

These minutes were approved at the May 10, 2023 meeting.

**TOWN OF DURHAM
DURHAM PLANNING BOARD**

Wednesday, March 22, 2023

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Heather Grant (Vice Chair), Sally Tobias (Council Rep), Peyton McManus (Alternate), Barbara Dill (Alternate); Chuck Hotchkiss (Alternate Council Rep), Emily Friedrichs; Richard Kelley (arrived late)

EXCUSED: James Bubar, William McGowan

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen seated Barbara Dill for Bill McGowan and Peyton McManus for James Bubar; one member short until Richard Kelley arrives.

III. Approval of Agenda

Mx. Friedrichs MOVED to approve the Agenda as presented; SECONDED by Mr. McManus; APPROVED 6-0, Motion carries.

IV. Town Planner's Report

Mr. Behrendt said positions are available for Alternates on the Planning Board. He said he received a note from Joan Bigwood Osborne that as a leadup to the Revolutionary War there was a raid on Fort William and Mary in Newcastle 3 months before Lexington and Concord, arguably the first shots fired; one of the leaders of the raid was from Durham. He said the Town will partner with her for an event on June 15, 2024 celebrating the 250th anniversary of the raid with live demonstrations and a parade on Main Street.

Richard Kelley arrived at the meeting at 7:08 pm.

V. Reports from Board Members who serve on Other Committees

Reporting from Town Council: Councilor Tobias said the Council met Monday and approved accepting/expending the unanticipated grant of \$25,000 for hiring a Consultant for Durham HTF to create a needs analysis report and some public outreach.

Reporting from Housing Task Force (HTF): Vice-Chair Grant said HTF met and discussed the scope of work for the grant funding in terms of getting data analysis and hiring a consultant; meeting Friday with the suggested Consultant.

Reporting from IWMAC: Ms. Dill said IWMAC met this morning and finalized plans; will be a large presence on Earth Day, April 22, 2023, 10:00 am-2:00 pm, at 66 Main Street; large DPW truck will be parked on the street.

Reporting from AG Commission: Chair Rasmussen said the Agricultural Commission met and already began discussing Farm Day, Durham Day; 10th Annual Farm Style Breakfast to be held April 16 in Lee at Grange Hall supporting Youth in Agriculture Grant Program, 7:30 am-12:00 noon; AG Commission submitted comments on MP chapter.

VI. Public Comments

No Public Comments.

VII. Review of Minutes (old):

VIII. Public Hearing - 14 Riverview Road – Stairway to Dock. Conditional use to build stairway leading to existing dock within the Shoreland Protection Overlay District (SPOD). Keith Carney and Adrian Shulman, property owners. Jay Aube, TF Moran, Certified Wetland Scientist. Map 214, Lot 9. Residence Coastal District. Recommended action: Final action.

Mr. Kelley MOVED to open the Public Hearing for 14 Riverview Road-Stairway to Dock; SECONDED by Vice-Chair Grant; APPROVED 7-0, Motion carries.

Chair Rasmussen opened the Public Hearing for 14 Riverview Road – Stairway to Dock at 7:14 pm.

As no one wished to speak on this application:

Mr. Kelley MOVED to close the Public Hearing for 14 Riverview Road-Stairway to Dock; SECONDED by Mx. Friedrichs; APPROVED 7-0, Motion carries.

Chair Rasmussen closed the Public Hearing for 14 Riverview Road – Stairway to Dock at 7:14 pm.

Chair Rasmussen asked Mr. Behrendt if all paperwork and notices were appropriate for this application; Mr. Behrendt said they were.

Conditional Use Criteria:

Site Suitability: Mx. Friedrichs said it was almost a modification of an existing use for safety purposes; the Board agreed.

External Impacts: Councilor Tobias said there was no impact from that particular project; the Board agreed.

Character of Site Development: Not incompatible with neighborhood; no external impacts.

Character of Buildings & Structures: Mx. Friedrichs said wood is an appropriate material choice, runoff from stairs discussed, replanting with native vegetation.

Preservation of Natural Resources: Resources are being managed and protected as much as possible.

Impact on Property Values: Board agreed no impact.

Availability of Public Services and Facilities: Board agreed no effect.

Fiscal Impact: Board agreed none at all.

WCOD Wetland Criteria:

No Alternative Location: By definition, no.

Amount of Soil Disturbance: Minor necessary for construction.

Location, Design minimal necessary for Construction: Board agreed.

Restoration Activities will leave Site as near as possible to existing: Mx. Friedrichs said the Board has Conservation Commission support for the application; Board agreed.

Mr. Kelley MOVED that the Planning Board approve the Conditional Use (CU) Permit at 14 Riverview Road – Stairway to Dock; this CU is to build a stairway leading to an existing dock within the SPOD located at Map 214, Lot 9 in Residence Coastal District; SECONDED by Councilor Tobias; APPROVED 7-0, Motion carries.

- IX. **Climate Action Master Plan.** Review of a draft climate adaption plan. This plan was prepared by Strafford Regional Planning Commission. Presentation by Jen Czysz, Autumn Scott, and Kyle Pimental, SRPC. The draft may be approved as a master plan chapter or an administrative plan. Recommended action: Discussion and possible scheduling of public hearing.

Autumn Scott, Regional Planner of Strafford Regional Planning Commission (SRPC), said a lot of work went into this plan with a lot of public input; main goal is to strengthen Durham's resilience to climate change by coming up with implementable options. Major findings from all of the Town's studies were pulled into the chapter; document is a planning document to guide the community and possibly assist future funding efforts for resilience and adaptation.

Amanda Stone of UNH Extension said she and her colleague Lisa Wise led the public input sessions and worked with SRPC and Steering Committee, to discuss the approach to the chapter and review initial drafts. Project Team included SRPC, DES Coastal Program, UNH Extension, and UNH Sea Grant; worked with internal stakeholders' group that was part of two input sessions in 2020 asking questions about climate change impacts for Durham and its resilience, brainstormed a Vision Statement from input sessions which was used to draft the chapter. She said there were 23 participants at the input sessions and 21 partially completed online surveys; opened to email comments plus overall feedback from UNH, Town staff/boards/committees and residents, AG Commission input.

Ms. Scott said there was a data collection phase in addition to input, all aggregated into the chapter along with all State reports. She said we recognize Durham is on the forefront of climate adaptation in many areas, and this chapter seeks to accomplish some of the requirements of the Global Covenant of Mayors. The Chapter consists of (1) Intro: Climate Risk in New Hampshire, (2) Identifying Local Impacts, and (3) Planning for a Resilient Future: Goals and Recommendations.

Questions: Mr. Kelley asked if the number of participants was considered adequate to really draw conclusions and use the data. Ms. Stone said it was sufficient in terms of the cross-section of those who participated and was done at a challenging time when there were low online engagement rates for similar planning efforts.

Mr. McManus said he was struck by the areas of infrastructure that needed to be thought about at a detailed level, like culverts, and some will be expensive and complicated. Vice-Chair Grant said the action-to-do list is very long and separated into different pieces and seems like it needs to be assigned. She said a lot was capital planning, but asked who will decide which is buildable land and how to define that and create zoning changes; all it does is the same thing our Master Plan (MP) already does which is to create different pockets that do not mesh together.

Chair Rasmussen said the bits pertinent to the Planning Board are already covered or belong better in one of the other chapters. He said the Board needs to decide tonight what action to take with this document: (1) add as a Chapter to the MP, (2) does not fit in MP but would make a great Administrative Plan Chapter, or (3) some of these goals are good and worth trying to keep, or might be better kept by adding to a more appropriate chapter.

Ms. Stone agreed that the list of recommendations is long and some more expensive but they provide opportunities for the Town to decide where to focus over time. Mx. Friedrichs complemented the thoughtful input in the document and said ze appreciates it being its own chapter and is pulling together elements from all the other chapters; ze said relevant committees have to refer to this document to see which part they should take on.

Mr. McManus said there is a sense of urgency that comes across in the document, and we need to distill that down and prioritize. He said it should be a stand-alone document as part of the MP. Mr. Kelley said for the Planning Board to be able to act on it in terms of zoning, subdivision, and site plan regulations then it has to be in our MP. Ms. Dill agreed, said it is extremely well done, and it has a lot in common with the Future Land Use Chapter, which also touches everything in the MP and looks ahead.

Chair Rasmussen said he is not sure the chapter in its entirety would necessarily fit in the MP: put the recommendations in appropriate chapters and use this as an administrative plan. Mr. Kelley said this is an overlay district that affects all zones; Mx. Friedrichs said there is strength in making it one chapter; Mr. Kelley asked if it could be an appendix. Chair Rasmussen said it has to be a chapter and would make the 12th chapter of the MP. He said seeing at least 4 people in favor of making this a chapter, the Board should schedule a Public Hearing for discussion and vote.

SRPC Principal Regional Planner Kyle Pimental said ideally the topic may be incorporated into all MP chapters at the local level, and said he was glad the Planning Board was having this conversation. He said he did not think the Town was ready for a full update of all 11 existing chapters, but can take what was learned here and put that through to other chapters. He said re prioritizing, there is some detailed information here (i.e., culverts) with some very specific data which allows the town to make some decisions on priority for CIP.

Mr. Pimental said a ground water modeling study was finished in February 2022, results of which will be included in this chapter. Partnering with UNH on groundwater rise in the seacoast, a model was built of how far it might extend into Durham and the impacts on roadways and public and private drinking water supplies; may happen before sea water rise. Councilor Tobias said this document needs to be a stand-alone to guide all the other chapters and will be important to the HTF.

Mr. Behrendt said for April 12 there will be definitions and 74 Main Street coming back as an amendment. Chair Rasmussen suggested April 12 for the public hearing.

Mx. Friedrichs asked if any areas/items out of the goals in this document could be indicated as having a higher impact. Mr. Pimental said groundwater rise is also in the Town's Hazard Mitigation Plan completed in December 2022. He said some residents are already having issues with higher salinity levels in their drinking water, which may be a growing concern for the town in the short term; resources to improve drinking water can be provided if municipal water is not an option. He said a higher long-term impact is what to do with the idea of migration.

Mr. Kelley said he is concerned that the feedback loops are not clearly distinguished in the document. Mr. Pimental said the *ice albedo feedback loop* is specific and much different from the other terms being used. He said there are 3 different meanings using "feedback loop" that editorially need to be fixed; one is the public feedback in terms of input received; the positive feedback loop is in terms of Global Warming and is "not necessarily a positive thing".

Mx. Friedrichs asked if any public feedback was oppositional. Ms. Scott said integrating overall feedback documents, one out of 50 comments questioned the science and asked if climate change was real. Mr. Kelley said 6% of individuals said there was no need to prepare, and one comment was "lack of objective, unbiased research and review". Mr. McManus asked what needs to be done to deal with a lot of the risks in different areas, and to help eliminate the Town's impact; he asked if towns are aligned to do cross-functional work to limit climate impact.

Mr. Pimental said in terms of cross-functional, towns are working with transportation at a regional level and communities along the coast are generally moving in the same direction; some of the impacts are undesirable and are forcing some decisions. He said transportation ties the communities together at a regional level that is unique to this area (Regional Transit System) and watershed planning is another one that goes outside jurisdictional boundaries.

Mr. Pimental said Durham is a leader in flood plain coordinate, raising freeboard standards, and creating some climate advisory zones. He said a controversial idea is possibly looking at the feasibility of a Stormwater utility; Dover is the farthest along and other MS4 communities are also dealing with stormwater permits. He said Durham is doing a really good job with open-space planning with natural resources protection, buffers, and along water bodies.

Ms. Stone said Seabrook, Hampton, and Hampton Falls have been working together for almost 10 years on climate-related projects, recognizing they need to cross boundaries and collaborate.

Councilor Tobias MOVED that the Planning Board move Climate Action Master Plan to a Public Hearing April 12, 2023; SECONDED by Vice-Chair Grant; APPROVED 7-0, Motion carries.

- X. **Review of Definitions in Zoning Ordinance.** Continuing review of the Zoning Ordinance section by section as part of the zoning rewrite. **Recommended action:** Continued discussion.

Chair Rasmussen said the Board would first discuss the work Councilor Hotchkiss did to reorganize the definitions as requested and said he was willing to accept it as presented. Mr. Behrendt said if it is okay, he will incorporate it; Councilor Hotchkiss said the final version would be a much easier way to assess this.

Impervious Surface: Ms. Dill said she would submit grammar corrections. ***Inn:*** Chair Rasmussen said it goes back to the difference between Inn and Bed & Breakfast which was tweaked during short-term rentals. Board agreed to delete “less than 30 consecutive days” in all references, double check using “commercial” to replace “for compensation”, change bedrooms to “guest rooms”, and delete “general public.”

Junkyard: Board agreed to keep “enclosed structure;” Vice-Chair Grant asked if this many paragraphs were needed for a use not allowed anywhere in Town; Board agreed to leave the definition as is for use as an enforcement issue. ***Kennel:*** Ms. Dill asked that instead of saying “in excess of 4 months of age” say “at least 4 years old”.

Landscaping: Mr. Behrendt said Councilor Hotchkiss went through most of this; the Board discussed hardscaping versus using actual living plants; Chair Rasmussen said he preferred drought-tolerant plantings over hardscaping, and are trying to minimize hardscaping because of stormwater; Board agreed what is written here is reasonable. Chair Rasmussen said everything indented under Landscaping is going to the Landscaping section; Board agreed to review now. Board deleted Landscaped Yard Area and Landscaped Street Yard; **Maintenance:** Board agreed to keep as is

Landscaped Area: Mr. Behrendt said where there is a requirement for landscaping some plantings are needed; Chair Rasmussen said this definition pertains to commercial sites which Board typically discusses during Site Plans and said these are definitions not the rules. Mx. Friedrichs suggested eliminating Landscaped Area definition as it does not serve any purpose and is only defined in Courthouse District; Mr. Behrendt said Site Regulations is a more important place and the Board agreed.

Natural Woodland Buffer: Redefined as Mx. Friedrichs suggested. Public Area: Removed *Sapling* and *Shrub*, kept *Specimen Tree*, deleted *Solid Planting*; *Tree Warden*: referenced RSA 231:139(11), Board agreed to use State definition; deleted *Vegetation*.

Leachable Wastes: Moving under Shoreland. *Library*: Definition is outdated and Board deleted. *Lot*: Mr. Behrendt said lot is specifically how we define everything and how assessor's maps define everything; deleted "2 or more contiguous parcels" and defined as: "legally recorded parcel of land used as one unit for purpose of taxation use and development under the ordinance."

Lot Area: Mr. Behrendt said the Board needs to keep this as there are a number of old roads where the lot line extends to the center of the road or center of a stream; Chair Rasmussen said in Great Bay they own to the highest watermark. Lot Corner: Ms. Dill asked if 135 degrees was needed in the definition; Mr. Behrendt said it is important because if almost straight it is not a corner lot; Riparian Rights are to center of street or stream.

XI. Other Business

Chair Rasmussen said in the audience is a potential Planning Board Alternate. Paul Pasternak said the meeting was interesting but he is not in possession of many of the facts. He said he recently retired and is looking for something interesting to do, and thanked the Board for doing this important work.

Mr. McManus said he would not be at the Planning Board meeting April 12, 2023.

XII. Review of Minutes (new):

XIII. Adjournment

Mx. Friedrichs MOVED to adjourn the Planning Board Meeting; SECONDED by Councilor Tobias; APPROVED 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:29 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board