structures - not pertinent

Preservation of natural, cultural, historic, and scenic resources - not pertinent

Impact on property values - Chair Rasmussen said the solar array wouldn't result in a decrease in property values.

Availability of Public Facilities and Services - Not pertinent

Fiscal Impacts - Not pertinent

#### The 4 Wetland Criteria

It was noted that the Conservation Commission had determined that these criteria were met. The Board agreed that they didn't need to go through these criteria individually.

***Chair Rasmussen MOVED to approve the Notice of Decision for the application submitted by Bonnie Brown and Arthur Butt, for Conditional use for a freestanding solar array serving a single family house located in the Wetland Conservation Overlay District as submitted in the April 29<sup>th</sup> packet of the Durham Planning Board. The property is located at 253 Durham Point Road, Map 12, Lot 15 in the Residence Coastal District. Councilor Tobias SECONDED the motion and it PASSED 6-0-1 by a roll call vote:***

***Chair Rasmussen***                      ***Yes***

<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>abstained</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Mike Lambert</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

- X. Public Hearing - Alpha Tau Omega Fraternity.** 18 Garrison Avenue (formerly UNH's Elizabeth DeMeritt House). Site plan and conditional use application to establish fraternity, expand building, and further develop the site including additional parking. Richmond Property Group, c/o Sarah Layton, owner. Bruce Mr. Scamman, Emanuel Engineering. Isaac Schlosser, Krittenbrink Architecture. Map 2, Lot 12-12. Central Business District.

Mr. Scamman noted that Attorney Kevin Baum and stormwater management expert Rob Roseen were there to answer questions. He reviewed the proposal briefly, and then noted the changes made to the plan most recently. He said the Conservation Commission asked the applicant to retain the two Norway maples, and he noted that they were invasive species. He also said there was discussion about having wildflowers in the wetland at the Planning Board meeting a month ago, and said Robbi Woodburn had put in a strip below the retaining wall in the upland, with the hope they would spread to the wetland. He said it was recommended that mowing only be done in the spring and fall to give them the chance to move in.

He said they worked with the Building Department to change the handicap access. He said a new door had been added, with a concrete slab, to allow handicap access, and noted that this would make the addition smaller than it was originally.

He also said the walkway had been moved closer to the building, which added 6 ft of greenspace between the walkway and the road. He said the road would be thinned down, working with the DPW. He noted that the parking spaces had been extra wide, at 11 ft, when they were only required to be 8 ft wide. He said as part of moving the walkway, they looked again at the steps, and broke them into two sets of steps to help the front entrance, and said instead of the ramp, one of the front entrances was made accessible. He also said a sidewalk was added, with landscaping.

He said Ms. Cline wanted the applicant to move the handicap spaces so one would be closer to the front door, and he explained in some detail how this was addressed in the site plan.

Mr. Scamman noted that an addition waiver request was submitted a month ago for an aisle width of 22 ft instead of 24 ft, in order to get the pavement further away from the wetlands.

***Chair Rasmussen MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED 7-0-0 by a roll call vote:***

At 7:52 pm Ms. Grant was appointed as a voting member in place of Mr. McGowan.

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Heather Grant</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mike Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

Mr. Kelley joined the meeting at this time.

There were no members of the public who came forward to speak. Chair Rasmussen asked if the Board had questions for the applicant.

Ms. Dill asked if the issue if there could be some parking spaces for scooters, and said the more scooters the better, to encourage them over cars Mr. Behrendt said that was up to the Board. There was discussion about how many parking spaces were needed for them. Chair Rasmussen said he thought scooters would fill the niche of bikes as local transport, instead of replacing vehicles. He said they might reduce a few cars. Mr. Bubar said it was the issue of land use, not the number of scooters.

There was discussion about the parking fee and how it related to this. Mr. Behrendt said if the Board wanted to substitute allowing a certain number of scooters to park instead of cars, he thought they could do that. He said the applicant would owe \$9500 for the parking fee, so whatever credit was given for scooters, this would impact that amount. Councilor Lawson suggested keeping the parking configuration the way it was, which would set the fee, and then allow some flexibility where a few spaces could be changed to scooters in the future based on what they saw was needed.

Attorney Baum said his understanding was that the impact fee would be for the amount of parking that was set now, and said concerning the use of the spaces that the students wouldn't be precluded from putting scooters in them in the future. He said the applicant thought it was appropriate to have some reduction, but said they were trying to balance the need for downtown parking and the reduction of paved parking in the wetland buffer. He said this should reduce the overall number of cars on the site. He said it was understood that the goal was to prevent spaces being pushed off site. He said they were providing bike spots as well, which should provide additional offset.

Chair Rasmussen said this was the first application where all three parking options were being provided. Mr. Scamman said when they met with the Planning Board last August, they were encouraged to provide more nontraditional parking spots, and said they developed this plan based on that. He also said they intentionally did not impact wetlands as part of the project, and hoped the Board would look at that as a positive. He spoke further on this.

Mr. Bubar said he'd be comfortable with a 2-car credit, and other Board members agreed. Mr. Kelley asked if Administrator Selig or the Council had been approached by electric scooter companies wishing to establish themselves in Town. Mr. Behrendt noted an ordinance the Council had passed on this issue. He also said UNH administration and students had been in discussion about bringing a company on campus, but said obviously that had now been put on hold.

Councilor Lawson said the ordinance passed, and said it required electric scooters to be registered with the Town, and indicated where scooters rented from a company could be left when someone was done using them. He said he didn't believe a company had approached Durham with plans to register some of these scooters. There was further discussion.

Chair Rasmussen noted the issue of alcohol and whether to include it as a condition of approval, and said he'd rather not do that. Councilor Tobias suggested not going there again. There was discussion, with Mr. Parnell noting that the Board had disagreed with the idea that it should play a role on this issue. He asked if this needed to be revisited now, and Board members agreed that the issue did not need to be revisited.

Mr. Behrendt said an item not decided on was the type of fencing around the dumpster, and said it was to be stockade fencing, it should have a flat top and not have pickets. Chair Rasmussen said it should fit with the general exterior of surrounding buildings. It was agreed that it shouldn't be chain link, but whether it was wood or vinyl stockade fencing would be left up to the applicant and Planning Dept.

There was discussion about another bullet in Mr. Behrendt's memo: "Jamie Silverstein of UNH stated, My other comment to one of the documents is to echo Chief Kurz and say that I would recommend making sure that they build a private house directors suite and look to hire a full time house director that lives at the house to be a liaison to the chapter/chef/cleaning team and housing corporation. The chapters that have live in directors (adults to manage the physical structure and policies) have a longer lasting organization while housed.' Will there be one?"

Attorney Baum said the plan was to have someone there, but said the applicant had asked that this not be a specific condition of approval because things might change. He said the

general intent was to have the space occupied, and said it had been made available if needed to meet behavioral requirements. He spoke in further detail on this.

Chair Rasmussen said the Town had experienced that places without adult supervision got into trouble. Attorney Baum said that was clear from Ms. Silverstein's words. He also noted that she was excited to have them as a house chapter again. He said it wasn't the desire to have the space used this way that was the issue, and said the issue was making it a condition of approval, which would run with the land and could result in unintended consequences.

Chair Rasmussen said perhaps it didn't need to be required at the start, but if there was an issue, the Board could ask that it be enforced. Mr. Behrendt suggested that if the Police Chief found there were significant ongoing problems, he could request that there be a live in manager, could bring this to the Board, and the Board could decide to require this indefinitely or until the problem went away.

Mr. Bubar said absent a house parent, when things went bad, who was responsible for the operation. Attorney Baum said it was RPG, which was a professional management company. Mr. Bubar said they couldn't be called at 2 am to show up to clean the mess up. Attorney Baum said they could be called. He said the bigger question was if it should be the Planning Board doing enforcement or the University. There was discussion about the point person for RPG.

Councilor Lawson said if the Town experienced problems with the House, there were tools available including the Disorderly House ordinance. He also said the Town didn't require an adult live in situation for other student housing in Town. He said the greatest leverage on behavior problems was through the University, and said he thought the Board should rely on that. He said there wasn't definitive evidence that having a live-in adult at a fraternity was the key to good behavior.

Councilor Tobias said the Police Dept. handled disturbances effectively, and said the Campus Police force would back them up. She said UNH had a tight control system concerning fraternities and sororities, with specific rules, and said the danger of going against these was that the fraternity could lose its charter.

Mr. Bubar said the last time there was a problem with a fraternity, the Planning Board got thrown under the bus. Councilor Tobias said that was a different situation, and noted that at the time that the Board felt it didn't want to be involved in behavioral issues. She spoke further, and said going forward, there were tools to deal with issues. She got clarification from Attorney Baum that applicant intended to have the space because otherwise, why would they be putting the unit in. He repeated that the concern was that making it a condition of approval removed flexibility if things changed in the future. He said an example of the need for flexibility was what would happen this fall.

Councilor Lawson asked if there could be a condition that if the fraternity lost its recognition by UNH as a fraternity, this person/oversight would need to be provided. There was discussion. It was noted that if this happened, the applicant would have to come back to the Board because the fraternity use wouldn't be valid. Mr. Behrendt said the fraternity would either need to be reinstated by UNH, get special relief from the Town, or vacate the property.

Mr. Kelley said RPG managed these properties throughout the country, and asked if they had this kind of supervision elsewhere.

Sarah Layton from RPG said she oversaw property management, maintenance, and behavioral issues, and said being remote hadn't been an issue with other facilities she'd overseen. She explained that there was a local property management company that was already managing the property, and was required to do a monthly walk-through inspection. She said she communicated well and regularly with chapter members, by reaching out to the President, who was very involved and was listening to this meeting.

She also said she had a weekly meeting with the student house manager, and said that person did a walk through on a monthly basis too. She said these walk throughs were intended to identify maintenance concerns, alcohol issues, misuse of the facility, etc. She also said she communicated with the national ATO organization on anything that was chapter related, because she couldn't strictly enforce chapter issues. She spoke further on this.

Ms. Layton said she'd dealt with emergency situations, such as when a tree fell on a house, on many occasions. She said she was always available, and said chapter leadership and the local property manager had her cell phone number. She noted that for true emergencies they were supposed to call 911. She said she was very confident about the management of this facility.

Mr. Kelley asked if with the 20 houses Ms. Layton managed, local police had her cell phone number. She said it was available to the Fire Dept. and the Police Dept. Mr. Kelley asked if any of these houses had an onsite individual to complement the services she provided. Ms. Layton said yes, and said the intention was to have a house manager there all the time. She said it was needed for many reasons, including for the fraternity members themselves.

Mr. Bubar said he agreed with Councilor Tobias that the Board was not there to regulate behavior. Councilor Tobias said she was satisfied that the behavior would be regulated quite well by RPG, UNH and the Greek system. Chair Rasmussen asked if any Board members had any reservations about this issue.

Mr. Kelley said this was a conditional use, and said he believed noise was one of the criteria they were looking at. He said Ms. Layton had made him more comfortable concerning management. He asked what the situations might be where there wouldn't be someone there. Ms. Layton said those situations would be if the students didn't return due to the virus. Mr. Kelley said he understood that, but asked what outside of that would be a reason why there wouldn't be someone there.

Attorney Baum said they might not be able to fill the position, and said they wanted to avoid a situation where because of this they were in violation of the site plan approval. He said no one thought they would be talking about the students not being here next semester, and said things outside of their control could occur. He reviewed the various behavioral controls that had been discussed. Ms. Layton said outside of this extraordinary situation, RPG required a house director to have an annual contract, and as part of this the person needed to give 30-day notice of leaving the position. She said that was the only time she foresaw someone not being there.

Councilor Lawson said he saw all the elements of success here without requiring someone to live in. He also said the noise ordinance would be enforced if needed, and spoke further on this.

Chair Rasmussen said he thought from what the Board was hearing that they could move on. He asked if there were other issues to discuss.

Mr. Kelley asked for details on snow plowing/snow removal. Mr. Scamman said a two ft tall berm was added at the edge of the wetland, and would run beyond the retaining wall. It was noted that this was shown on sheet C3. Mr. Behrendt said it wrapped around approximately half of the back of the site. Mr. Scamman said as snow melted, it would run along the berm and then infiltrate, which would collect silts so they didn't go into the wetland. He said the berm would run about 30 ft beyond the retaining wall, and said there would never be snow melting directly into the wetland. Mr. Behrendt noted draft condition #34 about snow removal from the site if needed. Mr. Scamman said the Town Engineer had reviewed how snow on the site would be addressed, and had no comments about this.

Mr. Kelley said winter maintenance was required to ensure that what Mr. Scamman had described would happen. There was discussion about whether some of the snow moved from the front to the back of the site would be put up against the guard rail. There was discussion that there would be some snow there, and not every ounce of snow would be pushed to the end area. Mr. Scamman noted a steel fence also ran there, and said a plow wouldn't be able to throw snow over that fence.

Mr. Kelley asked if the monthly inspections by the local property maintenance company would include checking the snow plowing/removal and the state of the guard rail, fence,

etc. Ms. Layton said yes and said the interior and exterior of the property were looked at. There was discussion about who would be doing the maintenance activities on the site. Ms. Layton provided details on this, and said specific contractors would be hired for lawn care, snow removal, etc.

Chair Rasmussen went through the conditional use criteria in regard to the conditional use application to establish a fraternity, expand the existing building, and further develop the site including additional parking. Mr. Behrendt suggested that all of these things could perhaps be looked at together in going through the conditional use checklist.

Site suitability - Chair Rasmussen said this site was surrounded by fraternities, sororities, student housing and University buildings, and said he had no issue with site suitability based on this. Councilor Tobias said it was a suitable site. Chair Rasmussen said that concerning construction in the buffer, the porous pavement solution would improve the situation in the wetland area. Ms. Grant said they did a great job of explaining this.

Mr. Kelley said the applicant had made an effort to make improvements concerning runoff, but noted that the Planning Board and the Conservation Commission allowed a lot to occur within the buffer, and questioned whether it was a buffer that was being recognized.

Mr. Behrendt said if nothing could be done in the buffer, the applicant couldn't do anything on the property, which he said would be inappropriate. He said an argument could be made that the width of a buffer should be adapted to the location, and said he thought that in the core downtown/CB District, a 75 ft buffer was pushing it. He said given the history of the property and plans for it, it would be hard to not allow activity in the buffer.

There was discussion that the shoreland buffer for Pettee Brook was 25 ft, but the wetland buffer was 75 ft. Mr. Bubar said the applicant suffered from the fact that there's was the first property after a thousand feet where Pettee Brook saw the light of day.

Chair Rasmussen asked if any Board members felt the site was unsuitable. Mr. Kelley said what the applicant had done should allow them to build within the buffer. Mr. Bubar said the area involved wasn't an active part of the wetland.

External impacts - There was discussion. Chair Rasmussen noted the abutting properties including Stoke Hall, which contained 8 stories. No Board members said the application failed on this criterion.

Character of the site development - Mr. Kelley said this proposal improved the neighborhood, as Ms. Grant had said.

Character of the buildings and structures - The Board agreed this criterion was met.

Preservation of natural, cultural, historic, and scenic resources - Chair Rasmussen said the applicant would be cleaning up invasives in the buffer and wetland. Ms. Grant also noted that they were preserving the existing building. Chair Rasmussen said it would get a nice facelift. It was noted that the gas tanks and the handicap ramp would be removed.

Impact on property values - Chair Rasmussen said he didn't see any reason why that would occur, and other Board members agreed.

Availability of Public Services & Facilities - Chair Rasmussen said the Police Dept. and Fire Dept. chiefs had said this could be managed.

Fiscal impacts - The Board said they didn't see that there would be any negative fiscal impacts from the project.

Mr. Behrendt noted that the Conservation Commission had approved the 4 wetland conditional use criteria.

He also noted that there were two conditions of approval that he'd emailed to the Board, one to incorporate the revised parking layout Mr. Scamman had provided, and one to revise the landscaping there accordingly. He said he'd add this under modifying the plans.

***Richard Kelley MOVED to Close the Public Hearing. Councilor Tobias SECONDED the motion and it PASSED 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Heather Grant</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mike Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

***Jim Bubar MOVED to approve the Notice of Decision for the Site Plan and Conditional Use applications submitted by Richmond Property Group to include establishing the fraternity, a building height to exceed 30 ft, and construction within the 75 ft wetland buffer. The property is located at 18 Garrison Ave, Map 2, Lot 12-12, in the Central Business District. Lorne Parnell SECONDED the motion and it PASSED unanimously by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Heather Grant</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Mike Lambert</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

**XI. Public Hearing - Mill Plaza Redevelopment.** 7 Mill Road. Discussion about fiscal impact study prepared by Mark Fougere, consultant. Continued review of application for site plan and conditional use for mixed use redevelopment project and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Ari Pollack, attorney. (Rick Taintor is serving as the Town's Contract Planner.) Central Business District. Map 5, Lot 1-1.

Chair Rasmussen said the fiscal impact study would be discussed this evening.

Mr. Taintor said they had received 17 emails and letters since early April, 6 of which had to do with the fiscal impact analysis. He said the peer reviewer had submitted a draft report on the stormwater management report on April 30<sup>th</sup>, and a final report on May 4<sup>th</sup>, and said they were posted on the website. He said there was a meeting today to go over the report, to clarify some questions the peer reviewer had. He said the responses were expected by early next week, and the 2<sup>nd</sup> review was expected in time for the May 27<sup>th</sup> meeting. He said they also expected to see landscaping plan revisions based on comments the applicant had received.

Mr. Parnell said it would be useful for the Board to see the comments from the Town Engineer about the original stormwater management plan and the peer review report. Mr. Taintor said he'd provide these comments to the Board. He said Tighe and Bond would talk to Ms. Talon.

Mr. Taintor said the Traffic impact study wasn't complete yet, and said the applicant hoped to have it to the Board for the June 19<sup>th</sup> meeting.

He noted the memo he'd provided on the Fiscal Impact Study. He spoke about detailed comments received from members of the public about the scope and methodology of the study, and said he explained that it was limited to the direct impacts in terms of increase in taxable values and additional service costs, and didn't look at spinoff concerns some people had brought up. He said there was a required finding of the Fiscal Impact Study that the proposed use wouldn't have a negative impact, unless it was found there were other positive things that offset the negative impacts, and said this involved balancing different types of impacts. He noted that the Board could commission a peer review, or its own fiscal impact study.

Mr. Parnell asked if other negative fiscal impacts could be brought in. There was discussion with Mr. Mr. Taintor about this.

Mr. Fougere provided details on his background and expertise on these matters. He said he believed the report followed standard protocol and methodology, using the marginal

cost approach, and he spoke in some detail on this. He read from a prepared statement on this. He said he believed the Fiscal Impact report met the conditional use criteria, and believed that the project would not have a negative fiscal impact on the Town under any scenario.

He reviewed the project and its fiscal impact in detail, reading from and referring to the report. He addressed the issue of possible rent decreases and vacancy rates in coming years. He spoke about expected property taxes from the project from the commercial and residential space in the project, and said it was four times the taxes that were being generated by the property today.

He said in regard to municipal service costs that Fire and Police would be most directly impacted. He said this was calculated on a per bed basis. He said the Police Dept. had proactive outreach to student housing communities concerning noise issues, and planned to do the same with this project. He said the applicant planned to cooperate fully with this. He said the Fire Dept. and Police Dept. found the data from the report to be acceptable, and said no grave issues were raised. Mr. Fougere said the Police Chief felt no more staff would be needed because of the project, but said he included the cost of half an officer to be conservative. He said the Fire Dept. didn't express deep concerns about the project, including concerning the issue of increased calls.

He noted that the building permit fee for the project was substantial and offset costs to the Building Dept. He also said there were no school children living in other student housing projects, and said this wasn't expected with this project. He said \$10,000 was allocated for misc. costs from other departments.

Mr. Fougere summarized that revenues would be over \$1 million and there would be \$96,000 in costs from the Police Dept, Fire Dept, etc., which resulted in over \$900,000 in positive fiscal impact. He said there would be \$692,000 in new taxes, taking the existing taxes from Mill Plaza into consideration. He said the project was consistent with the Town's plans for mixed uses downtown, and said it would bring in four times the revenue seen from the property today. He said this would help offset future taxes, increase commercial assessment, and increase tax revenue for the Town and School District. He said it would also provide opportunities for the regional economy.

He said he'd looked at the school apportionment, going back to 2017, and noted the complicated formula involved in determining this. He provided details on the numbers involved in the apportionment each year, and said the nexus between increased value and automatically increasing school costs wasn't there. He said he spoke with School District Business Manager Sue Caswell about this, and said he'd also spoken with the Town Administrator. He said there could be an impact, but said in practice it was a lot more complicated than that. He said it wasn't an appropriate calculation that had been provided, and ignored what happened in the other two towns.

Mr. Fougere said no matter what costs one could think of, there would be a positive fiscal impact on the community from the project.

Mr. Kelley noted Figure 3, concerning area vacancy rates, and asked what might be considered a sweet spot, at what percentage it became a detriment to a community and what the results were of having a large vacancy rate. Mr. Fougere said he wasn't an appraiser. Mr. Kelley asked if the results of the analysis would change if vacancy rates went up. Mr. Fougere said income was part of assessing a property, and said if it declined significantly over time, there might be a request for a lower assessment. He said an advantage of the property was that it was downtown, which students would want.

Councilor Lawson said the Fiscal Impact study seemed to assume that the demand for student housing was that they were attracted here because of location, and this didn't create a vacancy someplace else. Mr. Fougere said he wasn't looking at impacts on the marketplace, and said this wasn't what a fiscal impact did. He also noted other fiscal impact studies done for other student housing projects in Durham, and that Russ Thibeault, who did one of them said if vacancy rates or student housing became an issue, the units would be reconfigured and rented to others.

Councilor Lawson said the data he had for Durham said that an apartment used by students was assessed 3 times greater than a similar apartment in Dover that wasn't in the student market. He asked whether if there were vacancies, the market coming in to fill them was not one that could be assessed at the same level as for student housing. Mr. Fougere said he wasn't prepared to make that statement. Councilor Lawson provided the numbers on this, and said if there were vacancies, it was likely that although the assessment for Mill Plaza was good, they would see decreases in assessments for other student rental properties. Mr. Fougere said he couldn't answer that.

Councilor Lawson said if families moved in and had children, didn't that affect the school apportionment? Mr. Fougere said it might. Councilor Lawson said he had no problem with marginal cost analysis. But he said he vehemently disagreed that the School funding formula should be dismissed.

He said this Fiscal Impact study looked at the best-case scenario, and said between the best and worst there were too many variables. He encouraged the Board to look at what was the worst case scenario, and if it included increased vacancy rates and decreases valuation of other properties, and increased the number of students in the School District, the Board should look at what the result was of this.

Councilor Lawson said the good news was that from what he'd been looking at in order to make up for the gaps in this fiscal impact report, the worst case scenario looked pretty good, and created housing opportunities that traditionally weren't available in Durham.

He said the Board deserved the opportunity to see the spectrum of worst to best, and said it would feel more confident if it saw the worst case and decided it was workable. He said if Mill Plaza could cover the cost of this, he viewed this as a community benefit, especially if the bottom line was that there was still a net positive to the community.

Mr. Bubar said he was somewhat concerned about impugning competitive marketplace issues in the analysis, and said if that was the case, they should worry about regional impacts on student housing. He said there were winners and losers and said if properties weren't upgraded to be competitive, they would lose.

He also said the school funding mechanism wasn't complicated, and said 50% of the School budget was recovered on the pro-ration of taxable property values in the three communities. He said the other 50% was recovered based on student head counts. He said if the fiscal impact analysis was correct and \$35.5 million was being added to the valuation for Durham, the Town would get a bigger property tax bill. He also said if Mr. Taintor's numbers that the net in tax revenues was just under \$700,000, that would only support 40 students in the ORCSD. He said if the property wasn't rented to college students, it could be rented for low income housing, and said the fiscal impact could quickly turn negative.

Councilor Lawson said he liked competition, but was concerned about not at least understanding what the impact was to the community. He said he was really confident that there wouldn't be the fiscal impact that this report stated, and he considered what he'd need to say to residents who were expecting the benefit that the report indicated. He said a more realistic approach was needed, without assumptions that presented the best-case scenario.

Mr. Fougere said as far as the apportionment was concerned, the nexus that had been described wasn't as strong as one might think, looking at this year's numbers. He said the Business Administrator was predicting that Durham's ratio would go down.

Councilor Lawson said if the trend was going down, they shouldn't be concerned about the impact of projects, and said that made no sense to him.

Mr. Parnell said he wasn't concerned with the competitive situation, and said it would undoubtedly impact the other operations, but said he was concerned about the possible impact on the assessed value of other properties in Town, which would impact the fiscal benefits. He said he doubted if this would be a hugely significant number, but said the Board should have some more information on what that number might be. He said he'd thought this would be part of the Fiscal Impact analysis, and said the Board should contract a separate study to look at these issues, including impacts on property values. He said this could be combined into a separate study to provide information that would allow the Board to discuss the best case and worst case.

Mr. Bubar suggested that there was historical information on the new student housing impacts on property values in the neighborhood, and said he'd heard that the impacts were more on outside communities. He said it was a good question to look at. Chair Rasmussen said there was still a significant amount of student housing in nearby towns, which were considered the outlying areas.

Councilor Tobias said houses that rented primarily to students were more expensive than regular houses. She said if it would make the community feel better to have specific information as had been described, she wasn't against asking for this information. But she said there was a tremendous need for housing, especially affordable housing in the region. She noted that Harmony Homes was building housing for its employees. She spoke further about this. She said if there was an outside area in Town where the student population was reduced, it would be reoutfitted for other housing and would be filled. She said she didn't think there would be a tremendous drop in rental prices.

Mr. Bubar said Mr. Parnell's idea was a good one, and he encouraged that whoever did it should allow the Planning Board to provide a large base of information on housing in Durham. Mr. Parnell agreed, and said they should get this going.

***Lorne Parnell MOVED that the Planning Board is requesting that a consultant be hired to investigate the real estate impacts of the Mill Plaza project on the existing multiunit housing in Town and residential housing in the area, with the costs of this to be paid for by the applicant, and the contract planner will suggest possible consultants. Chair Rasmussen SECONDED the motion.***

Chair Rasmussen asked Mr. Taintor if he had any concerns about the motion. Mr. Taintor said no. He said Durham was a special real estate market, given student housing and the higher income from student rentals. He noted among other things that a conversion to family housing in the future would have a fiscal impact on the Town, and that if demand decreased it could increase vacancy rates. He said it would be important to have whoever did the analysis deal with the Planning Dept and some Board members who had knowledge about housing in Town, and to talk about the scope of work. Mr. Fougere agreed that it would be important to have that.

Mr. Kelley said he supported the motion. But he said what gave him concern was that the scenario they were looking at was one that was greater than this application. He said other developments in Town could turn the same way, and said the Town had to put some skin in the game and split the cost of the analysis 50/50 because there was a greater impact to the Town beyond this project.

Sean McCauley of Colonial Durham said the ordinance had a standard to follow regarding looking at positive and negative impacts with a Fiscal Impact study, and said he thought tonight was limited to the economic impact of this property on the Budget. He

said possible impacts on other residential housing would be addressed by a different consultant who was preparing a report on that for a later date. He said Colonial Durham saw this as two separate issues. He said before hiring more consultants, it might be prudent to have the appraisal consultant provide his presentation.

Councilor Lawson asked if the appraisal assessment was in regard to properties in proximity to Mill Plaza. Mr. McCauley said yes, and said it dealt with neighboring properties. He questioned whether it was equitable to look at how this project might impact competition, and considered whether they would do that with a restaurant. He said when new projects came in, this tended to cause other properties to tidy up so they could compete better.

Councilor Lawson said the challenge here wasn't that other properties needed to be improved, but was an issue of oversupply. He said when a fiscal impact analysis glossed over that, it presented an answer as the extreme best case. He said what he and others were saying were real concerns. He said he believed the process would show positive things regarding fiscal impacts, and also positive things regarding diversifying housing. But he said if they didn't do this analysis there would be an open question for the Town and Mill Plaza. He said he had concerns about the fiscal impact study that had been presented, even in the context of the best-case scenario. He also agreed that the Town should have skin in the game to develop the study being suggested.

Mr. Bubar asked if neighboring properties as described by Mr. McCauley just meant Chesley Drive and Faculty Road, or also included Durham. Mr. McCauley said they didn't believe they impacted the whole town, so couldn't talking about that. He spoke further. Mr. Bubar said it sounded like this study and the one Councilor Lawson was talking about were different analyses. There was further discussion.

Mr. Kelley said he didn't think it was enough to look at immediate abutters, and said this development would have a larger impact, including on neighboring communities. Mr. McCauley said that was a standard that no other developer had been held to. Mr. Kelley said that was why he'd suggested that the Town should have skin in the game.

Councilor Tobias said if this wasn't a college town with a high density of students, it would be a different situation, and said there was concern that the numbers of students might be going down, and about what the impact of this might be.

Councilor Lawson said other developers had been held to the standard outlined, but said at that time there wasn't a question because there was a lack of supply of housing and because of the demand. He said more recently, the supply and demand had moved closer to potentially impacting assessments.

Mr. Fougere said he wasn't trying to gloss over anything with his report, and said Madbury Commons didn't look at offsite impacts, which was typical of fiscal impact reports. Councilor Lawson said what might not have been relevant with the Madbury Commons project was relevant now. Mr. Kelley said Mr. Fougere's efforts weren't being challenged, but said there might be something more that was needed. He noted that the discussion on the motion was becoming a discussion with the applicant.

There was discussion on the idea of splitting the cost.

***Richard Kelley amended the motion to say that any independent consultant brought in to do a fiscal impact, scope to be determined, would be paid at a 50/50 cost split with the applicant. Chair Rasmussen SECONDED the motion to amend.***

***The motion PASSED 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Richard Kelley</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

There was discussion on the original motion, as amended.

Mr. Parnell said the report would include other apartment complexes in Durham, a market saturation type study, and how this project would impact their assessed value.

Mr. Taintor said he thought Mr. Parnell had asked to look at not just the impact on the real estate market, but changes to the market in terms of what the character of the development(s) would be in regard to the community. Mr. Parnell said that was expanding a bit on his thoughts. He said he wanted to look at the fiscal impact, not the impact on housing. He said if rental units couldn't rent to students, that might impact the housing situation, and also might impact the fiscal assessment of the properties if their income streams changed. There was further discussion.

Chair Rasmussen said he thought they might be a bit early on this, and should wait to see the rest of the real estate analysis. He said he'd vote no on the motion, but said they could perhaps revisit this at a later time.

***The original motion, as amended FAILED 3-4 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>No</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>

<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>No</i>
<i>Jim Bubar</i>	<i>No</i>
<i>Richard Kelley</i>	<i>No</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Mr. Bubar said he agreed that doing the study later was better. There was further discussion. Mr. Kelley said perhaps the study would need to be broader, and include other items if needed, with a scoping session first to identify areas they were looking at. He said waiting to see what the second report provided might be a benefit.

There was discussion that the Board would continue discussion on the Fiscal Impact analysis and would continue the hearing on it at the May 27<sup>th</sup> meeting, when the stormwater discussion would also take place.

**Bob Russell, Croghan Lane** called a point of order. He said there needed to be discussion from the public on the presentation tonight, before going on to another presentation.

Chair Rasmussen said the discussion and public hearing on the fiscal impact analysis would be continued to the next meeting. He said the Board didn't have to do this tonight.

- XII. Public Hearing - 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. Zachary Smith, c/o Bergmeyer, architect. Map 2, Lot 14-1. Central Business District.

*Chair Rasmussen MOVED to Open the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:*

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

**Beth Olshansky, Packers Falls Road**, said she really liked the concept of the project, and said it was a refreshing alternative to student housing downtown. She said when the architectural design standards were drafted, the architectural concept of downtown Durham was more traditional, and she asked if the design for the building fit with the downtown. She also asked if it fit in the space, and said it looked like a University building. She asked if they wanted the downtown to start to morph into what the

University looked like, and if this would set a precedent, noting that there would be a lot of redevelopment of this block of buildings in the future.

She also asked if it was necessary to have a 5 ½ story building on the parcel. She noted the discussion about changing the Zoning and said she had a concern about that. She said she would favor getting a variance for the height rather than changing the zoning for the whole street. She said it was an attractive building but said she didn't know if it fit with the downtown.

**Brian Bessette**, director of the Freedom Café, said it was a noble and community minded project that was trying to be sustainable and provide needed resources for the community, and to serve as a bridge between the Town and campus. He said there was a demand for collaborative meeting space in Durham, which Freedom Café had provided some of. But he said it didn't meet the demand for this kind of space. He said in regard to the height that in order to be sustainable and provide the civic space, there needed to be the space that economically made that possible

**Joshua Meyrowtiz, Chesley Drive** said enrollment at UNH was expected to drop in the thousands in coming years, and he spoke in favor of recolonizing the downtown for adults who wanted to live, eat, recreate, and have meetings. He said it was an exciting vision for the future. He said he liked the 5<sup>th</sup> floor but questioned a Zoning change that allowed this elsewhere downtown. He said they should do all they could to make something like this project happen.

**Wendy Brooks, Ross Road** said she'd lived in Durham for 20 years. She said she went to school here, and said Durham was a vibrant community with very engaged people. She said the building provided a space for people to come together, and said she appreciated it that Mr. Clark was taking this and Cia Italia on.

**Matt Komanchak, Thompson Lane** said the word pandemic and COVID-19 hadn't been uttered tonight, while considering high density residential structures. He said he hoped the pandemic would become a more explicit part of the discussion, noting the significant recent increase in the unemployment rate. He said it might be comfortable to look at a project in isolation but said it wasn't a sensible way to discuss these projects.

Mr. Behrendt suggested that since this was the close of the Design Review tonight, it would be helpful for Board members to each share their thoughts.

Councilor Tobias said she really liked the design of the building. She said she disagreed that it looked like a University building, and also said it was an opportunity to build a building that people would want to save 100 years from now. She said she thought it would provide a nice opportunity for outdoor space and gathering space. She said she liked the façade and said the position of the building provided a good flow from the

University to the Town. She said she loved the idea of adults living there, noting that it wouldn't be cheap but would be market priced. She said she especially liked the use/philosophy of it. She said she loved the black, brick and glass.

Chair Rasmussen said he saw this as a good transition building, and said the unique location lent itself to being University-like but also a transition into the downtown. He said he looked forward to seeing the final design.

Mr. Bubar said he had no problem with 5 ½ stories, and said the ladder truck could go up 7 ½ stories. He noted the view coming down Main St into Town, and said it was striking. He said the view of the building said this was a town he wouldn't mind living in.

Mr. Clark said to him, this was a 4 ½ story building, not counting the basement.

Mr. Parnell said he looked forward to seeing the site plan application.

Ms. Dill said she thought the building was gorgeous however tall it was. She said it fit with the University more than it did with the downtown but said a lot of the downtown needed redevelopment anyway. She said she was interested in the Foundation for Civic Leadership/Democracy House, and asked when it would be known if this would happen. She said it had a big impact on the design of the building.

Mr. Clark said this was a for profit/nonprofit marriage and said they had to make sure that the income from renting the condominiums could subsidize the cost of Democracy House.

Zach Smith said Democracy House was a partner and stakeholder and was committed fully to this project. He said the programming for the second floor was fairly well established and was being fine-tuned.

Mr. Kelley said he knew nothing about aesthetics. He said he'd like to see a rendering of the trees that would remain, in full bloom. He said the concerns he had were limited to some of the more technical things, such how the parking lot would work, traffic circulation, trash removal, what would happen with the alley shared with the abutter, the sewer line, etc.

Ms. Grant said she liked the design and said she didn't have an issue with the height because it wasn't a big block, and the design added some texture.

Councilor Lawson said one of the good attributes of the project was that it incorporated parking underneath, which would help activate the spaces. He said he'd heard people say they were excited that adults would be living here, and said he liked this vision. He noted that there was no mechanism to ensure that this would happen over time. He said he was

a bit confused about the idea of condominiums subsidizing a nonprofit, and spoke further on this. He said there was more to be learned during the review process concerning the role of the nonprofits.

Mr. McGowan said he liked the design of the building, and said the vision for the use was great. He said he was looking forward to seeing the next stages during the review process.

Ms. Wrightsman said she was thrilled about the project, and loved the spirit of it and the potential to diversify the age of the population downtown. She said she suspected that businesses downtown felt similarly, noting the current lack of a customer base at this time of year. She said the building acted as a bridge between the campus and the downtown, and said she had no issues with the height, especially with the planned rooftop gathering space/dining on the top floor.

Mr. Clark said he didn't want to go through the variance process for the height issue because he thought it would be doomed. He said the only legitimate route was a Zoning change to allow conditional use for a partial 5<sup>th</sup> floor where 4 floors were currently allowed for the buildings west of 66 Main St., and a partial 4<sup>th</sup> floor where 3 floors were allowed. He said four architectural plans for new buildings downtown had indicated that there was a need for a partial top floor to promote outdoor space, de-seasonalize the downtown, and get out of having the boxes that kept being built.

***Chair Rasmussen MOVED to Close the Public Hearing. Jim Bubar SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>
<b><i>Lorne Parnell</i></b>	<b><i>Yes</i></b>
<b><i>Bill McGowan</i></b>	<b><i>Yes</i></b>
<b><i>Jim Bubar</i></b>	<b><i>Yes</i></b>
<b><i>Richard Kelley</i></b>	<b><i>Yes</i></b>
<b><i>Councilor Tobias</i></b>	<b><i>Yes</i></b>

- XIII. Subdivision off Gerrish Drive. Parcel at 91 Bagdad Road** (address). Preliminary design review application for conservation subdivision for houses on 16-acre lot off Gerrish Drive. Marti and Michael Mulhern, property owners. Mr. Behrendt Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 10, Lot 8-6. Residence B District.

***Chair Rasmussen MOVED to schedule a site walk for 4 pm on May 27, 2020, with the public hearing to follow at the Planning Board meeting that evening. Lorne Parnell SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:***

<b><i>Chair Rasmussen</i></b>	<b><i>Yes</i></b>
<b><i>Barbara Dill</i></b>	<b><i>Yes</i></b>

<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

**XIV. Other Business**

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

April 15, 2020

Postponed

**XVI. Adjournment**

*Lorne Parnell MOVED to Adjourn the meeting. Councilor Tobias SECONDED the motion and it PASSED unanimously 7-0 by a roll call vote:*

<i>Chair Rasmussen</i>	<i>Yes</i>
<i>Barbara Dill</i>	<i>Yes</i>
<i>Lorne Parnell</i>	<i>Yes</i>
<i>Bill McGowan</i>	<i>Yes</i>
<i>Jim Bubar</i>	<i>Yes</i>
<i>Richard Kelley</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

Adjournment at 10:37 pm

Victoria Parmele, Minutes taker

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Richard Kelley, Secretary