

*These minutes were approved at the October 9, 2024 meeting.*

**TOWN OF DURHAM  
DURHAM PLANNING BOARD MEETING**

**Wednesday, September 11, 2024**

**Town Council Chambers, Durham Town Hall**

**7:00 pm**

**MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Erika Naumann Gaillat (Alternate); Richard Kelley (arrived late)

**MEMBERS ABSENT:** Robert Sullivan, Tom DeCapo (Alternate), Emily Friedrichs (Council Rep), Heather Grant (Alternate Council Rep)

**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 Erica Naumann Gaillat for the open seat.

**III. Approval of Agenda**

*Chair Rasmussen **MOVED** to accept the Agenda for September 11, 2024 as presented; **SECONDED** by Peyton McManus; **APPROVED: 4-0, Motion carries.***

**IV. Town Planner's Report**

Nothing to report.

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

Reporting from the Housing Task Force: Chair Rasmussen said the HTF has met with all but one of the town committees/commissions and is starting to put together a list of feedback, including from an educational viewpoint; moving forward with educational outreach and collecting information from downtown business owners re potential zoning changes.

Reporting from the Traffic Safety Committee: Mr. McManus said the Traffic Safety Committee met with presentation from Mike Hoffman expressing concern about speed limits and potentially dangerous passing areas on Bay Road with recommendation to lower the speed limit there. Collin Lenz of Strafford Regional Planning spoke about a consolidated effort to make grants available from Federal Funding for traffic initiatives and pedestrian safety. DPW Director Rich Reine spoke about pedestrian crossing signaling to be added and analysis of pedestrian traffic around UNH and

throughout downtown. Steve Pesci spoke about micromobility and lithium batteries, with UNH requiring any of those units stored in UNH housing be UL Listed.

Reporting from Historic District Commission & Heritage Commission: Vice-Chair Tobias said the Commission met Thursday with nothing particularly pertinent to the Planning Board; Community Church members discussed replacement of benches and curbing which was approved; Commission proposed ordinance changes to what comes to them.

## **VI. Public Comments**

No Public Comments.

## **VII. Review of Minutes (old): July 24, 2024 and July 31, 2024**

Minutes of July 24 and July 31, 2024 were already approved at the August 28, 2024 meeting.

**VIII. Capital Improvements Program.** Review of proposed 2015-2034 Capital Improvements Program (CIP) with Todd Selig, Town Administrator, and Gail Jablonski, Business Manager.  
Recommended action: Offer nonbinding comments and recommendations.

Town Administrator Todd Selig said the budget process is dictated by Town Charter, and as Town Administrator he also brings forward a Capital Improvements Program plan for consideration by the Council: Town Departments forward Capital projects they feel should be funded at some point by the town, with project year and how to fund it; items consist of \$10,000 or more in value with typically a lifespan of 5 or more years. He said meetings with department have just started, planning 6-10 years out. First is the Durham Fire Department with a long list of projects and the future Fire Station location and cost which is a work in progress.

Durham Fire Department: Fire Chief Dave Emanuel said UNH is revising their Master Plan, and he wanted to have a place holder for a new Fire Station Facility. He said the department started allocating design funds in 2013, and at this time the Fire Station is a limiting factor for us and the services we provide. Met with campus planners and university architectural and financial teams to make sure we are in their Master Plan; need to decide whether to locate the facility on Town or UNH land and the best location; will look at sites again over next few years.

Town Administrator Selig said Durham and the University have a partnership in terms of funding for the Durham Fire Department and share the cost of operating and capital 50:50, and will split the cost of the new station. Vice-Chair Tobias asked about possible new locations; Fire Chief Emanuel said the last time they looked the most viable location for Police/Fire/EMS was at the Waterworks site or location of current University Police Department. He said it has limited access through back of stadium to South Road and there are a number of high value pedestrian conflict points with crosswalks.

Fire Chief Emanuel said a central location is needed close to downtown and campus in order to service the community. UNH is looking to repurpose major parking lots on campus which may be repurposed to public facilities. Town Administrator Selig said another emerging issue is that Madbury has approached Durham due to difficulty keeping their volunteer department viable, which may have an impact on future design or location. Fire Chief Emanuel said we may be able to change the footprint of our operations and spread it across multiple facilities.

Fire Department Ladder Truck: Fire Chief Emanuel said the next major project would be replacing the 2015 Ladder Truck in 2029. He said they are more likely to ladder a residential building for a chimney fire than a UNH high-rise which is fully alarmed and sprinkled. Mr. McManus asked about 3-story height limitations in downtown and Chief Emanuel said there are no restraints from the Fire Department side.

Town Administrator Selig said improvements have been steadily made to the existing facility and they are also looking to expand leased space in UNH General Services Building, and said the CIP Plan may get pushed out to 2030–2031. He this design envisioned collaboration between Durham Fire Department, UNH Police Department, and McGregor Memorial EMS. He said the ongoing replacement program for Police Vehicles will be fully transitioned to hybrid vehicles by the end of this year; also worked with UNH classes to evaluate transitioning to EV vehicles and determined not feasible for the next 3-5 years.

Director of Public Works Rich Reine said the Capital request of \$1,173,417, working with the Heritage Commission, is for evaluation and restoration of structural deficiencies at the Bickford/Chesley House. He said there is a barn structure (not historic) and the Ell and farmhouse which are historic structures. A new roof was put on due to water damage throughout the building; worked with the team to put together an LCHIP Planning Grant and were successful in getting \$300,000, bringing on Milestone Construction, well-known in historic preservation.

*Richard Kelley arrived at the Planning Board Meeting at approximately 7:20 pm.*

DPW Director Reine said three options were developed: (1) take LCHIP funding and add additional supplemental funding to allow occupation of the building with no improvements to the second floor or barn except fire safety; (2) recommending restoration and rehabilitation to second floor as a caretaker apartment (with bathroom and kitchen), as well as a bathroom in the Ell, with 3-season functionality of the barn, all with fire protection and life safety; (3) take option 2 and make the barn 4-season for year-round use of facility. DPW is recommending Option 2.

Mr. Kelley asked Mr. Selig if he had considered charging for parking at Wagon Hill. Town Administrator Selig said it would be possible but the concern before was of enforcement. He said for the first floor there will be 2 display rooms and a meeting space. Mr. Kelley felt charging for parking at Wagon Hill should seriously be considered given that we are asking taxpayers to bond a certain part of the financing.

Road Resurfacing and Sidewalks: Director Reine said \$482,804 is being requested for roads and sidewalks. He said the department uses the Street Logix software platform that allows us to assess all the roadways, how they deteriorate over time, and see how our roadway network meets 80 PCI/SCI pavement and sidewalk condition indices. He said the investment will allow us to reclaim Constable Falls Way and Ryan Way in Orchard, mill and overlay Garrison from Main Street to Dennison Road, and includes the UNH program of \$485,000. He said the town has partnered with Continental Paving for several years.

Mr. McManus asked about Drainage on Ross Road: Director Reine said the next line is the water main and drainage program and said roadway conditions are not always the main driver. The road has to be looked at comprehensively and utilities updated: drainage, water lines, any gas lines. He said on Ross Road there are several basins, many in poor condition, which will need replacement as well as pipes, and the \$85,000 over a period of several years will cover that.

Sidewalk Program: Director Reine said the sidewalk program is fairly modest this year and includes an area on Main Street, Smith Park Lane to 21 Main Street, for removal of deteriorated brick band and replacement of concrete panels. There is also a recommendation from a traffic study for realignment of crosswalks at Madbury and Main Street utilizing the island which needs to be assessed to make sure ADA ramps are at correct locations for 2025. He said there is a curb ramp schedule that allows us to bring all of our curb ramps up to ADA standards.

Madbury Road Complete Streets Project: Director Reine said this project is very complex with just over \$16 million total for all phases including integration of our project with the planned roundabout for Route 4 as part of the DOT Highway Safety Improvements Program. DOT has awarded a design contract to GM2 for the intersection improvements. He said our project stretches from Main Street past Route 4 and comes 1,000 ft down each leg of that including Madbury Road.

Director Reine said the complete streets approach is multi-modal: pedestrians, cyclists, micromobility, on an 8-10 ft variable width multi-use path on east side of roadway to Edgewood Road, and from Edgewood to Route 4 switching to west side of roadway. He said all culvert improvements on Little Hale Creek are substantially completed; guardrail work will need to be done and some top-course paving on Edgewood Road. He said the second phase is for utilities with contract to Cardello Construction who replaced all water mains from Garrison Road to Maple Street, down Madbury Court to Strafford with an easement through 14 Strafford Avenue.

Director Reine said they are now focused on Phase 1 roadway drainage between Pettee Brook and Garrison this year; contract with GW Brooks next year to do Main Street to Pettee Brook. He said the large retaining wall is in front of 26 and 28 Madbury Road; did not have the right-of-way to do a multi-use path and approached all 6 property owners, finalizing 12,000 sq ft of easements with no cash outlay. The \$3.1 million being requested is consistent with the plan set several years

ago with escalation of construction costs. He said \$710,000 for Water and Utilities pretty much completes the project with some sewer money left over being used to line manholes and pipes.

Mr. Kelley asked who was paying for the wall and Director Reine said it would be the Town. Chair Rasmussen said the town's altering of the terrain is creating a steep slope, so steep it requires a retaining wall, and it is all really necessary work. Mr. Kelley asked about a railing; Director Reine said a railing will be installed on top of the wall. Mr. McManus asked if another complete streets project were to be done would that level of multi-modal path be needed or one of a lesser scale.

Director Reine said sidewalk connectivity is a really big goal and Dennison Road is already under contract for 2025 or 2026 for a multi-use path designed for the eastern side of Dennison to bring children from the Faculty Neighborhood all the way to the school. He said they are just understanding that the utilization is an important part of the planning process, and they are now in the visioning process for Durham Point Road.

Wastewater Facility Plan: Director Reine said this plan is constantly being updated with \$425,000 allocated yearly, with 2/3 paid by UNH and 1/3 by the Town, along with existing allocations for the Wastewater Treatment Plant. As part of our Stormwater Permit and Adaptive Management Permit on wastewater, we are required to look at best management practices for properties that have outfall into impaired waters like Oyster River. Part of the project will be looking at wastewater treatments and water quality improvements to be implemented on Wastewater Treatment Plant property and restoring those roads.

Town Administrator Selig said when we look at our long-range fiscal planning, last year we expected spending would increase by 4.4% on average, yet in terms of the increase in our assessed value it is only increasing about 1%/year. He said the goal is to keep the tax rate stable which is challenging with the base growing so slowly. He said he encourages amendments that help broaden the tax base while not simultaneously increasing demand for services.

Mr. Kelley asked about the 2030 line to purchase Sammy's Market Parking Lot and whether it involves a payback. Town Administrator Selig said it is actually owned by UNH not the Town, but in terms of long-term planning, it would be better if Sammy's were Town-owned property, and it is in there as a place holder. Mr. Kelley said in 2025 we are looking to bond \$5.7 million and asked if that was a lot. Town Administrator Selig said they will not move forward with all projects listed and will need to look at how it will affect fiscal forecasting going forward.

**IX. 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: Revise proposed ordinance accordingly and schedule a new public hearing on the revised draft.

Chair Rasmussen asked if the Board had any questions under Article II Definitions: *Missing Middle Housing*. He said the first sentence feels like a prologue which is not needed for a definition; Vice-Chair Tobias suggested “types of housing intended to fill the gap in types of residential dwellings”; Board agreed and also agreed to delete the last sentence. *Workforce Housing*: Rewrote last sentence to “Workforce Housing is also intended to”.

Chair Rasmussen said on page 2 there are issues about the term “affordable”, and recommended they begin listing things to include in the cover letter to the Town Council with the final draft. Ms. Naumann Gaillat said she agrees with the comment under number 3 of using the term within its own definition and suggested “an Overlay District intended to” and remove the bold type. Chair Rasmussen said the Board addressed the issue of having rentals only, which is explained in the FAQ. Page 3: Chair Rasmussen said the workforce housing in Silverthorne, CO is municipally owned housing which Durham is not ready for.

Page 4: Chair Rasmussen said he disagrees that numbers 3 and 4 are unnecessary as they provide the rules for when we have enough workforce housing to sunset the ordinance. Ms. Naumann Gaillat said number 3 specifies 30 years out and number 4 says “as updated”; would reduce some of the text and be more up to date. Mr. Kelley said we updated it to the 2015 Town Master Plan. Chair Rasmussen said any new Master Plan would simply highlight that this Overlay District was created within a different environment and is worth a review.

Mr. Behrendt said under C. *Applicability* he recommended a change to ORLI District boundaries. Chair Rasmussen said he would like to include the Lodges in West Edge and keep parts along Main Street out to the Lodges. Mr. Kelley said truncate to the town line, with Lodges to Route 4 out to Main Street included, and said there is no water or sewer. Chair Rasmussen said they could drop their own well; Mr. Behrendt said water goes up Madbury to route 4. Mr. Behrendt said he would update the GIS Map. Mr. Kelley said he likes the current map as it shows property lines.

Page 5: Mr. Kelley said we also took out the “pastoral gateway”. Page 6: Chair Rasmussen said comments are more of ownership versus rental; E. *Dwelling Units*, 3. Bedrooms: reworded to put a limit on number of 3-bedroom units; number 4 references new definition. Mr. Behrendt said there should be a limit by maximum number of units in any building and suggested 8; Chair Rasmussen recommended 12 based on a central-staircase building. Ms. Naumann Gaillat asked about fire; Chair Rasmussen said the building would be sprinkled with a second egress.

Mr. McManus asked where this language would be, and Mr. Behrendt said under number 4 Housing Types. Mr. McManus said he has issues with saying 60% open space then constraining the number of units in a building. After further discussion the Board agreed to go with 12 units maximum per building.

The Board questioned encouraging more than one type of housing based on the size of the development; Vice-Chair Tobias said we need to allow a certain amount of creativity to the builder/developer. Page 7, F. *HUD Fair Market Rent*; G. *Housing Vouchers*: corrected a typo in the first line. Page 8, H. *Housing Guarantees*: Ms. Naumann Gaillat questioned why there has to be an extra sentence explaining why we are doing something; should just state the way we are doing it. Mr. McManus questioned not allowing guarantees as people are financially insecure. Vice-Chair Tobias said the purpose is to keep out students, but we could allow it on a case-by-case basis. Chair Rasmussen said we are hoping our rent averaging comes into play.

Vice-Chair Tobias corrected the language under housing guarantees to: “individuals who are not residing in the rental unit” or “who will not reside”. Mr. McManus said to Mr. Bubar’s point: “the reason for this overlay district is to promote affordable housing for members of the workforce and the community”. Page 8, J. *Density and Dimensional Standards*: Mr. Behrendt said he will insert the table for next week from the Churchill District, and said the Board was clear at the last meeting they did not want to add the energy language.

Mr. Kelley asked if the energy code suggestions belong in Site Plan Regulations or Building Permits. Mr. Behrendt said that is a big decision that should apply town-wide not just to this ordinance. Mr. McManus said there is also some specific language and legal precedent for not adding specific requirements to workforce or affordable housing as they would be viewed as exclusionary. Page 9: Maximum number of dwelling units is not changing; building height is set.

Page 10, K. *Setbacks and Buffers*: Chair Rasmussen said number 2 does not make sense to him and penalizes Cottage Courts. Mr. Behrendt said this is whether or not you want additional setbacks or buffers for a multi-family project. The Board discussed setbacks and agreed to 50/25/25; deleted “in addition to the setbacks established above” in the last paragraph. Chair Rasmussen said any buffering that occurs should be in line with already existing buffering in the area.

Page 11, K. *Other Zoning Parameters*: Board discussed 3-unrelated rule and Chair Rasmussen asked if it was included in the FAQ. He said they should have something formal that the Board has consensus on and would discuss it later. Mr. McManus asked if the rule was already in place in other districts; Mr. Behrendt said it applies to 4 residential zones and 5 core commercial zones and does not apply to OR now. Board agreed to leave as is.

Page 12, O. *Topography & Open Space*: Mr. Behrendt said the Attorney recommended that more specific standards be established for selecting open spaces to be preserved; Board agreed. Mr.

Behrendt asked if any extra encouragement should be added about AG; Chair Rasmussen said it should be done separately and more on a project-by-project basis, not by putting a zoning requirement on it.

Q. *Design*: Mr. Behrendt said he added 4 basic design parameters to support the initial paragraph. Vice-Chair Tobias said she did not like “attractive” or “pleasant” as they are too subjective, Board agreed. Mr. Kelly recommended for number 1: “all buildings must front a pedestrian-oriented designed street or way”. Page 13, *S. Infrastructure*: Board discussed blue wording; Mr. Kelley said it is addressing Mr. Sandberg’s comment. Page 14, *Zoning Map*: Mr. Behrendt said the map will be done by our GIS person; will enlarge the map showing in 2 sections including lot lines.

Chair Rasmussen asked for any further comments. Mr. Kelley said at the last meeting each member gave 1 or 2 sentences of what they felt needed work and mine was guardrails from overburdening the school system and the built infrastructure by requiring an impact study. Vice-Chair Tobias said one would be required anyway, and Mr. Kelley said it was not listed anywhere in the document; Article 5 in Site Regulations talks about additional studies. Chair Rasmussen said his bigger concern is the sewer, and Vice-Chair Tobias added Fire and Police services.

Chair Rasmussen asked that the Board skip over item 10 and talk about Todd’s email re: family definitions.

**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.

## **XI. Other Business**

### Discussion of email from Town Administrator:

Chair Rasmussen said he liked the National solution Todd referenced in paragraph starting: “increase in number of unrelated per National Fire Code, no more than 4 unrelated prior to sprinkler requirements going into effect” and segway into Fire Code; we do not need a definition of family; if already in the Fire Code can simply be referenced; say having more than 4 unrelated is a fire code violation and our Zoning does not have to reference it at all. Mr. Behrendt said he would coordinate with Todd, Audrey, and the Fire Marshall for language.

Net Metering: Mr. Behrendt said he would provide amendments for Net Metering and other miscellaneous amendments for the September 25, 2024 meeting

**XII. Review of Minutes (new): August 14, 2024**



***Chair Rasmussen MOVED to approve the Planning Board meeting minutes of August 14, 2024 as presented; SECONDED by Richard Kelley; APPROVED: 4-0 with 1 abstention, Motion carries.***

**XIII. Adjournment**

***Vice-Chair Tobias MOVED to adjourn the Planning Board meeting of September 11, 2024; SECONDED by Peyton McManus; APPROVED: 5-0, Motion carries.***

Chair Rasmussen adjourned the meeting at 9:40 pm.

Respectfully submitted,

Patricia Denmark, Minute Taker  
Durham Planning Board