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3 **TOWN OF DURHAM**  
4 **DURHAM PLANNING BOARD MEETING**

5 **Wednesday, May 14, 2025**  
6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**  
8 **DRAFT MINUTES**

9  
10 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Gary  
11 Whittington, Robert Sullivan, Eric Lund (Council Alternate), Munish Nanda (Alternate)

12 **MEMBERS ABSENT:** Richard Kelley, Heather Grant (Council Rep)

13 **ALSO ABSENT:** Town Planner Michael Behrendt  
14

15 **I. Call to Order**

16 Chair Paul Rasmussen called the meeting to order at 7:00 pm  
17

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

19 Chair Rasmussen called the roll; seated Eric Lund as Council Rep and Munish Nanda for Richard  
20 Kelley.  
21

22 **III. Approval of Agenda**

23 Chair Rasmussen said the next meeting is a Workshop for zoning issues; could open and close  
24 Public Hearings tonight and deliberate at Workshop Meeting.  
25

26 *Councilor Lund MOVED to approve the Agenda as presented; SECONDED by Peyton*  
27 *McManus; APPROVED: 7-0, Motion carries.*  
28

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

30 Town Planner absent.  
31

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

33 Reporting from Housing Task Force: Chair Rasmussen said the HTF is close to another set of  
34 amendments for reviewing; Table of Uses and Dimensions probably at June meeting.  
35

36 Reporting from IWMAC: Chair Rasmussen said a meeting was held; nothing affecting us at this time.  
37

38 Reporting from the Town Council: Councilor Lund said the Council met May 5 and Munish was  
39 officially made a Planning Board Alternate; adopted amendment on Aquifer Protection Overlay  
40 District; had first reading to adopt Central Business District: CBD-1 and CBD-2; discussed more  
41 descriptive name for CBD-2 with public hearing May 19, 2025.  
42

43 **VI. Public Comments**

1 **Beth Olshansky** of Packers Falls Road asked that the Board consider, at the next Workshop Meeting,  
2 how CBD-1 and CBD-2 will be different; she said the Town is looking for a more transitional zone to  
3 residential in the Plaza, different from downtown. She said square footage was changed from 300  
4 sq ft/person to 200 sq ft/person with 50% more density, and asked that building heights be  
5 discussed.

6  
7 **Matt Komonchak** of Thompson Lane said he felt residents of this town are not sufficiently informed  
8 about the slew of zoning changes that are taking place. He said he is referring to changes including  
9 a recent preemptive residential zoning change prompted by legislative events in Concord; a  
10 proposed rezoning of CBD, Courthouse, and Church Hill districts; some initiated over workforce  
11 housing, student housing, and senior housing and are not being initiated by residents. He said there  
12 is a PUD proposed for an ordinance to facilitate a 60-acre project at UNH with significant impact on  
13 the town.

14  
15 Mr. Komonchak said if the board is going to impose significant changes on the town through zoning,  
16 they need to explain their strategy and rationale to substantiate what is being proposed backed by  
17 data, research, and analyses, and said he would prefer a more incremental approach. He asked why  
18 workforce housing was changed to attainable housing.

19  
20 Chair Rasmussen said the term for workforce housing was changed as the State definition only  
21 recognizes two building types. Vice Chair Tobias pointed out that all members of boards and  
22 committees are residents of Durham and said all the documentation is on the website and all  
23 Planning Board meetings are recorded.

24  
25 **Ann Marie Harris** of 56 Oyster River Road said she lives the faculty neighborhood adjacent to some  
26 of the changes that are being proposed and said she participated as Planning Board member for 6  
27 years. She said in the past the public has been invited to participate in a charette to get together  
28 and talk about all these significant changes. She also pointed out that there was nothing in Friday  
29 Folders about the public hearings.

30  
31 Councilor Lund said the Planning Board needs to improve communication with Town Administrator  
32 Selig so that public hearings get properly noticed and said there is Planning Board communication  
33 that is not happening that should be happening. Mr. McManus said he is hearing that people are  
34 overloaded with too much information and the information is hard to find.

35  
36 **Larry Harris** of 56 Oyster River Road said he was a faculty member at UNH for 51 years and spent a  
37 lot of time interacting with other institutions. He said over time the town has been increasingly  
38 developed into a student ghetto, and the whole idea was to make the downtown a more attractive  
39 place for residents.

40  
41 **Robin Mower** of Britton Lane said it would not be a bad idea to have the Town Planner write a 4–5-  
42 page community note to the town to pull together all the information that was talked about. She  
43 said I have followed a lot of what is going on and it takes a huge amount of time not everyone has.

**VII. Review of Minutes (old): November 20, 2024**

Chair Rasmussen said he submitted a typo to Karen.

***Chair Rasmussen moved to accept the Planning Board Meeting Minutes of November 20, 2024; SECONDED by Peyton McManus; APPROVED: 6-0 with 1 abstention, Motion carries.***

**VIII. Public Hearing - 3 Dover Road – New Dunkin Donuts.** Site plan application for new 1,500 square-foot Dunkin Donuts restaurant on ¼ acre lot located next to Holiday Inn Express. JESP Enterprises, property owner. Jim Mitchell and Scott Mitchell, Tropic Star Development, LLC, applicant. Matt Perry, Civil Engineer, The Engineering Corp. Scott Thornton, Traffic Engineer, Vanasse & Assoc. Courthouse Zone. Map 108, Lot 38. Recommended action: Possible final action if all is acceptable.

Jim Mitchell of Tropic Star Development, said he is here tonight with Civil Engineer Matt Perry, and said there have been some advancements with the project and site plan, after conversations with DOT. He said they are proposing to completely redevelop the parcel at 3 Dover Road, moving Dunkin Donuts from the Irving Station to the new lot with increased parking capacity in compliance with site plan regulations. There will be landscaping improvements, all utilities on site with reusable stubs; an additional ornamental tree will be added on south corner of the lot and a shrub on easterly corner.

Mr. Mitchell said he has been in contact with Roger Appleton of DOT and exchanged ideas and he is willing to permit the main site driveway as right-in and right-out only with a left out driveway; engineer will come up with alternative small traversable island to be mounted on Dover Road allowing delivery trucks to navigate over it. He said the driveway now has 2 broad curb cuts which will be reduced to 1 curb cut with southwest area modified slightly to allow a free and clear sidewalk. There will be no left-in or left-out to Dunkin Donuts; exit will post a no left turn sign. Mr. Perry said another concern was the side entrance: first 2 parking spaces will be designated as employee-only parking.

Chair Rasmussen said DOT was unwavering in their original projection and the applicant is meeting their requests. Legal permission will be needed to post a “Do not Enter” sign to prohibit left-hand turn in from Dover Road and “no lefthand turn” at exit; 10-ft radius put in at entry for more right-in turning movement. Mr. McManus asked how much the applicant anticipated filling the 11 parking spaces at peak hours. Mr. Mitchell said it is a convenience thing to pick up online orders and is not a drive-through.

**Em Friedrichs** of 18 Garden Lane asked about the lighting plan for the site and whether they looked at lighting standards from different angles, with higher lighting intensity at entrance vs service entrance. Mr. Perry said he did not produce the lighting plan, but said the light also needs to reach to the middle of the drive isle for adequate lighting there. Mr. Mitchell said there is a note in the approval that the lighting must be dark-sky compliant and Mr. Behrendt has already

1 looked at it carefully with the number one concern being safety. Mx. Friedrichs recommended  
2 using yellow-toned lighting vs blue-toned to reduce insect attraction, and said they are  
3 researching in the 2700 Kelvin range. Mr. Mitchell said they could add a condition of approval to  
4 satisfy the requirement of +/- 3000 Kelvin.

5  
6 **Robin Mower** of Britton Lane said she appreciates that something will be done in that area and  
7 that Mr. Behrendt recommended adding an ornamental tree. Chair Rasmussen said the tree  
8 listed is a Japanese Lilac. Mr. Mitchell said they also have a requirement that it survive 3 growing  
9 seasons.

10  
11 ***Chair Rasmussen MOVED that the Planning Board close the Public Hearing; SECONDED by***  
12 ***Councilor Lund; APPROVED: 6-0 with 1 abstention, Motion carries.***

13  
14 Chair Rasmussen closed the Public Hearing for 3 Dover Road-Dunkin Donuts at 8:05 pm.

15  
16 Chair Rasmussen asked the applicant if they were okay with the Notice of Decision. Mr. Mitchell  
17 asked if the Bond is set by the Planning Board; Chair Rasmussen said it is managed by staff. He  
18 said they will add a condition for lighting and color to line 12 of the Notice of Decision and asked  
19 if they were good with the waiver for lighting, parking spaces, and landscaping. Mr. Whittington  
20 said this application has moved in a positive direction since the original proposal and said the  
21 applicant has done a good job dealing with the primary concerns with significant movement to  
22 address major issues.

23  
24 ***Chair Rasmussen MOVED that the Planning Board approve the site plan for major***  
25 ***demolition of existing vacant building and redevelopment of a new Dunkin Donuts from***  
26 ***the Irving Station to the opposite side of Dover Road relocating to site at 3 Dover Road,***  
27 ***per Notice of Decision as amended this evening, this notice includes 3 waivers for***  
28 ***landscaping, lighting, and parking spaces in the side setback, Map 108, Lot 38 in the***  
29 ***Courthouse District; SECONDED by Councilor Lund; APPROVED: 6-0 with 1 abstention,***  
30 ***Motion carries.***

31  
32 **IX. Public Hearing - Proposed Zoning Amendment – Multi-Unit Residential.** Proposed  
33 amendment to allow multi-unit residential in the Professional Office, Church Hill, and  
34 Courthouse Zoning Districts by right. This proposed amendment was initiated by the Town  
35 Council on March 17. Recommended action: Vote to support amendment or make  
36 changes.

37  
38 ***Vice Chair Tobias MOVED that the Planning Board open the Public Hearing for Multi-Unit***  
39 ***Residential; SECONDED by Councilor Lund; APPROVED: 6-0 with 1 abstention, Motion***  
40 ***carries.***

41  
42 **Em Friedrichs** of 18 Garden Lane said there have been some developments at the State House  
43 since this was initiated by the Town Council, and personally asked that the Planning Board

1 consider holding this item for a few more months for additional clarity as this would make  
2 student enrollment a protected class, meaning any multi-unit building is open to student housing,  
3 and asked that the board postpone further deliberation of this change.  
4

5 Chair Rasmussen said procedurally at this time this is a Council-initiated amendment, and the  
6 Planning Board is on a clock to respond with comments. One clock runs out in 3 days; spoke to  
7 Town Council Chair about a possible 2-week extension; delaying several months is not an option.  
8 Councilor Lund said the amendment to the Senate Bill was brought forward after the Council  
9 initiated the amendment. Chair Rasmussen said the Board needs to give the Council a  
10 recommendation that the Board does not recommend moving forward at this time and provide  
11 comments.  
12

13 **Robin Mower** of Britton Lane spoke about this change to allow multi-units by right in Church Hill,  
14 Courthouse, and Professional Office Districts. She said she did not see how the landscape and  
15 view would be altered by this proposal and how much green space would exist. She said she is  
16 following government actions daily and said this is not a good time to make drastic changes to  
17 downtown given the uncertainty in government, business, residential, and academic areas. She  
18 asked: (1) why the board believes multi-family will not become student housing; (2) why propose  
19 ignoring the features of Church Hill District that make Durham different; (3) do you propose to  
20 also revisit the Architectural Design standards and site plan regulations.  
21

22 **Joshua Meyrowitz** of 7 Chesley Drive spoke about multi-unit housing, a procedure for pre-  
23 emptive rezoning that will be needed to stop the implications of the House Bill. He said Church  
24 Hill Woods is a significant buffer for the faculty neighborhood and a unique urban forest in  
25 Durham, ending in a wetland with flooding concerns. He said a proposal to expand the CBD to  
26 Church Hill was made in 2008 and did not pass and he discouraged opening that door again.  
27

28 **Ms. Birch** of 17 Garden Lane said she has the most awful sense of déjà vu and said making big  
29 changes now seems crazy and urged the Planning Board to stop, think, plan, and get the public  
30 behind you.  
31

32 **Beth Olshansky** of Packers Falls Road said she has been following the Planning Board for the last  
33 25 years and she is against this change making multi-unit permitted in PO, CB, and Church Hill,  
34 and said she cannot imagine students *not* living in those units downtown. She said she does not  
35 know how to get more diverse housing in downtown and more diverse businesses for the  
36 broader public and agreed this amendment should be tabled.  
37

38 ***Chair Rasmussen MOVED that the Planning Board close the Public Hearing for Multi-Unit***  
39 ***Residential; SECONDED by Gary Whittington; APPROVED: 7-0, Motion carries.***  
40

41 Chair Rasmussen said this is going to require some serious discussion, preparation and  
42 comments and asked the Board to hold the deliberations for the workshop meeting. Vice Chair  
43 Tobias said she sees from the public a concern for what is coming without understanding what

1 is already allowed in the area: senior housing multi-unit, senior care facilities, and light industry.  
2 Mr. Sullivan asked the risk here for developers; Chair Rasmussen said if it is P (permitted) they  
3 know they will only have a site review; if it is CU they can go through that and never get a project.  
4 Councilor Lund said CU calls for a 2/3 majority vote for approval and P is a simple majority vote.

5  
6 X. **Public Hearing - Proposed Zoning Amendment – Three-Story Height Limit.** Proposed  
7 amendment to remove the three-story height limitation in sections of the Central Business  
8 District (CBD) and to allow four floors of residential with only one floor of commercial (on  
9 the first floor) in a five-story building in the CBD. Presently, a five-story building in the CBD  
10 must contain at least two floors of commercial. The first item was initiated by the Town  
11 Council on March 17. **Recommended action:** Vote to support amendment or make  
12 changes.

13  
14 ***Chair Rasmussen MOVED that the Planning Board open the Public Hearing for proposed***  
15 ***3-Story height limit; SECONDED by Councilor Lund; APPROVED: 6-0 with 1 abstention,***  
16 ***Motion carries.***

17  
18 Chair Rasmussen said this ordinance is for CBD-1 assuming the division takes place. Vice Chair  
19 Tobias said CBD-2 stays at 3 stories.

20  
21 **Joshua Meyrowitz** of 7 Chesley Drive said he hoped the Board would keep in mind problematic  
22 and positive features in Durham. He spoke about the tunnel effect of tall buildings on Durham's  
23 narrow Main Street and asked that some digital renderings be provided and said 4-5 story  
24 buildings would be a completely different landscape there. He asked that the Board not go for  
25 simplicity of change when detailed hard work is needed and asked that they study other college  
26 towns and keep a sharp eye out for the distinction between great ideas and a mechanism for  
27 achieving them and said more work needs to be done on this.

28  
29 **Beth Olshansky** of Packers Falls Road said they are wrestling with how to revitalize downtown,  
30 and Durham has such a small commercial area. She said over the last half year we have been  
31 increasing the density which is now at 200 sq ft/person; making smaller spaces and adding more  
32 residential probably means more students and 5 stories is so out of scale with our small  
33 downtown and it will turn it into a much more urban environment. She said she would like to  
34 see a more nuanced approach and asked that the Board hold off on these zoning ordinances  
35 until we know about the State.

36  
37 **Robin Mower** of Britton Lane asked if every board member has walked up Mill Road to Main  
38 street to see what it feels like and imagined 5 stories there. She said it seems inconceivable to  
39 her, and said it would make sense to postpone discussion about this part of Town and first  
40 coordinate what we think will be appropriate for CBD-2.

41  
42 ***Vice Chair Tobias MOVED that the Planning Board close the Public Hearing for proposed***  
43 ***3-Story height limit; SECONDED by Paul McManus; APPROVED: 7-0, Motion carries.***

Chair Rasmussen moved deliberations on this proposed amendment to the Workshop Meeting as well; he will also inform the Council that 2 more weeks are needed for response with comments. Councilor Lund pointed out that with student development the public tends to equate students with undergraduates but there are graduate students as well and they are definitely underrepresented in Durham.

**XI. *Public Hearing - Planned Unit Development Ordinance.*** Proposed Planned Unit Development (PUD) ordinance. PUD's are special zoning tools which allow for flexible and innovative planning for large scale mixed-use projects. A draft ordinance has been prepared to accommodate the potential development of The Edge project at UNH, located westerly and southerly of the intersection of Main Street and Mast Road, and other potential large mixed-use projects. *Recommended action:* Vote to support amendment or make changes.

***Councilor Lund MOVED that the Planning Board open the Public Hearing on PUD Ordinance; SECONDED by Paul McManus; APPROVED: 7-0, Motion carries.***

Chair Rasmussen opened the Public Hearing for PUD Ordinance at 9:12 pm.

**Craig Seymour** of Durham Point Road said he is a 36-year resident, involved in Town Government and with business owners for 30 years. He has a background in Real Estate/Economics consulting and provided some history of why he is in favor of this ordinance and offered suggestions. He said this is being crafted for a very specific important project which was always envisioned to be a mix of public and private activity to create the West Edge Project.

Mr. Seymour said PUD is a tool used in zoning to accommodate these kinds of public/private ventures and said there are 3 major objectives to the PUD: (1) bring water, sewer and zoning to the project (University is exempt from zoning); (2) enhance the Town's tax base by accommodating various needs of the town, diversity and people who are here; (3) leverage UNH capabilities with technology and leverage their knowledge with private-sector investment, with Town cooperation and partnership. He said this PUD is excellent and he supports it.

Mr. Seymour said some are saying this PUD is too prescriptive, but the language allows it to define what might go in there and allows for flexibility on the part of the Planning Board, which is critical. He said the project is at least 10 years in the making and things will change. He said under *I. Interpretation/application of PUD Plan*, the Board need not include exact lot locations and layout, and suggested incorporating the word "phasing"; a zoning ordinance has to have a certain amount of prescription and specifics as long as the Board has way of building in flexibility.

Mr. Whittington said he did not think there needed to be a lot of prescriptive stuff at all, and originally favored bifurcating the documents, moving the prescriptive stuff into a guideline which

got shot down. Mr. Seymour said it is good to have that kind of prescription up front so there is flexibility for the Master Developer and allows UNH to achieve its goals.

**Ken Weston**, Executive Director of Campus Stewardship and University Architect, acknowledged the hard work the Planning Board has put into this ordinance and said the continued partnership with the university is obvious. He said the university is not well grounded in how these ordinances will impact a developer and asked the Planning Board to consider holding this Ordinance open in draft form until we can onboard that experienced partner to support us.

Mr. McManus asked about the possible timeframe: Mr. Weston said monthly, perhaps 1 month. Councilor Lund said this was brought up at the Council meeting this morning and it was the sense of the Town Administrator that this was being rushed, and it would be appropriate to take the time. Mr. Weston said our procurement process is closed, and we have narrowed the decision down to 2 possible Master Developers; once we have a decision from leadership that door opens.

Mr. Sullivan asked how the chair envisioned the Planning Board working with the Master Developer. Chair Rasmussen said a meeting or two between the Master Developer and Staff or a sub-committee of the Planning Board. Mr. Weston said that works for UNH.

***Chair Rasmussen MOVED that the Planning Board close the Public Hearing on PUD Ordinance; SECONDED by Vice Chair Tobias; APPROVED: 7-0, Motion carries.***

Chair Rasmussen closed the Public Hearing for PUD Ordinance at 9:35 pm.

Mr. Sullivan asked Mr. Weston if he had any further knowledge of the NOAA Building and its status. Mr. Weston said there has been no impact on the budget and they have a concept design submitted; the two separate grants are still secure, and they were told to proceed as planned.

**XII. 35 Madbury Road – Reconfiguration of Driveway.** Conceptual review of plan to reconfigure driveway to one-way pattern and to add parking spaces. DWS 35 LLC, c/o Scott Drapeau, property owner. Paige Libbey, Jones & Beach, engineer. Professional Office Zone. Map 106, Lot 19. Recommended action: Offer comments and close conceptual review.

Chair Rasmussen said this is a conceptual review of a plan to reconfigure a driveway from 2-way to a one-way pattern. He said there is a bit of urgency on the part of the applicant because of current work on Madbury Road which they would need to coordinate before that section of Madbury Road is finished.

Engineer Paige Libbey said 35 Madbury Road is an existing fraternity house. Entry is a 30-ft wide curb cut, looking to add more parking spaces with a loop driveway all around the building; north entrance will be one-way in with new exit on south end of the building. Adding 9 parking spaces next to building on south side and moving dumpster to south side to make it more accessible;



will also be easier for Fire truck access. Wooded buffer along south property line will be mostly maintained with small front yard put in after parking.

Chair Rasmussen asked where water and sewer come into play; Ms. Libbey said almost right at the proposed driveway. Councilor Lund said he visited the site, and it is an active construction zone right now. Chair Rasmussen said per driveway regulations the applicant must provide the need for the second driveway; there is also a minimum requirement for driveway spacing on a Collector Road. Councilor Lund asked if the applicant intended to narrow the existing north side curb cut and Ms. Libbey said they did.

### **XIII. Other Business**

Chair Rasmussen said he was also going to bring the Conservation Subdivision draft to the Workshop Meeting but there may not be time. He said he has 4 copies of NH Flood Risk Summary Part II, Guidance for use in Scientific Projections from Strafford Regional Planning Commission.

Durham Point Road: Mr. Sullivan said the saga continues on Durham Point Road and said our zoning and site plan regulations have some gaps we should look at for really large single-family developments that have high impact. He said the reason we have rules to look at Site Plans is because they are high impact, and for single family or duplex there is no requirement. He said in the past the board has relied on people following best management practices and they are not being followed.

Chair Rasmussen asked if they fit the alteration of terrain threshold. Mr. Sullivan said he is confident that they have triggered several things and said he would advocate for some measure that lets the board say they can review extensive projects for single family homes that continue to cascade off the property. Chair Rasmussen said it would have to go into zoning and agreed there were definitely some issues there that need to be addressed. Mr. Sullivan said he is trying to make sure very large sitework projects have appropriate scrutiny.

### **XIV. Review of Minutes (new): April 9, 2025 & April 16, 2025**

#### Minutes of April 9, 2025:

***Chair Rasmussen MOVED that the Planning Board accept the Meeting Minutes of April 9, 2025; SECONDED by Vice Chair Tobias; APPROVED: 5-0 with 2 abstentions, Motion carries.***

#### Minutes of April 16, 2025:

Councilor Lund said on the vote to adjourn should have been 4-0, line 38.

***Chair Rasmussen MOVED that the Planning Board accept the Meeting Minutes of April 16, 2025 as amended; SECONDED by Councilor Lund; APPROVED: 4-0 with 3 abstentions, Motion carries.***

**XV. Adjournment**

***Councilor Lund moved to adjourn the Planning Board Meeting of May 14, 2025;  
SECONDED by Vice Chair Tobias; APPROVED: 7-0, Motion carries.***

Chair Rasmussen adjourned the meeting at 10:01 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board

DRAFT