

These minutes were approved at the September 25, 2024 meeting.

TOWN OF DURHAM
DURHAM PLANNING BOARD MEETING

Wednesday, August 28, 2024

Town Council Chambers, Durham Town Hall

7:00 pm

MEMBERS PRESENT: Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Richard Kelley, Heather Grant (Alternate Council Rep), Peyton McManus, Robert Sullivan, Erika Naumann Gaillat (Alternate); Emily Friedrichs (Council Rep) arrived late

MEMBERS ABSENT: Tom DeCapo

ALSO PRESENT: Town Planner Michael Behrendt

I. Call to Order

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

II. Roll Call and Seating of Alternates

Chair Rasmussen called the roll and seated Erika Naumann Gaillat for Tom DeCapo, and Councilor Grant as Council Rep until Councilor Friedrichs arrives.

Chair Rasmussen said Tom DeCapo has requested to move to one of the Alternate slots which gives the Board an open regular seat.

III. Approval of Agenda

Chair Rasmussen requested moving Item X. Zoning Definitions to after Other Business.

***Richard Kelley MOVED to accept the Agenda for August 28, 2024 as just amended;
SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.***

IV. Town Planner's Report

Nothing to report.

V. Reports from Board Members who serve on Other Committees

Reporting from the IWMAC Committee: Chair Rasmussen said the meeting was cancelled and the committee will be meeting again the first week of September.

Reporting from the Conservation Commission: Mr. Kelley said he missed Monday's meeting and asked Mr. Behrendt if he had anything to report. Mr. Behrendt said Sally did a presentation on Housing; more work needed on new WCOD and SPOD.

Councilor Grant said there was a discussion on ADA analysis of trails, trail accessibility, and trail systems; whether more land can be made available; identifying trails needing simple modifications. The Conservation Commission approved up to \$2,200 for a wheelchair-bound person to evaluate key town properties by for accessibility.

Reporting from the Town Council: Councilor Grant said the Town Council only had 1 meeting in August and the next meeting will be September 9, 2024.

VI. Public Comments – None not related to Workforce Housing Ordinance.
No Public Comments.

VII. Review of Minutes (old):

VIII. Extension for 121 Technology Drive. Request for extension to meet precedent conditions for site plan for improvements to light industry building at 121 Technology Drive. Brandon Kelly, R. J. Kelly Company, property owner. Shawn Smith, R. J. Kelly, applicant. Map 204, Lot 2, Office Research Light Industry District. Recommended action: Approval.

Mr. Behrendt said there was no need for the applicant to attend; this project was approved by the Board a year ago and only missing item is a Recycling Plan. Applicant is meeting with Public Works and asked for a 1-year extension.

Emily Friedrichs arrived at the Planning Board meeting at 7:08 pm and was seated as Council Rep.

Board discussed length of time needed to meet precedent conditions and agreed to a 6-month extension.

Richard Kelley MOVED to extend the precedent conditions for 6 months for site plan improvements for light industry building at 121 Technology Drive, Map 204, Lot 2, in ORLI District; SECONDED by Councilor Friedrichs; APPROVED: 7-0, Motion carries.

IX. Public Hearing – Workforce Housing Zoning Amendment. Amendment for a proposed new Article XVIII.1 - Workforce Housing Overlay District for the purpose of providing opportunities for the development of workforce and affordable housing and to ensure the availability of a diverse supply of rental housing. The article includes provisions regarding density, rent levels, types of dwelling units, other allowed uses, open space, infrastructure, and other matters. The overlay district includes two areas: 1) most of the Office Research District and a large parcel in the Residence Coastal District; and 2) the entire Office and Research Light Industry district located north of Mast Road. Related changes are made to several other articles including the density allowance for workforce housing in conservation subdivisions. Recommended action: Close public hearing and work on changes to the draft ordinance.

Al Howland of 32 Frost Drive said it is nice that Durham can offer some more expensive units to offset costs and still have 100% workforce. He said he visited a gateway project in Exeter with 220 units off Route 27 and it required TIF as well as money from the town to actually build it plus a lot of Invest NH money. He said you can build zoning you feel good about and not build anything and a lot of projects are using incentives to make them viable.

Beth Olshansky read a letter from **Dennis Meadows** who could not be here tonight. Mr. Meadows said these zoning changes will change the character of Durham and the quality of life for residents; the Board has been focusing on the strategy for achieving change but not on the underlying goal. He said a few different growth scenarios should be created: 1) growth leveling out over the next year; 2) sustaining growth and ignoring later problems; 3) experiencing really significant exponential growth. He challenged the Planning Board to ask a few citizens to draft some simple scenarios as a point of reference to begin building a foundation of consensus and analysis.

Janet Perkins Howland of 32 Frost Drive said she is distressed by some of the language people are using like who they *want* to invite to Durham and said that is antithetical to who we purport to be as a welcoming community. She said she did not think vibrancy could be instilled in downtown unless we plan for housing diversity to allow our workforce to live there. She said there are opportunities for Durham to lead here in sustainability, and she would rather be a leader than stagnate and be left behind.

Wes Dalton of Lee, NH, said in his role with 4 Rivers Church he gets to interface with a number of people and see challenges and opportunities in our region. He said the church is a unique social institution that bring a variety of people together and a lot of people would like to live in Durham closer to their jobs here on the Seacoast. He said this type of workforce housing would be a great benefit and they are excited about the possibility; in his role here, he would like to encourage the Planning Board to continue with this work.

Joshua Meyrowitz of 7 Chesley Drive said he was disappointed not to see any ideas he offered at the last meeting, which seemed to be well-received, in the form of a more positive vision included for this project. He said he left it to others to point out concerns as to what we would really want and the scope and scale for a new Durham neighborhood. He said it is refreshing to work with a local developer who has a good reputation which reflects our community values and said he understands the concern about adding too many rules but some kind of requirement for mixing of units is needed; a young faculty member could start with a studio and be able to move while staying in the same neighborhood. He also emphasized the importance of connections by foot and bike. He said the project is too grand in some ways and too small in imaginative thinking.

John Randolph of 1 Stagecoach Road said Maggie and I want to continue to place our support behind this amendment, regardless of who ends up doing the project. He said we have had a lot

of conversations with residents across the Durham area with a lot of great feedback, and the Board has been very open with feedback. He said communication is important and every time we do this the project gets a little better; he supports limiting 3-bedroom units and welcomes the opportunity to work with the AG Commission. He said there is a lot of room to move forward in a thoughtful way with community input.

Chair Rasmussen said when you look at workforce housing projects that have occurred throughout the State, most do not have any 3-bedrooms because it is more efficient to build smaller workforce housing units. He said the Board discussed whether or not to require a particular mix to make sure we had a few 3-bedroom units instead of trying to limit them.

David Richman of 16 Cowell Drive said he is not a planner and his gratitude the board members is immense. He said we have a moral obligation rising and it is a moral imperative that everyone deserves a place to live, and there is not anyone who should not be welcome in Durham. He said I am a teacher of theater and a director of Shakespeare and briefly invoked King Lear, Act 3, Scene 4 which he read aloud. He said we in Durham have an obligation to take great care of this and must provide housing for all those who need it.

Matt Komonchak of 1 Thompson Lane endorsed many of the criticisms and comments made earlier and on August 14. He said he agrees with the moral obligation to provide adequate housing and a dignified place to live but is opposed to the current iteration of the draft zoning amendment and has many problems with what has been done to date. He said he is opposed to a few main points: 1) jumping to satisfy the State mandate without really questioning and without bringing the recent history of development taking place in Durham to bear; 2) Durham has a duty to push back on the estimates provided in the RKG report and come up with some that are defensible; 3) the Housing Task Force (HTF) has been active since 2021 and has produced very little in terms of analysis done.

Mr. Komonchak said both the lack of rigor at the HTF level and the lack of reliable information and rigor in the RKG report give him pause about moving forward with such an important and broad amendment that affects several parcels in Durham in significant ways, and said the pillars on which the proposed zoning amendment is based are somewhat shaky. He said at times it was difficult to distinguish between the boards, due to focus on brokering a one-seller to one-buyer transaction, that they went ahead with too much speed and curtailed analysis.

Mr. McManus said with regard to the RKG report one could just look at the market as a fairly quick proxy for affordability, evaluated on a daily basis. He said the market is telling you one thing and the RKG report is telling a slightly different story in a different way, but both point to the same conclusion. He said the price of housing in Durham has escalated higher than in other communities and said there is a policy-making body and there are businesses finding it difficult to hire employees who are able to find housing and policy is trying to catch up.

Mr. Komonchak said when planning a project like this you need more granular information; the question of who you are building for is inadequately answered. He said it is not enough to deal with affordable housing at such a macro level while dealing with such important zoning. Mr. Kelley said there is only so much in the board's sphere of influence, and asked Mr. Komonchak if he had any questions or comments specific for the amendment. Mr. Komonchak said he did not as it is based on shaky premises and the information is based on faulty or weak analysis.

Beth Olshansky of Packers Falls Road said Mr. Meyrowitz paints an attractive picture of what could happen on the Keefe property; originally the focus was on moving a boundary for one property and now we are talking about much more land, with ORLI just thrown in. She said the public wants to know the impact and a buildout analysis of ORLI is needed.

Chair Rasmussen said everyone needs to keep in mind that when the Planning Board feels there is enough, they shut off the valve; the idea that the entire overlay is going to become workforce housing is never going to happen. He said between 2012-2018 unit sizes in downtown were tweaked many times to try to find the right balance; the housing issue will be an ongoing thing we will be constantly addressing and this is our first step.

Ms. Olshansky asked why the Board did not look at Mill Plaza and Churchill; Chair Rasmussen said because those areas are already highly developed with different economics, and a different housing method will be needed in those areas. Mr. Kelley said State legislation is requiring "X" amount of available residential zoned areas to be opened to this sort of use. Councilor Friedrichs said ORLI was identified by RKG as a potential site because of town sewer availability, there are open parcels there, and it aligns with the UNH West Edge Project.

Ms. Olshansky said the land is mostly agricultural and she does not agree with the 100-ft setback for 4-story buildings, and we should instead try to accommodate smart growth and the transept which is part of our Master Plan. Mr. Kelley said the northern part of ORLI is wooded with significant slope which will inhibit development. Chair Rasmussen said an overlay district must be large and has a minimum size that needs to represent different parts of the town.

Mr. Behrendt said an overlay district is a better approach than just changing the zoning on the Keefe property. He said the Planning Board is expanding to the west because there are a few good-sized properties, it was recommended by RKG, and water and sewer are available. He said the town has wrestled with multi-family and this will be an ongoing adjustment for Durham.

Chair Rasmussen MOVED to close the public hearing on Workforce Housing Zoning Amendment; SECONDED by Erika Naumann Gaillat; APPROVED: 7-0, Motion carries.

Mr. Kelley requested that the Board recess for a few moments at 8:17 pm.

Chair Rasmussen resumed the Planning Board meeting at 8:25 pm.

Chair Rasmussen asked Board members if they should take this up at a future meeting and move on to the rest of the business. Vice-Chair Tobias felt it would be good to review notes and think about what was said. Chair Rasmussen asked that board members go around and state areas of needed improvement with no discussion.

Chair Rasmussen said he believes the Board should make the map smaller, and said he could live with the rest. *Vice-Chair Tobias* agreed with tweaking the map and reducing the footprint, defining the number of 3-bedroom units, and perhaps encouraging a developer to work with the AG Commission. *Mr. McManus* agreed to reduce ORLI and recommended just stating the Churchill numbers and dimensions instead of referencing Churchill itself. Chair Rasmussen said he already instructed Mr. Behrendt to create a new column on the side of the document.

Councilor Friedrichs said it will be hard to pass this ordinance through the Town Council and suggested working in the recommendations of the AG Commission and the Energy Committee, and revisit ownership options. *Councilor Grant* said the map can be tweaked; there was language about a mix of bedrooms in the document, but we wanted the developer to have flexibility on that; possibility of ownership could be added to help support cost of infrastructure.

Mr. Sullivan said some concerns about what we are building could be subjective, and he recommended the incentive list be flushed out more; a lot will come out when a developer presents his plans. Chair Rasmussen said he is mixing Site Plan Regulations with Zoning, which are two separate things. Mr. Sullivan asked how to assure people that the site regs is where that will come out. Chair Rasmussen said that will be discussed at a later date.

Mr. Kelley said the public is concerned with the impact and we could incorporate some guardrails in the zoning ordinance to prevent over-development, and avoid taxing the infrastructure and the school system. *Ms. Naumann Gaillat* said there were comments about the map and concerns about 3-bedroom units which she thought had been specified to 1/3 of dwelling units. Mr. Behrendt said that was just his suggestion. Ms. Naumann Gaillat said she is in support of that as well as including paths that can be accessed by the public but not as a requirement.

Chair Rasmussen said the problem with people who keep talking about the Keefe property is that the Board is passing an Ordinance for the whole Overlay District; what we write has to be appropriate for every piece of property and we have to be careful with requirements. He said if the Board starts chasing too many things they will not meet the required deadline of the end of this year, and said if they can explain why certain elements are missing that people want and say we will address those at a later date, he would hope the Town Council would be accepting as opposed to waiting for something that is perfect. He hoped that two more nights of work would get this to a new Public Hearing and send this to the Town Council in December.

Chair Rasmussen said 90% of the comments will not end up in the draft ordinance and the same draft ordinance should continue to be used at the next meeting, with comments listed on the side. He said he also hoped to have a draft of a cover letter for the Public Hearing and a list of FAQs for the next meeting.

XI. Other Business

- **Recommendation from the Durham Energy Committee to allow Small Group Net Metering in the Core Commercial Zoning Districts**

Chair Rasmussen said the solar array at St. Georges Church was not allowed by zoning to be used to support both properties, which would technically have been small group net metering. In response, the Energy Committee asked the Board to look into the issue and change the Table of Uses to allow small group net metering in core commercial zones.

Councilor Friedrichs said the Energy Committee felt land in downtown was valuable and it was unlikely a solar farm would be built there as there is not much open land available. Chair Rasmussen said he would like to move things forward in groups of 3 or 4 and would ask Mr. Behrendt to attach other things as well. Mr. Behrendt asked if all 5 commercial cores in the Table of Uses should be marked P, and Councilor Friedrichs said that is the Energy Committee's recommendation.

- **Discussion about expanding residential options in the downtown area**

Chair Rasmussen said this is in reference to Todd's letter which is a complex issue we will need to look. Vice-Chair Tobias said a lot of research will have to be done and said Todd brought this up with the Housing Task Force. She said a few of the members are dealing with downtown businesses already and Tom and Peyton have started looking into this as well and suggested partnering up and starting a working group. Councilor Friedrichs said they also need to include downtown businesses and parking. Chair Rasmussen said if there are 4 members of the planning Board working on this everything will have to be a public meeting.

Chair Rasmussen said downtown includes the 5 zones that represent our commercial districts, potentially, but we would not have to touch all of them. It will definitely include Main Street and could include Churchill and Court House districts. Ms. Naumann Gaillat said she tried to do things with her lot and went to the Zoning Board but 20 people showed up against it, and the board needs to be prepared for that. She said in Todd's email there was also a forwarded chain from 3 business owners thinking of closing. Vice-Chair Tobias said they were getting ready to retire and it was not due to a lack of business.

Mr. Kelley said this is where the Board needs a larger community engagement, not with the Zoning Ordinance on Workforce Housing, and felt it would be really beneficial talking about the Downtown District and additional housing at a community event or a design charette like the one held for Mill Plaza. Vice-chair Tobias said for input there has to be some realistic information which needs to be gathered: the zoning we have now, the size of the buildout plan, and the difference of infrastructure costs between the areas.

Councilor Grant said when the Central Business District went through with height increases it did not go well; there are now 3-story limits in some places and single family. She said there is only so much land and each property is about 0.12 acres; would have to go up to increase density. Mr. McManus said you start running into a lot of complexity in downtown and the infrastructure may not allow you to do what you want. He said there is a Historic Overlay District, height limitations, and the history of Mill Plaza screaming out for redevelopment.

Mr. Sullivan said when you think about 1-story buildings that have to go up to maximize potential you need to convince the public that downtown could have a lot more there. Vice-Chair Tobias said facts need to be gathered into an understandable document to see what our challenges are. Chair Rasmussen said you also have to deal with the economics of the properties and economically it is not viable to do a 3-story rebuild, you have to go higher. Mr. Kelly said you can't have it both ways, and a building transect is not anchored on 1-story buildings in downtown.

Chair Rasmussen said part of the solution may be to move Mill Plaza into the Churchill District and rezone the Central Business District. Vice-Chair Tobias said she would create Mill Plaza as its own district. She said the Mill Plaza project completely redid the infrastructure and protected the creek and the town could possibly do a TIF. The Board discussed Mill Plaza and the project at Pettee Brook Lane. Ms. Nauman Gaillat said there is always disconnect, with Todd in favor of development but a large Durham population against it.

Vice-Chair Tobias said it is the responsibility of those who have to make the decisions for a municipality for the common good, and we always hear from the same people. Mr. Kelley agreed and said change is inevitable and part of the vitality of the Town and its life cycle. He said Durham was a farm with nothing between Dover and Exeter until the university came which resulted in a limited downtown core. He said the reality is development will take generations. Councilor Grant said Durham does not have a lot of room; Mr. Kelley said we would have to start taking down single-family dwellings and converting to multi-unit but do not have the space.

Councilor Grant said there is also a transition in downtown by ownership with people retiring and at the end of their careers, who will not be the ones to invest in a new property; Vice-Chair Tobias said the downtown zoning was changed due to economic decline. Ms. Naumann Gaillat said it is interesting where re-zoning did occur and asked if it was successful; she also asked at what point development becomes urban sprawl. Mr. Kelley said the best the Board gets is: I support the project BUT. Councilor Friederichs said we do already have more resources than we think to answer their questions, with guidance from the Master Plan, as to what the larger body of the town wants and could ask people to rank their priorities.

X. Amendment to Zoning Definitions. The Planning Board prepared an extensive set of changes to Article II – Definitions, including related changes to the Table of Uses, and forwarded the proposal to the Town Council. The Town Council offered numerous comments and returned the proposal to the Board for further consideration. As part of this

review the board may also consider additional changes to the Table of Uses Recommended action: Continued discussion.

Not addressed.

XII. Review of Minutes (new): July 24, 2024 and July 31, 2024

Meeting Minutes of July 24, 2024:

Chair Rasmussen MOVED to accept the meeting minutes of July 24, 2024; SECONDED by Councilor Friedrichs; APPROVED: 7-0, Motion carries.

Meeting Minutes of July 31, 2024:

Councilor Friedrichs said ze was confused about the status of Off-Highway Recreational Vehicles and the conclusion reached by the Board. Mr. Behrendt said the Board deleted both ATVs and Off-Highway Recreational Vehicles from the list of definitions.

Richard Kelley MOVED to accept the meeting minutes of July 31, 2024; SECONDED by Vice-Chair Tobias;

APPROVED: 6-0 with 1 abstention, Motion carries.

XIII. Adjournment

Councilor Friedrichs MOVED to adjourn the Planning Board meeting of August 28, 2024; SECONDED by Vice-Chair Tobias; APPROVED: 7-0, Motion carries.

Chair Rasmussen adjourned the meeting at 9:33 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker
Durham Planning Board