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

5 **Wednesday, June 25, 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, Heather Grant (Council Rep), Richard Kelley (late); Eric Lund  
12 (Alternate Council Rep-on Zoom)

13 **MEMBERS ABSENT:** Munish Nanda (Alternate)

14 **ALSO PRESENT:** Town Planner Michael Behrendt  
15

16 **I. Call to Order**

17 Chair Paul Rasmussen called the meeting to order at 7:00 pm.  
18

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

20 Chair Rasmussen called the roll; no alternates to seat.  
21

22 **III. Approval of Agenda**  
23

24 ***Councilor Grant MOVED to approve the Agenda as presented; SECONDED by Gary***  
25 ***Whittington; APPROVED: 6-0, Motion carries.***  
26

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

28 Town Planner Michael Behrendt said Riverwoods donated an extra bench which was placed by the  
29 Lafayette sign; Conservation Commission voted Monday to contribute \$50,000 towards a 29-acre  
30 parcel by the Gottschneider family of Durham Point Road; property owner at Cedar Point left  
31 decaying docks on the shore which were removed by the Town.  
32

33 Richard Kelley arrived at the Planning Board meeting at 7:04 pm.  
34

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

36 Reporting from the Town Council: Councilor Grant said the Council met June 16 and approved the  
37 purchase of collection containers by unanimous consent; appointed Energy Committee Chair  
38 Steven Fellows; first reading of ordinance to amend Chapter 175 Zoning Table (CBD-1/CBD-2),  
39 Multi-Unit Residential, and 3-Story Height Limit with Public Hearing July 7; discussion of right-of-  
40 way at Riverwoods with road change.  
41

42 Reporting from IWMAC: Chair Rasmussen said IWMAC met last week and submitted for a grant and  
43 started identifying target neighborhoods for compact pickups; grant has a 6-month life for up to  
44 190 households.

Reporting from Housing Task Force: Chair Rasmussen said HTF has not met.

Mr. Kelley asked if a new Conservation Commission rep had been assigned and suggested that he share the meetings with Chair Rasmussen. Vice-Chair Tobias said a few members attended the Housing Workshop on Tuesday by Workforce Housing Coalition; got update on legislative decisions, a lot of monies being eliminated for housing. Chair Rasmussen said the nine Regional Planning Commissions were zero-funded in the budget.

**VI.** Public Comments: None

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

**VIII. The Cottages of Durham modification.** Request to remove boardwalk. CDC New Hampshire, LLC, c/o Alex Freeman, property owner. Map 203, Lot 7. ORLI District.  
Recommended action: Final action if appropriate.

Chair Rasmussen said there will be no report from the applicant. Mr. Kelley asked what the impetus of this walkway was; Chair Rasmussen said he thought the main impetus was to keep people from walking through the parking lot to get to the clubhouse. He said there are now 3 bus stops there; Board agreed the bridge is dilapidated and no longer used. Chair Rasmussen said Conservation Commission recommended taking the bridge out and ensuring proper protection of wetlands.

Mr. Behrendt suggested a simple site plan for erosion control and making sure the property is restored. Mr. Kelley said he is not ready to act on it and the Board should have a plan in front of them; Mr. Whittington agreed that the Board needs some kind of plan with applicant explaining how it will be done. Mr. Kelley said they need to restore an island where they currently have a concrete ramp and Chair Rasmussen said the work will be done in the upland buffer. He asked Mr. Behrendt to advise the applicant to provide a sedimentation/erosion control plan and workplan for disposal of materials.

**IX. Review of Prior Year and Priorities for Upcoming Year.** Recommended action: Discussion.

Chair Rasmussen said there are 5 things the Board is now working on: (1) Wetland/Shoreland Overlay District, a complete rework of 2 articles getting merged into one and not quick; (2) Conservation Subdivision, already on agenda; (3) PUD, tabled until Master Developer engaged; (4) various zoning amendments; (5) Electric Vehicle Charging for Site Plan Regulations, new work with opportunity for future EV charging stations. He asked that the Board prioritize these in order of taking them on, and said he only wanted to work on one at a time.

1 Mr. Kelley said the Board deals with Wetland/Shoreland all time and it should jump to the front  
2 with PUD last. Mr. McManus asked if there was a draft or language available for Wetland/Shoreland  
3 to review. Mr. Behrendt said regarding the PUD UNH is close to engaging the master developer;  
4 Mr. Sullivan said there are Federal and State money questions for the PUD. Chair Rasmussen said  
5 he was stressing Conservation Subdivisions because Town Council asked about attainable housing  
6 ownership. Mr. Kelley said the way useable and unusable area was figured out was easy to  
7 understand, and the subdivision process is not all that complicated.

8  
9 Mr. Whittington asked that how proposed amendments relate to the Master Plan and the vision of  
10 a gentle density with attainable home ownership be explained to show how it all fits together. Chair  
11 Rasmussen suggested adding a section in the Planner's notes showing the goals of the Master Plan  
12 for each particular zoning amendment. Mr. Behrendt said this is a planning policy and does not have  
13 to be followed but should be a guideline; shows the big picture but is not a legal document.

14  
15 Mr. McManus said sometimes with the Master Plan there can be 2 competing goals, and it is difficult  
16 to carry both at the same time. Mr. Whittington said he would like to relate his decision-making to  
17 those express goals for context. Vice Chair Tobias said depending on which master plan chapter  
18 you are reading you are getting a different viewpoint. Chair Rasmussen said the Housing Task Force  
19 was focused on the goals from the housing chapters; those goals might be in conflict with the rest;  
20 therefore, it would be worth bringing all goals and recommendations out on the table as part of the  
21 discussion.

22  
23 Mr. McManus recommended moving EV Charging higher on the list and getting that in place before  
24 large upcoming projects. Chair Rasmussen said Wetland/Shoreland Overlay District will take the  
25 longest; Mr. Kelley suggested doing more than one at a time. Chair Rasmussen said they will run in  
26 dual mode and keep the fastest alongside whichever one they are working on. Mr. Kelley  
27 recommended starting with Conservation Subdivision and EV Charging. Vice Chair Tobias suggested  
28 starting with Wetland/Shoreland and only devote so much time to it at each meeting.

29  
30 Councilor Grant said Conservation Subdivision deals a lot with sensitive areas and should be done  
31 at the same time as Wetland/Shoreland; she said the board could just ask that EV Charging be done  
32 during site review. Vice Chair Tobias asked about providing blurbs to each of these as to why it  
33 necessary to make the changes, to show the public the justification. Mr. Behrendt said Conservation  
34 Commission is putting together a presentation for the board but said he had not yet received it, and  
35 said the Housing Task Force has a lot of information.

36  
37 After further conversation the Board rated the goals as follows: 1a. Wetland/Shoreland, 1b. EV  
38 Charging; 2a. Conservation Subdivision, 2b. Residential Development; 3. PUD. Mr. Behrendt said to  
39 keep in mind that once you post these, except PUD, any applicant coming in after that has to meet  
40 both current requirements and posted requirements, but applicant will not be required to meet  
41 both. Mr. Whittington asked what happens if it changes during the course of the revision. Chair  
42 Rasmussen said a second public hearing would overwrite the first.

Chair Rasmussen said the biggest issue is a significant increase in what the overlay district represents with a lot of people not currently affected suddenly finding that they are; entire properties may become non-compliant. Mr. Behrendt said the Wetland/Shoreland Overlay District will not be presented to the Planning Board until the first meeting in August. Chair Rasmussen said the Board would start with Conservation Subdivision as 1a and asked that EV Charging language be posted, making sure everyone has a copy of Wetland/Shoreland Overlay District to start reviewing.

New Order of Projects: 1a. Conservation Subdivision, 1b. EV Charging; 2a. Wetland/Shoreland, 2b. Residential Development; 3. PUD.

- X. **Lodging House – Zoning Ordinance.** *The public hearing is closed.* Proposed change adding Lodging House as a new use and eliminating Student Rental as a use. Recommended action: Initiate amendment or decide on possible changes.

Chair Rasmussen said the Public Hearing is closed; Lodging House is a new use, and they are eliminating Student Rental as a use. Mr. Behrendt said he is just technically trying to sync this with the Fire Code and suggested it would not be wise to allow Lodging Houses in the 4 rural districts. Chair Rasmussen said that is where we are split. He said the law is making parts of our Master Plan no longer valid, and we can no longer use familial relationships as a method in zoning.

Chair Rasmussen said a Lodging House is a communal living situation, short- or long-term; a residence with bedrooms and shared kitchen facilities and living space, like an old-style boarding house. Mr. Whittington asked about the efficacy of using the Fire Code definition and asked for the impetus for adding R and RC. Chair Rasmussen said they do not have to reference that, but they still have to be able to meet the Fire Code.

Mr. Behrendt said this Lodging House thing is not about promoting housing: the Board cannot use the 3-unrelated rule, student rental cannot be done due to statute, and this is a legitimate way to continue the necessary regulation by just following State Fire Code. Councilor Grant said under State definition of Lodging House, a single-family dwelling with 4 or more outsiders is a lodging house (5 or more unrelated) and said this gives the Town an important tool. Chair Rasmussen said when the Fire Chief defines a residence as a lodging house the building has to be sprinklered.

Mr. Sullivan said what is controversial is it is in R and RC and a lot goes away when they are removed. Mr. McManus questioned why they should constrain the supply to such a small area. Chair asked why throw out the good because we are worried about the bad; he said the Board has to be very careful in deliberations as to saying why we are doing something. Mr. Whittington said we need to figure out what Lodging Houses are and in what zone they are allowed that will be legitimate.

Mr. Sullivan said he is struggling with the contradictions in the text that fight against each other, and said the only thing for him is allowing them in R and RC. Chair Rasmussen said we have Special Exception and Conditional Use, and asked Mr. Behrendt if both go with the property. Mr. Behrendt

1 said he believes they both go with the property. He said a lodging house is a place where you live  
2 and is not just transient; Councilor Grant said these are services that are not usually in rural.

3  
4 After a straw poll the Board agreed to keep "X" in R and RC. Councilor Lund said there are situations  
5 where we have existing non-conforming uses and said he could go either way for R and RC. Mr.  
6 McManus mentioned using MUDOR and ORLI; Chair Rasmussen said MUDOR is all student housing  
7 and neighbors are not close enough in ORLI; need to redo ORLI boundary so the west portion gets  
8 added to rural but half of ORLI is on the bus route. Mr. Whittington asked if that can be done  
9 expeditiously and Chair Rasmussen said they could handle it as 1c. Board agreed to leave R and RC  
10 as "X" and look at it again when they rezone ORLI.

11  
12 Chair Rasmussen said we are really pushing for multi-unit in these zones; Vice Chair Tobias added  
13 or mixed use with residential. Chair Rasmussen said they have 4 different zones from here to  
14 Riverwoods which need to be looked at; Young Drive should probably be RA and need to figure out  
15 where OR starts; Coe's Corner is now all residential.

16  
17 The Board reviewed document language from the beginning. Mr. Behrendt said note 6 clarifies that  
18 if you have a lodging house set up as 2 dwelling units, a duplex is not allowed in CH but is allowed  
19 as a lodging house. Councilor Grant said note 6 is too confusing; Mr. Berendt said if we eliminate  
20 6, we need to clarify that a lodging house is one building. Vice-Chair Tobias said it is one building  
21 and we do not want to turn duplexes into lodging houses; Mr. Behrendt agreed. Chair Rasmussen  
22 said it is a Lodging House if it needs to be sprinklered.

23  
24 Mr. Behrendt said he does not want to use owner-occupied and says it requires Site Plan review  
25 giving you some protection; owner-occupied would undermine the whole purpose of this. He said  
26 the more you deviate from the Fire Code the more vulnerable this is to be challenged. Mr. Kelley  
27 said instead we should regulate the landlord by requiring registration and not try to do this; Chair  
28 Rasmussen said that does not belong in the Ordinance. He said he would like to take the final form  
29 and get a clean version to Legal.

30  
31 Councilor Lund said the next Town Council meeting available would be the August meeting. Chair  
32 Rasmussen said the Council may have to hold a special meeting in August as the 60 days after signing  
33 by Governor could start tomorrow; as soon as the Budget is done this will get signed. Mr. Behrendt  
34 said the Council will do its own Public Hearing which would protect us in an interim period. Councilor  
35 Lund said Todd is out for July. Mr. Behrendt said he will coordinate with Joe Friedman.

36  
37 **XI. Conservation Subdivision – Zoning Ordinance.** Continued discussion about prospective  
38 changes to Article XIX - Conservation Subdivisions. Recommended action: Discussion.

39  
40 Chair Rasmussen said the Board will continue this discussion about prospective changes to Article  
41 19; first part is Table of Dimensions update in a Conservation Subdivision; removing minimum  
42 useable area for dwelling units and replacing it with maximum developable area; compared current  
43 numbers and amount of open space that the zone will look for. He asked if they should even be

1 considering RA; there are a few large lots that are prime for redevelopment; this might be most  
2 effective model for large sites.

3  
4 Mr. McManus said the percentage we are looking at is maximum developable land for that space.  
5 Chair Rasmussen said presently it is an extremely complex formula, and we are making it simpler;  
6 all wetlands have to go with the 75%. Vice Chair Tobias said take 25% of buildable space and build  
7 as dense as you want, keeping 75% of open space. Chair Rasmussen referenced paragraph D.  
8 Developable Area, then a list of things not allowed in Open Space paragraph H.3; in non-open space  
9 area you can do what you want. He said the idea is conserving large pieces of open space, which he  
10 does not pencil out now because they do not get the density they need.

11  
12 Mr. Kelley said the inventory of the site would then not be as comprehensive. Chair Rasmussen said  
13 it would not be counted towards the number of units you could create in the existing rules. Mr.  
14 Behrendt said where he disagrees is he would not just do a gross percentage but simplify the  
15 useable area and just include the wetlands at least; there should be a distinction. Chair Rasmussen  
16 said it is a question of whether density outside the upland buffer matters. Vice Chair Tobias said  
17 they will not build homes that are not marketable.

18  
19 Mr. Behrendt said the 2 things are: how you calculate developable area and open space, and what  
20 areas you cannot build within. Chair Rasmussen said it is the smaller of that number or the total  
21 space outside of the upland buffer. Mr. Behrendt said why not say useable is anything other than  
22 wetlands and then take percent of usable area. He said they currently cannot build in the buffer but  
23 should be able to count it toward density; wetlands should not be counted. Mr. McManus asked if  
24 with 100 acres with 50 acres of wetlands is the 25% of buildable the 100 or the 50. Chair Rasmussen  
25 said as currently written it is 25% of the 100; but have to stay out of the upland buffer.

26  
27 Chair Rasmussen said buildings allowed are residential uses permitted in the zone, plus town homes  
28 and up to 4-family houses; a mix is preferred. Mr. McManus said to limit sprawl they might want to  
29 build and conserve the area around it in an actual structured way instead of random open space.  
30 Councilor Grant said you are not getting a lot there; Chair Rasmussen said you are getting more  
31 units but spread over a larger space. He said they should encourage developers to build close to the  
32 feeder street and keep it dense, allowing back of lot for wildlife corridor. What you can reasonably  
33 fit that is marketable.

34  
35 Chair Rasmussen asked everyone to look at the percentages for the next meeting and determine  
36 what is reasonable for each zone. Mr. Behrendt clarified that a Conservation Subdivision should not  
37 be in core areas and are intended for outlying areas; need to specify where they are required and  
38 where they are permitted; should not be allowed in RA. Chair Rasmussen said he has some serious  
39 concerns with how conservation subdivisions are done in New Hampshire.

40  
41 **XII. Other Business** Discussion about methods to provide more information to the public:  
42 Tabled until next meeting.

**XIII. Review of Minutes: None**

**XIV. Adjournment**

***Vice Chair Tobias moved to adjourn the Planning Board Meeting of June 25, 2025;  
SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.***

Chair Rasmussen adjourned the Planning Board meeting at 10:01 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker

Durham Planning Board