

**DRAFT**

**DURHAM PLANNING BOARD  
Wednesday, December 12, 2012 at 7:00 p.m.  
Town Council Chambers, Durham Town Hall  
MINUTES**

**MEMBERS PRESENT:** Chair Peter Wolfe; Vice Chair Richard Kelley (arrived at 8:43 pm); Richard Ozenich; Lorne Parnell; Andy Corrow; Town Council representative Bill Cote; alternate Wayne Lewis; alternate David Williams; alternate Town Council representative Julian Smith

**MEMBERS ABSENT:** Bill McGowan

**I. Call to Order**

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

**II. Roll Call**

The roll call was taken.

**III. Seating of Alternates**

Chair Wolfe said Mr. Lewis would sit in for Mr. McGowan.

**IV. Approval of Agenda**

*Lorne Parnell MOVE to approve the Agenda as submitted. Wayne Lewis SECONDED the motion, and it PASSED unanimously 6-0.*

**V. Planner's Report**

Mr. Behrendt said Great Bay Kennel had requested postponement of the continued public hearing until the next meeting. The Planning Board agreed to allow this. Mr. Behrendt noted that the Historic District Commission had approved the 8 ft fence.

Councilor Smith arrived at the meeting at 7:01 pm.

**VI. Public Comments**

**Bonnie McDermott** read a letter from **John Carroll, Canney Lane**. Mr. Carroll said that regarding the discussion of chickens and other fowl in Durham, he couldn't help but wonder how many people, whether Planning Board members or other residents, understood that they were not looking merely at someone's hobby (i.e., raising a few

chickens) but at the very foundation of a food production system for Durham to insure both nutritional health and food security for residents.

He said chickens (like pigs, and like composting) were foundational to a local food system in that they represented the necessary conversion of food waste and, as well, food people didn't or couldn't eat, like grass or insects (including ticks) into direct food and into the fertility of the soil which produced the lettuce, the carrots, the tomatoes, etc. that they all enjoyed.

Mr. Carroll said he also wondered how many people realized how many of their neighbors were already raising chickens (in some cases for decades) in every zoning district in Durham, even the densest, and how many people in all those zoning districts knew how many of their neighbors wanted to start raising chickens when the zoning ordinance changed, thus bringing into better balance the present high demand and limited supply of fresh eggs in the neighborhood.

He said that inevitably, everyone would have to live more locally. He said food was at the very center of that local living, and said chickens were the most efficient composters within the very foundation of local life.

**Steve Burns, 20 Newmarket Road**, questioned how Conditional Use Permit proposals were reviewed by the Planning Board. He noted that he had attended the recent HDC meeting, where that board ruled on the height of the fence for Great Bay Kennel. He said he was allowed to show what the fence might or might not do, but said the sound engineer seemed to be running the meeting. He said he was concerned about the procedures followed at that meeting.

Chair Wolfe said the conditional use permit review process was outlined in the Zoning Ordinance, and noted that it included a checklist that the Planning Board used in reviewing applications. He also spoke about the law of unintended consequences, and said it was important to consider these possible consequences.

**VII. Public Hearing** (continued) on a **Citizen zoning petition** for amendment to Zoning Ordinance to establish a maximum of three stories and 35 feet for buildings along a section of Main Street in the Central Business District.

Mr. Behrendt said the Planning Board's role concerning the citizen petition was to make a recommendation on it, but he noted that the Board couldn't change it. He said it then went to the Town Council, which would decide whether to adopt it. He said what was proposed affected a limited number of properties.

He explained that currently, there were two parts of the Zoning Ordinance that limited building height. He said there was the table of dimensional standards, which limited building height in the CBD to 30 ft, but allowed up to 50 ft with the approval of the Planning Board. He also said there was wording in the Ordinance that said 3 stories were allowed by right, and also said there could be 4 stories in the CBD if there were two

commercial floors. He said the 1<sup>st</sup> floor had to be commercial, and said the second commercial story could be on either the 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> floor.

Chair Wolfe also noted that in the current Zoning Ordinance, buildings on the south side of Main Street were limited to 3 stories. He said the citizen petition didn't do anything to that side of the street.

Mr. Behrendt said the CBD was fairly large, so the petition was fairly constrained. He said it involved 18 lots on the north side of Main Street, from the Town and Campus building to Madbury Road. He said he had received many emails about this petition, and said most of them were in favor of it. He noted that these emails had been posted on the Town website.

Chair Wolfe asked members of the public to raise their hands if they were in favor of the petition. 22 people raised their hands. There were no people opposed to the petition, and one person who said he was neutral concerning it.

**Bill Hall** said in going from 3 to 4 stories, this changed the Fire Department requirements, and required the use of UNH's 100 ft aerial ladder. He also noted that a 15 ft frontyard setback had been put in for the Historic District. He said he was happy with the model of Libbys' and said he didn't see any reason to go any higher than that. He said he supported the petition, and also said there needed to be setbacks and height limits for the Fire Department on Madbury Road.

**Dudley Dudley, Woodman Road**, read a letter she and Beth Olshansky had put together, in response to comments made at the previous Planning Board meeting that were in opposition to the citizen petition. The letter said the following:

- 1) During the last Public Hearing, it was stated that building height should not be determined by some arbitrary number, but should be part of a total vision for our downtown. We believe 35 feet is not arbitrary. It is the height of Libby's. Our proposed height limit is the result of visualizing a future downtown with buildings along the north side of Main Street at the height of Libby's versus what is currently allowed—50 plus feet. The vision of a Main Street lined with 4-story/50-plus foot tall buildings is *exactly* what drove this proposed amendment. As our new Town Planner stated at the August 27 EDC meeting, "In my opinion, at least aesthetically, the real building block for this downtown ideally would be a 3-story, flat-roof, brick building...a fine, handsome building." We agree.
- 2) Some argued that limiting building height along Main Street would serve as a deterrent to the redevelopment of our downtown. First, to be clear, this amendment does not include all of downtown, but rather a portion of Main Street. Second, it has been stated by Councilor Jim Lawson, who is also on the EDC, and Councilor Peter Stanhope, who is a professional appraiser, that the pro forma for a 3-story building in downtown Durham is much stronger than the pro forma for a 4-story building. That is, it will be easier to obtain bank financing for a 3-story building. This is because our regulations only allow a 4<sup>th</sup> floor if two floors are nonresidential. Filling that second floor with commercial is seen as risky. Case in point, note the empty commercial space on the fourth floor of 9-11

Madbury Road. Councilors Lawson and Stanhope have stated that there is no economic argument for the fourth story in downtown Durham, and that, in fact, the recently completed 4-story buildings were given tax breaks due to the assumed additional risk of adding a fourth floor. Thus the potential to create additional tax revenue is mitigated by the tax breaks these buildings have been granted due to the acknowledged risk involved in adding a fourth floor.

- 3) At the last Public Hearing, it was noted that those speaking against the amendment have a vested interest in redevelopment projects downtown. This is clearly true. While we all care about the downtown, those in the position to directly financially benefit from a redevelopment project clearly have a different perspective and vested interest than the rest of our residents do.
- 4) Let us not downplay, as one speaker did, the 360 signatures gathered last June or the 157 gathered on Election Day within a few hours in support of limiting building height downtown. If there are thousands of residents in favor of seeing a façade of 4-story buildings along Main Street, as was suggested two weeks ago, where are they? In our experience collecting signatures at the polls, people whom we did not know who overheard us talking about the petition were grabbing the petition from our hands. Others who heard us say, “limit building height downtown,” asked to sign the petition before they even knew where downtown or how tall. Many many residents do not wish to see our downtown turn into an urban cityscape. We want to preserve our small town character. If, in theory, redevelopment is supposed to create a downtown that is more inviting to residents, we need to honor what residents want—a downtown that has retained its small town character while redeveloped to insure a New England charm and aesthetic thanks to our new design standards.
- 5) Are we against change, as was suggested by one opponent of the amendment? No. We recognize that redevelopment could be a very good thing for downtown Durham. We are in favor of thoughtful development, guided by the will of many, rather than what is to benefit a few.
- 6) Finally, one member of the public who spoke in opposition to our amendment suggested that a compromise proposal was in order. We want to make it clear that our proposal IS A COMPROMISE! Many citizens would rather see *buildings no taller than 3 stories anywhere in town!* (Remember 360 residents signed asking to limit building height to 3 stories along all of Main, Madbury, and Pettee Brook.)

We believe our amendment is a compromise, one that protects that area of our downtown that is most visually sensitive: the face of downtown Durham, our Main Street. We believe that there will be plenty room for office space in other buildings downtown and that the need for office space need not be used as an excuse to overbuild along our Main Street.

For these reasons, and the many reasons given by those who have signed petitions, attended and spoken at Public Hearings, and sent in letters to the Planning Board, we urge the Planning Board to recommend our citizens-initiated zoning amendment to the Town Council for further review and discussion.

**Councilor Jim Lawson, Deer Meadow Road**, said this issue had been discussed at the last Economic Development Committee meeting, and said it was a good discussion, although no recommendation had come out of it. He said he would now provide his personal opinion on this issue.

He said he had tried to balance tax base impacts with other things, and said he believed that what was proposed was neutral from an economic development standpoint. He said he believed that the current mixed uses in this area made financing of new 3 story buildings far more likely than the financing of 4 story buildings. He said this could be substantiated quantitatively and by example. He noted that it had been said that the 9-11 Madbury Road project couldn't be done unless there was tax relief under RSA 79-E.

He said if this petition moved forward, he didn't think it would reduce the redevelopment potential along this portion of Main Street, and said he viewed it as a good insurance policy, especially when coupled with architectural design standards. He said this same conclusion could not be made concerning other areas in the CBD with different characteristics including deeper, larger lots, where building size greater than 3 stories could provide multiple floors of retail and commercial that were critical to the redevelopment plan and also important for the community.

Councilor Lawson acknowledged the petition for focusing on an area where 3 stories worked best in terms of economics and also in terms of aesthetics. He said he hoped the Planning Board moved this proposal forward to the Town Council for consideration.

**Jay Michael, Davis Ave.** noted that his mother owned two of the small buildings in the area in question, and said he was in favor of maintaining a 3 story height limit. He said he was born in Durham in 1954, and had seen a lot of changes in Town. He said a lot of the skyline had disappeared over time/

He said the economic benefit of going to 4 and 5 stories wasn't clear. He also asked if creating more places that were big dormitories for UNH was what they were trying to achieve for Durham. He noted that the Town hadn't been able to support a restaurant on Jenkins Court, and also said the higher the downtown was built and the more residential it became, the more this would affect what Durham truly was, and who it was serving. He said this issue wasn't about his own economic benefit, and was about the Town and what they would like to see there.

**Jane Kaufman, Oyster River Road**, said she had walked downtown for years, and said she didn't like to walk next to the large buildings there now. She spoke about her concerns about shading as a result of large buildings, and noted among other things that they caused icing of sidewalks. She said she loved Durham, and asked that the Planning Board make it walkable.

**Bill Fideli, Orion UNH LLC**, said it was an interesting dilemma the Town faced. He said they wanted more economic development, wanted more students out of the residential areas and concentrated in their own areas, and wanted families to come back.

He said in order to provide the kind of downtown that residents wanted, there needed to be the demand, and said it was a tough economy right now. He said if they limited redevelopment opportunities, the question was how this limited the underlying value of an economic asset.

He said he wasn't there to talk about his project, and said Orion understood the review process it would need to go through. He said he could look at the situation the Town faced as an outsider, and said the interesting question was where Durham wanted to be over the long term. He talked about the current economics of property downtown, and noted the issues that Orion was facing right now. He spoke about potentially taking away the redevelopment potential of these properties and others downtown with the petition.

**Annmarie Harris, Oyster River Road**, said at the last meeting, the 2000 Master Plan was referred to. She said she had worked on that plan, and said at the time, when they had talked about increasing the density of the downtown and expanding it to Madbury Road, the intent was to redevelop in particular the derelict properties along Madbury Road, and not necessarily to increase the density along Main St.

**Nick Isaak, 35 Oyster River Road**, said if the density in the downtown was limited, this would increase the development pressure on other districts in Town. He noted the student housing projects over the past few years in these areas. He said when he was on the Planning Board, there was interest in protecting these areas, and making the best use of the existing impervious surface areas of the Town.

He said every project was unique, and spoke about the advantage of being able to adjust building height if needed. He said making this decision to allow a maximum of 3 stories might be a problem, and said developers could be scared off by that limitation.

**Ute Luxem, 23 Ross Road, (EDC Chair)** said for the lots on Main Street, there wasn't a lot of difference between cash flow for a 3 story or 4 story building. She said what she saw for the future was the importance of keeping options open for the area behind it that were more visually protected.

She said residents needed to decide if they wanted denser development downtown, and wanted to create revenue in that way so this could offset the residential tax base. She said the 2008 market study found that a \$100,000/year income was necessary in order for someone to move to Durham, and said this excluded creating a healthy mix of people living here.

Ms. Luxem said it was very important to keep this in mind, when considering zoning adjustments in the future. She said 3 story buildings would most likely include 2 stories of student housing because right now this provided the best return for a developer. She said a question was whether they wanted this, and said it was something they would have to face.

**Mr. Michael** said with increased occupancy came increased costs to the Town in terms of sewer, water, fire services, etc. He also said there wasn't enough parking right now to handle more housing. He asked the Planning Board to think about the costs of development, and said if someone could show him that this would make a difference in taxes, he would think differently

**Malcolm Sandberg, Langley Road**, first said he had expected that the room would be filled with property owners who were opposed to the petition. He then said that residents who had participated in the planning programs for the Town over the years had dreamed of a downtown that would be a meeting place for students and long term residents, in a neutral zone that wasn't necessarily residential, and would meet the needs of the community in a way that was aesthetically pleasing, economically profitable, and welcoming to visitors.

Mr. Sandberg said they all should think about ways to get the adult community into the downtown, and said if they just built higher and didn't have constraints that said this area wasn't just for students, they would be missing the boat. He said the message was clear that they should proceed cautiously, and limit things from an aesthetic perspective. He said the message was clear that the overwhelming majority of Durham citizens supported this petition.

***Councilor Cote MOVED to close the Public Hearing. Andy Corrow SECONDED the motion, and it PASSED unanimously 6-0.***

Planning Board members agreed to deliberate on the proposal that evening.

Councilor Cote said he thought the citizen petition should move forward to the Town Council. He also asked how the 35 ft height was determined.

Mr. Behrendt said for a flat topped roof, it was measured at the top and for a pitched roof building, it was half way up from the bottom of the eve to the ridge. He said this meant there could be an additional 8 ft beyond 35 ft for a peaked roof.

Councilor Smith said he agreed with Councilor Cote that the Planning Board should pass this proposal on and let the rest of the Town Council deal with it.

Mr. Parnell said he had concerns about this proposal as it was because of the lack of flexibility it introduced. He noted the Grange redevelopment project on Main St, where there was a 3 story building at the front of the site and a 4 story building behind it. He said if that back building had been restricted to 3 stories, the project, which was a very good addition to Durham, might not have happened.

He said all of the recent development projects downtown included 4 stories. He also said if one walked down Main St, there were buildings there in need of redevelopment. He said if development was constrained with an item like this petition, and if there wasn't some kind of flexibility in it, Main St might remain as it now was.

There was discussion that the 4<sup>th</sup> story of the building on the Grange property had met the Zoning Ordinance requirements because more than 50% of the first floor was below ground. Mr. Parnell said from a development perspective and in terms of the revenues involved, it was a 4 story building.

***Andy Corrow MOVED that the Planning Board is recommending to the Town Council approval of the Citizen Zoning Petition for an amendment to the Zoning Ordinance to establish a maximum of three stories and 35 feet for buildings along a section of Main Street in the Central Business District. Richard Ozenich SECONDED the motion.***

Mr. Behrendt noted that there were a couple of minor housekeeping things included in the petition as well.

***The motion PASSED unanimously 6-0.***

Chair Wolfe noted the comments made about encouraging some flexibility, and said the Town Council would be aware of it.

Mr. Behrendt noted that the Planning Board would be revisiting the commercial core Zoning changes, and could revisit the flexibility issue then.

It was noted that one of six Planning Board members had asked for that flexibility.

- VIII. Public Hearing** (continued) – **Great Bay Kennel**, applicant, **27 & 35 Newmarket Road**. Application for conditional use and amendment to approved site plan to replace canine daycare building with new building including indoor and outdoor play areas, office and studio apartment. Christopher A. Wyskiel, attorney; Mike Sievert, MJS Engineering, Engineer, Robin Wunderlich, building designer. Tax Map 6, Lot 11-7. Residential C Zoning District.

Postoned until January 9, 2012

- IX. Public Hearing** (continued) – **John H. Farrell**, applicant, **110 and 114 Mill Road**. Application for Eight-lot Conservation Subdivision plus a Boundary Line Adjustment. David Vincent, surveyor; Martha Garland and Joyce Melanson, landowners. Tax Map 13, Lots 15-1 and 15-2. Residential B Zoning District.

Mr. Farrell said he had met with Town Engineer Dave Cedarholm and discussed DPW concerns regarding the sight distance at some of the driveways in the proposed subdivision. He said one of the common driveways would be moved in order to improve the sight distance, and said the lot line would be moved as part of this in order to be able to maintain that common drive. He provided details on other changes made to the design for some of the driveways, based on discussion with Mr. Cedarholm.



Mr. Farrell said the owners had re-envisioned the open space issue, and he described on a map the area of common open space that would be designated on two of the lots in the subdivision. He noted that this area abutted College Woods, and said the area would be open to the property owners in the subdivision as well as to the public. He said he believed that this approach went a long way to address the Planning Board's concerns.

Chair Wolfe asked how the open space would be owned, and Mr. Farrell suggested that it would be a simple setup with deed restrictions that referenced the open space for each lot, with cross easements for all eight lots to indicate the rights to the open space. He said the deed restrictions would specifically state that public access to the open space was allowed, and he also said provisions for enforcement would be shared among the lot owners. He also said the Town would still have the right of enforcement if needed.

Mr. Parnell asked if there would be any way to monitor this area, including having a third party do this.

Mr. Farrell said that so far there was no third party. He said it could perhaps be given to the Conservation Commission, and he spoke further on this. He also noted that there had been discussion with the Natural Resources Conservation Service, which was interested but couldn't say yet it could accept any new properties because its budget wasn't in place.

There was discussion on the proportion of land in conservation land with this proposal. Mr. Farrell said 40% of the land needed to be in open space, and said the proposed development exceeded this, at 275,000 sf, which included some conservation land on each of the individual lots.

Chair Wolfe asked if enforcement would apply to the land on the individual lots, and Mr. Farrell said it could, but said this hadn't been figured out yet. There was discussion that the open space that would be open to the public was the large common open space area, and that the open space on the individual lots would not be open to the public.

Chair Wolfe asked if the conservation areas would be delineated by meets and bounds for the deed, and Mr. Farrell said this would be difficult to do for the smaller areas. Chair Wolfe noted that there could be possible disputes on the ground as to where the conservation areas were, and Mr. Farrell said he would identify this on the plan in some way. Chair Wolfe said this should also be identified on the ground, to avoid disagreements, and Mr. Farrell said this could be done. He said he would like to go back to the surveyor and do the final plan.

Councilor Robin Mower said she was very pleased to see the changes that were proposed. She said that concerning the idea of the Conservation Commission taking on the open space, it was well known that conservation easements contiguous to subdivisions were difficult to maintain. She said land trusts were very unwilling to take these on.

She said it wasn't anticipated that there would be a lot of public accessing of that open space, so the area might require a bit less attention from the Conservation Commission

than another area. She said the Commission would meet the following evening, and said the Planning Board rep to the Commission would bring this issue up. She suggested that this was not a slam dunk.

Mr. Behrendt asked whether if this was set up so the open space was owned by the property owners, and if the easement was created just to reinforce the fact that it was open space, the Conservation Commission would accept the easement, especially if some money was put into a stewardship fund, and there was the expectation that someone from the Commission would walk the site once a year.

Councilor Mower said it was possible that this would be entertained, but she noted that the Commission had limited manpower. She said part of the issue was enforcement, and asked if there was the potential for a waiver from the 40% open space requirement, given the constraints of this property, and the fact that a good faith effort had been made to meet it. She noted that the common open space on individual lots used to reach the 40% presented challenges in terms of enforcement.

Mr. Behrendt said in this case, they were trying to get at the spirit and intent of the Ordinance. He said it was good that the proposed open space was adjacent to conserved land, and said it was also understood that it was an unusual subdivision. He spoke further on this.

Councilor Mower noted that many landowners were not aware of the benefits of wetlands, and she asked if there was any way to convey to the individual property owners, including when there was a change of ownership, a sense of responsibility for protecting those areas of open space on a lot.

Mr. Farrell said the Planning Board could make it a requirement that the deed said a property had sensitive wetlands, that there was a responsibility to protect them, and that local regulations required this. He said it was a good thing to do.

Councilor Diana Carroll thanked Mr. Farrell and the owners for going back and coming up with this proposal, and said it spoke well of them. She said she was happy to see what was proposed. She asked if the NRCS was actually interested in the easement, and Mr. Farrell said yes, but said they couldn't entertain this formally right now.

Councilor Carroll suggested that these conversations keep going and said if they came to fruition this would be a win-win. She said they should be ready for this, including having the map lines drawn in the best possible way. She also said she appreciated the idea about being flexible concerning the 40% open space, and said the good faith effort that had been made to meet the 40% with this application meant a lot.

Councilor Mower asked if it would be helpful for the Planning Board to get a comment from the Conservation Commission, and if so, Mr. Farrell should come to the Commission meeting the next evening.

Mr. Behrendt noted that a stewardship fund was a requirement in the Ordinance. He suggested that if the Conservation Commission didn't want the easement, Mr. Farrell could create the fund, and a Conservation Commission member or someone else could check the property once a year. He said this would meet the requirements.

Mr. Parnell said a deed restriction could require action on the part of the property owners, who would have an interest in the common property.

Mr. Farrell agreed, and said the responsibility wouldn't be on just one person's shoulders.

Mr. Parnell said something could also be included in a deed restriction concerning wetland protection.

Chair Wolfe asked again that the conservation land be clearly delineated.

**Diane McCann, Oyster River Road**, said if this conservation land was going to be accessible to the public, whoever owned it should indicate this with signage. There was discussion.

Councilor Smith noted that with the Sophie Lane conservation subdivision, each lot touched the open space. He asked if the lots in a conservation subdivision just had to be accessible to the open space.

Mr. Farrell read from the Zoning Ordinance and said this was pretty broadly written. He said what the applicants had originally proposed could fit into it.

Chair Wolfe said perhaps the Planning Board should look at that definition next year, and see what was meant when the definition was created.

Mr. Behrendt said if the Conservation Commission didn't want to take the conservation easement and the NRCS hadn't made a commitment concerning this, the Planning Board could say that it wasn't necessary to create an easement that went to anyone other than the 8 lot owners.

There was discussion on what the appropriate amount was for the stewardship fund, and the Board agreed on \$1,000 to 3,000.

Mr. Farrell suggested that a new lot owner could set aside a certain amount of money to be put into the fund when the closing on that lot took place.

Councilor Cote said he didn't see any disadvantages to doing this.

Councilor Smith said he was hearing that the so called common open space would be owned by two owners, but said most of the other lot owners in the subdivision would have to go far out of their way to access the open space area from a road. He also noted the wetlands involved in getting to the open space area. He said it would be much better

if the common open space touched the other lots and was in common ownership for all of the lots in the subdivision. He said the lot owners would also own the space unless it was given to another entity.

Chair Wolfe said legally this created some messy problems, and he spoke further on this. Councilor Smith said this was the second conservation subdivision that had come before the Planning Board, and said it would set a precedent if the Board approved an application that didn't provide that the open space would be common to all of the lots.

Chair Wolfe asked Councilor Smith what he meant by "common". He said the open space would be shared through the easement.

Councilor Smith said the other lots wouldn't touch the open space with what Mr. Farrell proposed.

Mr. Behrendt said the Ordinance didn't require that the lots touched the open space. He said the broader public purpose of the open space was more important than what it provided for the lot owners. He said the land would be conserved, and said there would be public access to it. He also suggested that there could perhaps be cross easements so people could walk to the open space without having to walk outside of the subdivision area.

Councilor Smith said that should be the least that was done.

Mr. Farrell said this was not required, and said his understanding of the purpose of the public benefit was the open space protection, not the access to it. He said a tremendous amount of land was being conserved with what was proposed, and said that was the primary intent of the conservation subdivision regulations. He said it would reduce the value of the lots if what Councilor Smith had described was done.

Chair Wolfe asked Planning Board members if they thought all of the lots needed to have deeded access to the large conservation parcel, or if cross easements to the parcel would be adequate.

Mr. Ozenich said he was on the Planning Board when the conservation subdivision provisions were developed, and said the set aside of open space was intended for the conservation of land. He said access wasn't discussed.

Mr. Kelley arrived at the meeting at 8:43 pm.

Mr. Parnell said he was happy to go with what Mr. Farrell had proposed, and Mr. Corrow agreed.

Mr. Behrendt described a possible approach of providing an access easement at the back of the lots in order to access the open space area.

Mr. Parnell said that would reduce the value of those lots, and Mr. Corrow noted that this was not required by the Zoning Ordinance.

Councilor Cote said he didn't see anything in the definition of open space in the Ordinance that said it had to touch all of the lots in the subdivision. He also said he wouldn't want the kind of easement Mr. Behrendt had suggested on his own property, so he wasn't necessarily in favor of that approach in this instance. He said he was ok with what Mr. Farrell had presented.

Chair Wolfe summarized that everyone but Councilor Smith didn't think the common open space needed to be adjacent to the individual lots.

Mr. Kelley said when a conservation subdivision was done, the items they were looking to preserve didn't necessarily cross each of the lots. He said he had no issue with what Mr. Farrell proposed, which was having the conservation land only on some of the lots in the subdivision. But he said he would like to get a better understanding of the area that was chosen for the conservation land.

Mr. Farrell said he picked this area because it was easy to identify, and was largely contiguous with some existing conservation land that would be open to the public.

Councilor Smith said the minimum rear yard setback in the RB district was 30 ft, and asked if perhaps there could be a deeded easement across the back of all but the last lot on the left. He noted that there couldn't be any building in the 30 ft setback anyway. He said for people about to buy one of these lots, they would know that they would be able walk along the common easement to get to the large common open space area, which would be a selling point. Councilor Smith said if a buyer said he/she didn't want anyone walking on his land, he didn't want that person living in Durham.

Mr. Behrendt suggested that it would be easiest for the stewardship fee to be paid in a lump sum by the applicant. The Board agreed on \$1,000 as the amount to be put into the fund. Mr. Parnell said he thought this was symbolic, because he thought the area would be self-monitored.

It was agreed that the applicant would come back to the Board on January 9<sup>th</sup>. Mr. Farrell asked for a sense of whether, if the changes he proposed were made, that was all that was needed. There was discussion that the individual conservation areas on each of the lots would be delineated on the plan, and would not be accessible to the public but would help to meet the 40% requirement. Mr. Farrell said this would be spelled out in the deed and on the subdivision plan.

Mr. Kelley said what was proposed fit well with the adjacent conservation land parcel.

There was discussion about whether the public hearing should be closed. Councilor Cote said the changes to be made had been negotiated with input from the public, and said he

wasn't convinced that if the public hearing was continued, the Board would hear anything else from the public. But he said he wasn't sure the hearing should be closed.

Mr. Parnell said if the Planning Board was asking the applicant to come forward with a finished project that had been discussed in a public meeting, he thought the Board should close the hearing so Mr. Farrell could present the final plan and the Board could then deliberate and make a decision based on that plan.

Chair Wolfe said he would like to keep the public hearing open just in case, but said he would go with the will of the Board.

***Richard Kelley MOVE to close the Public Hearing. Councilor Cote SECONDED the motion, and it PASSED 5-1, with Chair Wolfe voting against it.***

Mr. Lewis had left the room briefly and was not there when the vote was taken.

- X. Public Hearing - Xemed Holdings LLC**, applicant, 16 Strafford Avenue. Application for amendment to previously approved site plan, submitted by DeStefano & Associates, Inc., for various changes to the plan including rotating the building and adding a third floor. Tax Map 2, Lot 8, Professional Office Zoning District.

**John DeStefano**, represented Xemed, and explained that the applicant's previously approve site plan had not gone forward, but that he wished to go forward with a project now, and a revised plan had been developed.

The **engineer for the project** reviewed the modifications proposed to the previously approved site plan.

- Building has been rotated slightly to be parallel to the southern property line.
- Minor adjustments have been made to the building dimensions.
- Adjustments have been made to the front space - removed handicap ramp and replaced it with green space.
- The loading dock will now be an overhead door at grade.
- Generator and condenser pads have been relocated to the rear of the building.
- Dumpster area in back will have one dumpster rather than two.
- Minor edge of pavement changes were made to better circulate trucks on the site.
- There are revised electric lines and guide wires.

Mr. Behrendt said Code Administrator Tom Johnson said the proposal met the parking requirements, except that the back buffer was currently 4 ft and should be 5 ft, so an additional foot needed to be found. Mr. Kelley asked how that would be done, and the engineer said the parking lot would be moved closer to the building. She said there might be an extra foot of paving in the parking spaces. There was discussion on where the additional foot could be found, and about how tight the site was.

Mr. Kelley asked about the proposed location for the transformers, and the engineer said the size of the generator pad had been reduced to 3 ft by 5 ft, and also said the condenser

could be made smaller. She reviewed other changes made based on discussion at the recent Technical Review Committee meeting, including the addition of a bike rack. She said all of these changes would be included on the revised submissions.

Architect Bill Schoonmaker spoke about the building elevations that had been provided. He said the building now had a basement and three full floors. He said the window configuration had changed a bit, and also noted that while previously there had been a loading dock proposed, Mr. Hersman had decided not to do this. He said there would be an overhead door, which had been dropped down to grade.

He also said the handicap ramp at the entry door had been eliminated. He said with the Americans with Disabilities requirements, 60% of entries needed to be accessible, and said with the revised design, the front and rear doors would be fully accessible, so the project would be 100% ADA compliant.

Mr. Schoonmaker said because two floors with a mezzanine were originally proposed, the height had been determined to be the average between the eave line and the ridge, and was 36-37 ft. He said Mr. Johnson had felt that because there would be habitable space underneath the roof, the actual height was determined by the attic space. He said in the PO district, building height could go up to 50 ft with Planning Board permission, and said what was proposed now was about 45 ft high.

Mr. Parnell asked how this height compared to the height of the previous building design, and Mr. Schoonmaker said what was proposed now was 7 to 8 ft taller than the building height in the previous application.

Councilor Cote said from an aesthetic point of view, he was disappointed to see the garage door in front, and said it looked out of place with the windows. He asked if it would be possible to put it in the back, like a typical loading dock.

Mr. Schoonmaker said they had looked at that, but said since it was a tight site, putting the loading dock in the rear would be difficult. He said backing up to the overhead door off of Strafford Ave. worked, noting that there would be a 40 ft long truck that delivered to the site about once a month. There was discussion about the fact that when this truck was there, people wouldn't be able to get in and out of the parking lot.

Councilor Smith said that concerning the aesthetics issue, perhaps there could be some barn like doors that covered the overhead door, and could open back.

Mr. Schoonmaker said they could look at this idea. There was discussion, with Councilor Cote suggesting some possible carriage house doors. Mr. DeStefano suggested that one door rather than two would be better

Mr. Kelley said he was concerned about mobility on the site.

Mr. DeStafano said the turning radiuses for deliveries had been worked out, and he provided details on this.

Mr. Kelley asked if a local control survey had been done for the site, and Mr. Schoonmaker noted that the property line shared with the Library site had recently been established. Mr. Kelley said with such a tight site, there was no room for error with the site layout. He noted that this related to his point about only having 5-6 ft for the condenser or the island, and possibly needing 6 ft.

Mr. DeStafano said the condenser could be put on the island in order to get the extra room, and also said the propane tank would be underground. He said the electric utilities would be underground, and provided details on this.

Mr. Kelley asked if the owner was ok that the driveway would be impacted when there were deliveries to the site, and Mr. DeStefano said yes. There was discussion that the parking on site would be predominantly for the employees. It was noted that there were currently 15 people working there.

It was noted that there would be an asphalt shingle roof and vinyl siding. There was discussion on whether the development would be subject to the architectural design standards. Mr. Behrendt said if the redevelopment project was considered to be substantially different than what previously was proposed, the new Ordinance came into play. But he said if the changes were considered to be incremental, it didn't come into play.

Mr. DeStefano said the width and length of the proposed building were exactly the same as what had previously been proposed. He said the building elevations were the same as before, and the cupola was the same. He said the building materials had changed, and also said the proposed height was different.

***Councilor Cote MOVED to open the Public Hearing. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Wolfe asked if there was any members of the public who wished to speak in favor of the application, and there was no response. He then asked if there was anyone who wished to speak against the application.

**Steve Kimball, Pine Ledge Holdings**, noted that he was an abutter, and had sent a letter to the Planning Board on this application. He said he assumed that this letter would be in the public record.

The letter read as follows:



Dear Durham Planning Board Members:

I am writing to you regarding the Public Hearing on the site plan amendment for Xemed Holdings LLC at 16 Strafford Avenue in Durham. There are a number of issues with respect to the application I would like to see the planning board seriously consider before approving any of the proposed amendments.

First and foremost, I would like to point out that this project was approved almost three years ago and all that has happened is that the trees, shrubs, and surface soil of the lot was stripped and left a muddy, ugly mess (even in students' eyes) that was found to be in violation of storm water runoff control regulations. If there were to be any additional approval, I think it would be in the best interest of everyone in town that the following conditions be placed on the project.

1. As allowed under the Durham Site Plan Regulations Section 8, a financial surety and construction guarantee with a specific timeline be established for this project to ensure it does not languish in a half finished, unsightly and potentially hazardous state.
2. As allowed under the Durham Site Plan Regulations Section 11.03, that a maintenance guarantee be established to ensure that all site runoff controls, landscaping, etc. be properly maintained.
3. That specific criteria be established as part of the approval to meet the "Active and substantial development or building" of NH RSA 674:39 in order to establish a time limit for the site plan approvals should the developer again decide to stop partway through construction while he seeks amendments to his plans.

I would ask the Planning Board to look especially closely at the plan with respect to Durham Site Plan Regulation Section 9.03 regarding storm water runoff. The track record of the applicant in this respect has been poor and needs to be closely monitored and strictly enforced as it negatively impacts abutting properties including the wetland and surface brook of the library property that drain directly into Reservoir Brook which feeds the Oyster River. It has also been a terrible eyesore to the residents at 20 Strafford Avenue who have complained about the mudpit mess.

I am also concerned about the placement of the generator and condensers on the North side of the building. That places them directly beside the library and the building will reflect the noise towards the residential areas to the North including my property and the Meadow Road neighborhood. These should be sited on the South side so the noise is projected away from the library and the Meadow Road neighborhood.

I also think the board needs to consider carefully the recent rezoning in the area. As it stands today, two of the abutting properties to this one have been rezoned to Residence A from PO. When the current plan was proposed, there was no concern for protecting the surrounding residential areas since it only abutted PO properties. That is no longer the case. The litigation with respect to this rezoning is still pending, but until that is resolved the Xemed property abuts Residence A properties containing single family homes and the town library. Town Councilor & Planning Board Member Jay Gooze made impassioned arguments less than one year ago that my property and the town's library property absolutely could not be allowed to remain in the Professional Office District in order to protect the surrounding neighborhoods and the library itself from any commercial development. His argument was that my property at 20 Strafford, next door to 16 Strafford, was actually part of the special Meadow Road pocket neighborhood and any property within one thousand feet adjacent to any property is considered part of the neighborhood, which also encompasses 16 Strafford Avenue. There are no other buildings like Xemed is proposing in this neighborhood and it would simply be wrong and out of character to allow this huge building in the midst of RA zoning. The Xemed property now abuts those delicate neighborhood homes and library. I think the board should be working to absolutely minimize the size of any development on the Xemed site. It would be grossly hypocritical for the town to tell one property owner that he cannot ever contemplate any commercial development of his property because it abuts the library and a residential area behind it, but then allow the property literally next door, which is also abutting the library and with residential homes abutting in the rear, to engage in commercial development at any scale and density they choose. (Note: While the homes to the rear of the Xemed property may be "just rentals" now, they could return to owner occupied single family homes in the future and allowing Xemed to overdevelop their lot would be a disservice to those homeowners.)

I am also very concerned that the proposed amendments to the site plan, specifically where the height be increased to 45 feet with three full stories, exceeds the conditions placed on variances which were previously granted in order to build on this scale on such a small lot (.50 acre). If the site plan exceeds the 50% impervious cover ratio allowed in the PO district then I believe the applicant is relying on a variance granted on December 13, 2005 which allowed him to increase to 75% impervious cover. However, that variance included a number of conditions, it was not a Carte Blanch exception from the impervious cover ratio requirement.

The December 13, 2005 minutes from the Zoning Board of Appeal contain the following language on page 20 with respect to Xemed's Application for Variance.

"Henry Smith Moved to grant the request from Xemed for VARIANCES from Article XII, Section 175-54 and Article XXI, Section 175-112 of the Zoning Ordinance to build a second commercial building on a lot and to provide fewer parking spaces than is required for a commercial building, and to recommend as a guideline to the Planning Board that there be no more than 75% coverage with impervious materials, that there be a minimum of 16 parking spaces, and that this is entirely conditional upon granting of a conditional use permit specifically to Xemed for the project as described, and passage of the new Zoning Ordinance. Linn Bogle SECONDED the motion, and it PASSED 4-1, with John deCampi voting against it."

Two significant issues are raised. First, the variance was granted conditionally "...for the project as described..." The project being presented to the planning board now bears little resemblance to the

project plan on which the 2005 variance was based. Specifically, the proposed project was to add a second building of 5,000 to 7,500 square feet to the lot, while retaining the original building. At the time, the applicant's design was for a one or two story building.

"Chair Kelley asked if a single story building was required because of the nature of the business. Mr. Hersman said a two-story building was possible, but said because of the size of some of the equipment, this might be more difficult. But he noted that it might be the only viable solution." [Planning Board Meeting Minutes 14 June 2006, pg. 3].

The current proposal is to demolish the original building and only retain a single new building. The new building is proposed to be a three story structure. This represents a substantial change in the character of the resulting development and the original variance should not apply.

The second issue is that, if the board determines the variance still applies, it clearly states a Conditional Use permit be obtained for any deviation from the Ordinance that relies upon the variance and, to my knowledge, no such Conditional Use permit has been applied for or granted.

Mr. Kimball said the applicant came forward for variances to allow more coverage with impervious surfaces, with parking in front, for a single story building. He said the variances were granted, but Mr. Hersman then came back with a different project that was approved, before the Library project. He said he remembered someone saying at that time that Mr. Hersman was trying to put too big a building on a tiny lot. He said after the approvals were received, the vegetation was stripped from the site.

He noted that Mr. Hersman had gotten some tax incentives for the current project, and said he planned to build a bigger building than what was proposed before. He said that building would tower over the Library and would be far bigger than anything else in the area. He said it would be out of scale, and would not be appropriate.

Mr. Kimball said the Town had been arguing that it wanted to protect residential abutters. He said his own property would be residential forever, and said the Planning Board needed to protect it and the properties behind it. He said he would like the Planning Board to tell Mr. Hersman to build a two story building, and said such a project would fit better on the lot.

Mr. Kimball said he realized that Mr. Hersman had said he might have to take his business elsewhere, but said he thought Mr. Hersman wanted to be in Durham. He said the project should be kept at the right scale so the interests of the people in the area would be protected.

Mr. Kelley noted that Mr. Kimball had been in front of the Planning Board a lot, and said he recalled that one of the proposals for his property had been a mixed used development.

Mr. Kimball said that was true, and noted that the project had been approved but wasn't built because the economy crashed. He said the Town had then rezoned his property to residential so it wouldn't be developed in this way. He said he therefore had to look out for the families that would be living on his property.

Mr. Kelley noted that Mr. Kimball had supported the idea of his property being in the Professional Office district. There was discussion on the Zoning change that had occurred that moved Mr. Kimball's property and the Library property from the PO district to the RA district.

Councilor Smith noted the New England Center, in regard to the comment that the proposed building was inconsistent with the scale of buildings on Strafford Ave. He also noted that there were two buildings on Mr. Kimball's property, and asked if the shadow from the Xemed building would affect them.

Mr. Kimball said no, but said it would affect the other abutters on Madbury Court.

Mr. Corrow said there were some relatively large structures on Strafford Ave, such as the apartments and fraternity buildings there.

Mr. Kelley noted that the ground was already broken on the Xemed site, and Mr. DeStefano explained that the previously approved project had been started but was challenged by Mr. Kimball, so it was put on hold. He said it took some time to get this resolved, and for Mr. Hersman to look at the economic viability of the project.

He said the business was doing well now, and said this was expected to continue. He said Mr. Hersman would like to be at that location, and to be part of the community. He said the Town was in support of the project, and said the conditions were favorable to start the project now.

Chair Wolfe asked why the proposed building design wasn't proposed before, and Mr. DeStefano said while the previous plan put the labs in the basement, after thinking more about product and personnel movement in the building, they decided to move the labs up from the basement.

Mr. Kelley asked when Mr. Hersman wished to move forward with the plan, and Mr. DeStefano said they hoped to start work after the first of the year.

There was discussion that Xemed would operate in the existing building on the site during construction. Mr. Schoonmaker explained that this was why the parking couldn't be put behind the new building. Mr. DeStefano said there would be enough room for everything, and said he was used to working in very tight spaces. He provided details on erosion control measures and other measures that would be in place during construction.

***Richard Ozenich MOVED to close the Public Hearing. Andy Corrow SECONDED the motion, and it PASSED 7-0.***

The Board agreed to begin deliberations on the application.

Mr. Kelley said it was odd that Mr. Johnson had measured the roof line the way he had.

Mr. Parnell said he thought Mr. Johnson had a standard way of doing this, and there was discussion. A comparison was done, ridge to ridge, of the previous project and currently proposed project, and it was determined that if the criteria used for the first project, measuring the midpoint of the distance between the eve and the ridge, was applied to the current project, there would have been a 39 ft high building instead of a 35 ft building for the first project. It was then determined that the building in the current project was 8 ft higher than the building in the previous project.

Mr. Kelley said he was ok with a 3 story building in this area despite the testimony the Board had heard. He said he felt that it would fit in, in an area where there tended to be some larger buildings. He said it was the Kimball property that was the abnormality, which was why he had supported putting that property into the PO district.

Concerning the fact that the Library was an abutter, Mr. Kelley said he didn't believe that the area of that site closest to the Xemed site would be developed because of the wetlands there.

Councilor Smith said the library was set way back from the south boundary. He said he didn't see a problem with the amended application.

Mr. Corrow noted that there was no change proposed to the footprint.

Chair Wolfe said the Kimball property had been rezoned, and said the Planning Board had an obligation to protect it. He said the size of the building proposed now was significantly more than the building that was originally approved, and said this would probably hurt Mr. Kimball's property and make it less useful and less saleable. He said he would vote against the application.

Councilor Cote said a question was what the Planning Board would do if someone else was coming in with an approved project and wanted a higher building. He spoke further on this, and said he wasn't sure.

There was discussion. Mr. Parnell said one thing the Board had talked about when they discussed the Zoning changes was what should be done with areas that abutted residential areas, including how high buildings should be allowed to be. He said the Board had changed the boundary line of the RA district, and said this was the first building project in front of them since then.

He spoke further on this, and said the problem Jay Gooze had had was that Mr. Kimball could build a larger property next to his residence. He said there was concern about the zoning, but also about what these buildings would be like. He said the Planning Board had been looking at putting restrictions on buildings that were direct abutters of residential properties.

Mr. Corrow noted that the areas to be treated differently because they abutted residential areas had been highlighted on a map.

Mr. Kelley suggested doing a site walk. Mr. Parnell said this was a significant difference proposed, and said they shouldn't rush the review process. Mr. Kelley said if the roof line was marked it could be seen in context, and Councilor Cote said he would like to see the originally proposed height as well as the new height with balloons. Mr. Kelley said he was willing to go back and look at the Minutes for the previous site plan application.

Chair Wolfe said they should also look at the commercial core zoning amendments that were under consideration, concerning properties that abutted residential neighborhoods. He said the Planning Board had spent a lot of time on this issue because of concerns about impacts on these neighborhoods. He said they had an obligation to the neighbors to protect their properties. He said if Mr. Kimball's property was rezoned, he would approve the Xemed application in a heartbeat.

Mr. Ozenich spoke about the original site plan approval.

The Board agreed to do a site walk, and discuss the application further at the next meeting. Mr. Kelley asked to see revisions to the plans, based on finding the additional one foot.

**XI. Proposed amendment to allow raising of poultry and game birds for noncommercial purposes as an accessory use to a residence.** Amendments to the Zoning Ordinance and Noise Ordinance, proposed by the Durham Agricultural Commission. Zoning Ordinance: Article II, Section 175-7, Definitions; Article XII, Section 175-53, Table of Uses; Article XX, Sections 175-109, Performance Standards Compliance Required. Noise Ordinance: Article II, Section 85-5, Specific Prohibitions and Section 85-6, Exemptions. The public hearing is closed.

Mr. Behrendt suggested that the Planning Board discuss the proposed amendments and the issues that had been raised; provide some guidance to the Agricultural Commission; and then refer the proposed amendment back to the Commission for further consideration in light of the issues that had been raised.

Councilor Cote provided the following comments:

- He said he was not convinced that roosters should be allowed in all zones because of the noise they could make. He said the Agricultural Commission should look at this and other possible noise issues involved with raising poultry, including addressing noise complaints.
- He said impacts on the various zones need to be looked at.
- He said he had reservations about allowing this use in every district.
- He said he was not in favor of front yard coops.
- He said the one ft setback from a property line was not reasonable.
- He said he was in favor of limiting the use to one and two family dwellings.
- Miscellaneous concerns – the number of chickens, and the aesthetics of chicken wire in yards
- He said health and safety issues need to be considered.
- He said more information was needed on best management practices.
- Concerning enforcement, he said this should be done by another agency in Town, and not the Agricultural Commission.

Mr. Corrow provided the following comments:

- He said he wasn't sure how he felt about coops and chicken wire in front yards.
- He said the proposed ne foot setback didn't make sense,
- He said he was concerned about poultry being loose on properties, in close residential areas. He noted that his daughter had been chased by geese, and that domestic ducks could sometimes be seen along Durham Point Road. He said he was not a fan of fowl wandering on his property.
- He agreed that the use should only be allowed for single family homes and duplexes.
- He agreed that people should be able to own chickens, but said there were some bugs to be worked out.

Chair Wolfe provided the following comments:

- He said he didn't feel strongly about the roosters. He also noted that they were not required to get eggs.
- He said geese should be treated differently in the regulations because they could be aggressive, and said he was ok with them if they were penned. He said he wasn't sure how ducks should be treated.
- He agreed that fowl should not be wandering in neighbors' yards.
- He agreed that the Agricultural Commission should not be doing enforcement.

Mr. Kelley said he didn't have much to add to what had already been said. He said he might not feel as strongly about some of these issues as others did, but agreed that the issues raised should be addressed. He noted that there was a lot of support for chickens in Town.

Mr. Parnell said the regulations should be more specific, and said what was proposed right now was too non-regulatory. He noted a letter from Councilor Lawson concerning this, which included a list of rules and regulations from Ottawa concerning keeping chickens. He said they provided a good example because they were easy to understand, and very specific. He noted some of the things these rules and regulations included:

- No roosters
- Allow chickens of a certain age
- Specifications on size of coop, run, everything enclosed, covered, nothing in front yard
- Wandering around not allowed
- Specific on slaughter procedures
- Setbacks specified

Mr. Parnell said what the Agricultural Commission came up with needed to fit with the Zoning Ordinance. He said a lot of people in Town weren't interested in raising chickens, and said these people needed to be protected too.

Mr. Ozenich said he liked Mr. Parnell's approach, and said it was important to be specific. He said he would say no to roosters, but said he was not against poultry in general. He said the fowl shouldn't be all over Town.

Mr. Lewis agreed that there shouldn't be roosters, and also said the geese needed to be separated out. He said the regulations from Ottawa were nicely done, and were something to look at.

Councilor Smith noted a property owner who had done nothing to stop fowl from walking around Town, which was the Town of Durham. He noted the vicious swans at Mill Pond, and the ducks begging for bread. He said he had nothing more to add.

Mr. Behrendt said he would forward these comments to the Agricultural Commission.

**XII. Other Business**

**XIII Review of Minutes:**

September 12, 2012

Page 21, line 11, should be 6-0.

Page 25, motion to adjourn should say 6-0.

*Lorne Parnell MOVED to approve the September 12, 2012 Minutes as amended. Andy Corrow SECONDED the motion, and it PASSED 6-0-1, with Richard Ozenich abstaining because of his absence from the meeting.*

September 19, 2012

*Lorne Parnell MOVED to approve the September 19, 2012 Minutes as amended. Andy Corrow SECONDED the motion, and it PASSED 5-0-2, with Councilor Cote and Richard Ozenich abstaining because of their absence from the meeting.*

October 10, 2012

Page 17, line 28, vote should be 6-0.

*Councilor Cote MOVED to approve the October 10, 2012 Minutes as amended. Lorne Parnell SECONDED the motion, and it PASSED 6-0-1, with Wayne Lewis abstaining because of his absence from the meeting.*

October 24, 2012

*Richard Kelley MOVED to approve the October 24 2012 Minutes as amended. Lorne Parnell SECONDED the motion, and it PASSED 6-0-1, with Chair Wolfe abstaining because of his absence from the meeting.*

**XIV. Adjournment**

*Richard Ozenich MOVED to adjourn the meeting. Richard Kelley SECONDED the motion and it PASSED unanimously 7-0.*

Adjournment at 10:30 pm

Victoria Parmele, Minutes taker