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

5 **Wednesday, November 20, 2024**
6 **Town Council Chambers, Durham Town Hall**

7 **7:00 pm**

8 **DRAFT MINUTES**

9
10 **MEMBERS PRESENT:** Paul Rasmussen (Chair), Sally Tobias (Vice Chair), Peyton McManus, Robert
11 Sullivan, Heather Grant (Alternate Council Rep), Erika Naumann Gaillat (Alternate); Richard Kelley
12 (arrived late)

13 **MEMBERS ABSENT:** Emily Friedrichs (Council Rep), Tom DeCapo (Alternate),

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

15
16 **I. Call to Order**

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

18
19 **II. Roll Call and Seating of Alternates**

20 Chair Rasmussen called the roll and seated Erika Naumann Gaillat in vacant seat and Heather
21 Graham as Council Rep.

22
23 **III. Approval of Agenda**

24
25 *Chair Rasmussen MOVED to accept the Agenda for November 20, 2024; SECONDED by*
26 *Erika Naumann Gaillat; APPROVED: 7-0, Motion carries.*

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

29 Town Planner Michael Behrendt said the only meeting scheduled is December 11, 2024 with 4 items
30 on the agenda: Public Hearing for amendment to Historic District Ordinance re purview; new
31 application for Mill Plaza façade enhancement; preliminary for old Cumberland Farms at 3 Dover
32 Road and to relocate Dunkin Donuts. Chair Rasmussen said the property on Oyster River was
33 postponed to December 11; Mr. Behrendt said there was difficulty completing plans and it would
34 first go to the Conservation Commission.

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

37 Reporting from the Town Council: Councilor Grant said there was a presentation by Strafford
38 County Commissioner's office, discussed aging countywide; Agricultural Commission and Parks: short
39 summaries of work in progress; moved review of Budget to last on agenda; Public Hearing on
40 Miscellaneous Zoning Amendments; feedback on Workforce Housing initiative. Chair Rasmussen
41 said for the Workforce Housing Public Hearing he counted 12.5 for and 1.5 con; primary concern
42 was not wanting to see it in ORLI.

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(Richard Kelley arrived at the Planning Board meeting at 7:09 pm.)

Reporting from IWMAC: Chair Rasmussen said there was a discussion with town members who lived in Brattleboro, VT when they did a pilot composting program; Brattleboro is now doing composting in-house and selling; IWMAC is looking into their operations, composting challenge completed.

VI. Public Comments

Eric Lund asked if the Board was looking to reduce other parking minimums as they stand currently in Site Plan Regulations; some minimums seem obsessive, and Dover has eliminated parking minimums completely. Chair Rasmussen said those are things the Board will be looking at as they come up.

VII. Review of Minutes: (old)

VIII. 9-11 Young Drive Condominium Conversion. Application under the Subdivision Regulations to create a two-unit condominium. One half of the proposed structure is completed, and the other half is planned for construction. Young Drive LLC, property owner, c/o Francis Chase as agent. Map 107, Lot 92. Coe’s Corner District. Recommended action: Accept as complete and schedule a public hearing.

Chair Rasmussen asked Mr. Francis Chase how many more condo conversions were coming; Mr. Chase said he has 4 more lots. Mr. Behrendt said the Board could approve this with the condition that remaining condos be left to Staff for review provided circumstances and condo documents are the same. Chair Rasmussen said looks like they are only changing documentation of 9 and 11 Young Drive and other language specifics. Mr. Behrendt said he would get an opinion back from the Town Attorney and the application can be accepted as complete.

Richard Kelley MOVED that the Planning Board accept the application for 9-11 Young Drive Condominium Conversion, Map 107, Lot 92 in Coe’s Corner District; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.

IX. Public Hearing – Parking Requirement in Site Plan Regulations. Amendments to the Site Plan Regulations to bring them into compliance with state law – reducing the number of required parking spaces for multi-family developments with 10 or more units to 1.5 spaces and allowing for alternative parking solutions to reduce the number of required parking spaces. Recommended action: Adoption.

Chair Rasmussen MOVED to open the Public Hearing for Parking Requirement in Site Plan Regulations; SECONDED by Vice-Chair Tobias; APPROVED: 7-0, Motion carries.

1 **Seeing no members of the Public wanting to speak on this matter, Vice-Chair Tobias**
2 **MOVED to close the Public Hearing for Parking Requirement in Site Plan Regulations;**
3 **SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.**

4
5 The Public Hearing for Parking Requirement in Site Plan Regulations was closed at 7:22 pm.

6
7 Mr. McManus recommended removing any parking minimums; Chair Rasmussen agreed 1.5 was
8 high but zero too low; Mr. Kelley said a reasonable plan could be developed by a reasonable
9 developer; Chair Rasmussen said the Board needs referential authority to be acceptable to us
10 legally.

11
12 After a lengthy discussion the Board agreed to: 1 parking space per unit for apartments; 0.75
13 parking spaces for studios; delete “Workforce Housing” reference; delete “residential” in 2nd line
14 on page 2 of document.

15
16 **Chair Rasmussen MOVED that the Planning Board adopt the Amendment to the Site Plan**
17 **Regulations as amended this evening, reducing the number of required parking spaces**
18 **and allowing for alternative parking solutions, November 20,2024 as amended in the 4**
19 **locations; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.**

20
21 **X. Public Hearing - Amendment to Zoning Definitions.** Proposed significant rewrite of Article
22 II– Definitions of the Zoning Ordinance. Recommended action: Vote to initiate amendments
23 if acceptable.

24
25 **Vice-Chair Tobias MOVED to open the Public Hearing for Amendment to Zoning**
26 **Definitions; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.**

27
28 Chair Rasmussen opened the Public Hearing for Amendment to Zoning Definitions at 8:13 pm.

29
30 **Joshua Meyrowitz** of 7 Chesley Drive said it seems the Board deleted more than it edited; he
31 said *Parking Lot* is either a parking garage or a lot outside a building, but there are others in
32 between where you have extensive grade. He said *Grading* confuses extensive and excessive;
33 Student Housing definition should be refined slightly.

34
35 Mr. Behrendt said a number of definitions were deleted and were combined into one thing, some
36 were relocated in the document, and some were deleted because they were perceived to be no
37 longer relevant.

38
39 **Beth Olshansky** asked about page 3 under *Conservation Activities* replacing “motor vehicle way”
40 with “trails”, which looked like no pedestrian trails on Conservation land. Chair Rasmussen said
41 creating a “people trail” is not a conservation activity and would require Planning Board review;
42 there are State guidelines for building a trail and it is not an activity we would allow private

1 individuals to do without a Site Plan Review. Ms. Olshansky said she would also like to see
2 *Extensive Grading* reworked by adding grading guidelines; Parking Lot has no limits on grading;
3 questioned *Structure* being defined as 6 ft high; questioned *Student Housing* definition.

4
5 Chair Rasmussen said that the 6 ft listed under structure pertains only to fences on the property
6 line, and said Student Housing definitions are already obsolete and will be resolved tonight with
7 the next item regarding 3-unrelated rule.

8
9 **Gail Kelley** of 11 Gerrish Drive addressed extensive grading and said the definition says
10 “extensive” is whatever the developer decides is beyond what he wants to put down, and said
11 she did not see any line being drawn here.

12
13 **Robin Mower** asked that the Board focus on the definition of “extensive” and define it as an
14 absolute amount that is required, and a relative amount that is in excess of what is required to
15 answer how much is sufficient for proposed use and how much is too much.

16
17 Chair Rasmussen said there is no definition of extensive; Ms. Naumann Gaillat read the current
18 grading definition: “extensive is grading that is greater than that which is required for the
19 proposed use on the site”, and said perhaps “excessive” is better. Mr. Behrendt said there are
20 no definitions in Site Regulations related to grading at all. Board agreed to change “extensive
21 grading” to “excessive grading shall be avoided.”

22
23 Mr. Meyrowitz said there are 2 issues, fixing it to make sense (just done) and the long-term issue
24 that developers should not dramatically change the topography of the site. Mr. Behrendt said
25 these types of terms really belong in Site Plan not Zoning; Ms. Naumann Gaillat said it is already
26 in site regulations under *low-impact grading techniques*: “avoidance of extensive grading”; Board
27 agreed to correct *extensive* to “excessive” in Site Plan regs and pull all definitions related to
28 grading; Mr. Behrendt said he would add that on an upcoming agenda for miscellaneous Site
29 Regulation amendments.

30
31 Chair Rasmussen said the 3 definitions that start with “student” can probably be pulled as well;
32 they will come under the new Student Rental item. Board agreed to leave Federal definition of
33 student as is. Board reviewed Table of Uses for *Parking Garage*: now CU in CB; and *Parking Lot*:
34 CU in CB and Courthouse. Mr. Behrendt said *Daycare* also needed to be deleted from the Table
35 of Uses.

36
37 **Erika Naumann Gaillat MOVED to close the Public Hearing for Amendment to Zoning**
38 **Definitions; SECONDED by Peyton McManus; APPROVED: 7-0, Motion carries.**

39
40 Mr. Kelley asked that the edits be clarified; Chair Rasmussen said the Board pulled all definitions
41 related to *grade* and *student* and are deleting *Daycare* in the Table of Uses. Mr. McManus asked

1 about unrelated occupants and unrelated household on page 49; Chair Rasmussen said it will be
2 fixed by the Student Rental Ordinance and then deleted from definitions.

3
4 **Robert Sullivan MOVED that the Planning Board initiate the amendment and rewrite of**
5 **Article II Definitions of Zoning Ordinance and pass it to Town Council for consideration;**
6 **SECONDED by Councilor Grant; APPROVED: 7-0, Motion carries.**

7
8 **XI. Draft Ordinance regarding Student Rental, Three-Unrelated Rule, and Habitable Floor**
9 **Area**. Discussion about prospective ordinance prepared by ad hoc group working with the
10 Town Administrator. Recommended action: Continue discussion.

11
12 Chair Rasmussen said this ordinance is coming about because one of our State Reps, Al Howland,
13 has been fighting within his own caucus re housing in general, specifically the issue of 3-
14 unrelated; this acts as a major block for Workforce Housing and interferes with the ability to
15 allow groups of young professionals to share housing costs. He said at the State level no one
16 wants to define what a family should be, and it is considered outdated and discriminatory. Vice-
17 Chair Tobias said it gives more flexibility by defining what a student rental is.

18
19 Chair Rasmussen said this will define a Student Rental as: “a residential dwelling composed of 1
20 or more dwelling units on a single parcel that allows 5 or more fulltime undergraduate college
21 students”. Once you hit 5, a Fire Code limit requiring sprinklers sets in and you become a student
22 rental; only allowed in CB, PO, CH , and Courthouse. Mr. Sullivan brought up issue of controlling
23 student behavior Durham has Nuisance Ordinance. Board agreed to hear public input.

24
25 **Jeff Berlin** said he had introduced HB1281, along with a progressive caucus which might have
26 opened up this conversation, and said the Disorderly Household Ordinance is a perfect way to
27 police these issues. He said when we start working toward free-market solutions on this, behavior
28 will be curbed without removing artificial supply from the housing market.

29
30 Mr. Behrendt said the Board talked about whether to have a maximum number of occupants in
31 a student rental or not. Mr. Sullivan asked if in a 2,000-sq-ft house with no limit, the 200 sq ft per
32 person would then kick in. Mr. Behrendt said the Fire Code is only for 2 or 3 units and above and
33 does not apply to single family. Chair Rasmussen said the dormitory rules kick in once you go over
34 5 people. Mr. Behrendt asked if the language was worded properly; Chair Rasmussen asked that
35 Mr. Behrendt check Section A in blue for general dimensional standards

36
37 Councilor Friedrichs (on Zoom) recommended the Board just declare/state the general
38 dimensional standards, and not rely on the Fire Code. Chair Rasmussen asked the professionals
39 in the audience: Mr. Berlin said a 4-BR house would reasonably see a maximum of 8 people, 10%
40 of the time, if every bedroom is a master bedroom; older students will want their own room.

41

1 **Tom Toye** of 5 Tavern Way said having a sprinkler system for 5 people and above is a pretty high
2 bar to clear and would be cost-prohibitive to put them in a single family. He said his firm manages
3 a sorority of 8,000 sq ft, which is approved for 41 residents sprinklered. He said it depends on the
4 type of building and the new norm is students do not want to share rooms.

5
6 Vice-Chair Tobias said it is important to state that we already have plenty of student housing now
7 and did not think residential neighborhoods were in danger of being inundated by students; there
8 are plenty of adults looking for places to live to share costs. Chair Rasmussen said the Board
9 should then just write at 200 sq ft for a limit and take out the “apartment building” piece. Mr.
10 Behrendt felt it was useful to leave the Fire Code in there as a pointer for phrasing: Fire Code says
11 dorms or apartments.

12
13 Chair Rasmussen said Fire Code and Zoning are different. Councilor Friedrichs said the town has
14 a 350 sq ft density for downtown and if we change to 200 sq ft it could become lucrative to
15 redevelop Mill Plaza with cheaper student housing than already built, and ze does not want to
16 undermine businesses that already exist by creating an unfair dynamic. Chair Rasmussen said no
17 one is going to build student housing at that scale in the current market.

18
19 Mr. Behrendt questioned whether the Table of Uses for this is logical the way it is shown. Chair
20 Rasmussen said in the Table of Uses just approved by the Board to go to Town Council, the
21 student housing line and definition were removed, and residence multi-unit is P in 6 locations
22 including Courthouse.

23
24 *Erika Naumann Gaillat left the Planning Board Meeting at 10:03 pm.*

25
26 Councilor Friedrichs suggested the Board be more permissive around multi-unit buildings in
27 various districts. After further discussion by the Board, Chair Rasmussen proposed: leave Student
28 Housing where it is now in Courthouse, CH, PO, CB; same districts for Multi-Unit Residential plus
29 Coe’s Corner and MUDOR; go to Public hearing and rehash any needed changes in January,
30 keeping it In places most convenient to the University.

31
32 Chair Rasmussen set the Public Hearing for Student Rental, Three-Unrelated Rule, and Habitable
33 Floor Area Ordinance for January 8, 2025.

34
35 **XII. Planned Unit Development Ordinance.** Continued discussion about proposed Planned
36 Unit Development (PUD) ordinance. PUD’s are special zoning tools which allow for
37 flexible and innovative planning for large-scale mixed-use projects. A draft ordinance has
38 been prepared to accommodate the potential development of The Edge project at UNH,
39 located westerly of the intersection of Main Street and Mast Road along with other
40 similar potential projects. Recommended action: Continue discussion.

41 Item was tabled.

1 **XIII. Other Business**

2 Chair Rasmussen said Mr. Behrendt has a meeting next week with UNH Campus Architect Ken
3 Weston to come to the Board.

4

5 **XIV. Review of Minutes (new):**

6

7 **XV. Adjournment**

8

9 ***Vice-Chair Tobias MOVED to adjourn the Planning Board meeting of November 20, 2024;***
10 ***SECONDED by Richard Kelley; APPROVED: 6-0, Motion carries.***

11

12 Chair Rasmussen adjourned the meeting at 10:14 pm.

13

14 Respectfully submitted,

15 Patricia Denmark, Minute Taker

16 Durham Planning Board