

**From:** [Michael Behrendt](#)  
**To:** [Karen Edwards](#)  
**Subject:** FW: Main Street #19 - public hearing \*\*\*  
**Date:** Tuesday, July 26, 2022 6:09:22 PM

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Karen,  
Please post to the website. Thanks.

**Michael Behrendt**

Durham Town Planner  
8 Newmarket Road  
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(603) 868-8064

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**From:** Michael Behrendt  
**Sent:** Tuesday, July 26, 2022 4:32 PM  
**Subject:** FW: Main Street #19 - public hearing \*\*\*

To the Planning Board,  
Two clarifications about the items below: 1) Laura Spector suggests the comments at the final public hearing be limited to the draft notice of decision since that is the item before the board (and it is debatable what should be considered “new”) and 2) At the final meeting there would likely be three separate votes: on the conditional use, the site plan, and the draft notice.

**Michael Behrendt**

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**From:** Michael Behrendt  
**Sent:** Tuesday, July 26, 2022 4:13 PM  
**Subject:** Main Street #19 - public hearing \*\*\*

To the Planning Board (cc to applicant and abutters),  
Things have been a little confusing now with holding deliberations and simultaneously receiving written comments (but not verbal comments) while the hearing has been adjourned. We tried this new approach but learned there

is a better way that we can segue to now. Heather Grant and I spoke with Town Attorney Laura Spector today. Per Laura's guidance, I would like to recommend the following to the Planning Board for your consideration tomorrow evening:

- Continue deliberations tomorrow evening but do not take any votes, as discussed earlier.
- Close the public hearing on August 10 as planned. The applicant and the public can speak on August 10 and we will continue to accept written comments until then. After the hearing closes that evening no new comments, written or verbal, will be accepted.
- Continue deliberations to a subsequent meeting (August 24 is the following meeting).
- Toward the end on its deliberations, the board will direct me to prepare a draft Notice of Decision for approval or denial at a subsequent meeting.
- If the draft notice is for approval, we will send out new notices for a new public hearing. Since this is an additional round of hearings beyond what is required in the statute the Town will pay for the notices. The board will accept input from both the applicant and the public only on the draft notice and not on any other issues (unless other new information has been received).
- If the draft notice is for denial then we will most likely not hold a new public hearing. There is need for input for an approval since numerous terms and conditions are included for which we would seek feedback so that the notice is optimally crafted. This input is not needed for a denial since there are no terms or conditions with a denial.
- The board will take one vote – at the final meeting about the conditional use, the site plan, and the draft notice.

- It is possible that the board could ask me to prepare a draft notice for approval or denial and then go in a different direction during the vote. Then I would prepare a different notice for a subsequent meeting. We will not know until that final vote is taken.

The review process can be complex and difficult and each case is different. Everybody's patience is appreciated. Going forward, when we have projects that are challenging, this can be an effective process: close the public hearing, start deliberations, prepare a draft notice, renotify at the Town's expense for the public hearing to obtain feedback on the draft notice (if for approval) and then hold the final vote.

**Michael Behrendt**

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