

March 8, 2017

Planning Board
8 Newmarket Road
Durham, NH 03824

RE: **Public Hearing — Mixed Use with Residential. Change Mixed Use with Residential (office/retail down, multiunit residential up) from conditional use to not permitted in the Central Business District.**

Greetings,

I have spoken to the Board twice before about the proposed zoning amendment. Both times I urged you to consider the impact on the community as a whole—which is the purpose of zoning, not just the impact on a small subset of the community. And zoning is exactly where the rubber meets the road in planning.

As you consider the proposed zoning amendment, I ask you to remember that in the past few years members of the community have expressed a desire to see a complete moratorium on development. Others of us recognize that would be cutting off our nose to spite our face.

This proposal effects what I believe is the underlying desired outcome: a pause, a pause that allows us to step back, a pause that allows us to evaluate the impacts, and, yes, to plan.

And that's hard. There's good reason that Yogi Berra is often quoted as stating, "The future is so hard to predict because it hasn't happened yet."

So we are left with a combination of guessing and hoping, based on historical data and inferences from trends. Zoning is a living document: We don't always get it right, and so we adjust our sights over time. But we must be both **reflective**—thinking about the impacts of previous land use decisions—and **proactive**—imagining what constraints and opportunities lie before us. And so we develop a Master Plan.

But why ask residents to participate in the Master Plan process, expend staff time, and spend thousands of dollars on the Plan if we don't use it? And I would remind you that the Master Plan **is the child of the Planning Board**. Are you really saying that you disown it? Because if you do not take steps today to alter the future course of downtown development, that is exactly what you will be doing.

Now is exactly when we should be looking at the Master Plan for the Central Business District. This is when we should be keeping our eyes on the prize, which is down the road, not just around the corner. Visions become reality only step by step. Maybe one of those steps might be developing a more concrete plan for our downtown.

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But one thing is for sure: We are already out of balance relative to actual uses in our community core. Some of those uses adversely affect the community. We should take what steps we can to avoid going further out of balance.

As you will have read in his report first shared with the Town Council and now with the Board, Councilor Lawson laid out in black and white the potential negative impacts of future incremental “unrelated housing” on the “general welfare” of the community as encompassed by Town services, i.e., police, fire, and school. Adding new “unrelated housing” would be costly financially to taxpayers.

But there *would* be other negative impacts on the health, safety, and welfare of the community if we add more “unrelated housing” downtown in the near future.

On Monday night I attended the Town Council meeting.

If you watched the Council, you would also have heard one of Attorney Pasay’s clients say that,

“I’m 100 percent certain that everybody in this room came here after the students. Let me make that clear: No one here was first. The students were here first....I’m tired of hearing about all of this mayhem by the students. You knew that when you came to town. If you didn’t like it, go live somewhere else.”

This from a man who does not live in Durham, let alone near downtown on Thursday, Friday, and Saturday nights. In fact, none of Attorney Pasay’s clients live near downtown. Luckily, my better judgment kept me from charging up to the podium respond.

My family moved here in 1957. The size of UNH at that time was half what it is today, and the community and UNH were well integrated. Residents along Faculty Road had their legs cut off at the knees with the Mill Plaza development, but we stuck it out. My parents worked to improve Durham’s future on Oyster River School issues, taught at the university, and dedicated countless hours to civic service. I would venture to say that a good percent of the boards and committees have been staffed by volunteers from the downtown neighborhoods.

Living in the Faculty neighborhood bestows unique benefits on us. But we also suffer from negative impacts on our quality of life from the proximity to the downtown bars and, yes, the weekend mayhem.

None of you on the Planning Board is in that same boat.

This same client also said that the:

*“....The market will dictate what happens. That’s how it always works. That’s **what** works.”*

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But this statement is completely irrelevant to Durham's challenges. We're not talking widgets. We're talking about structures that last for decades, tailored to specific uses, and that preclude other options. Look at the empty Cumberland Farms building. Look at what's been happening to the Goss building at Technology Drive. The market does not work in all circumstances, and it **does not always work to the benefit of the community as a whole**. That's another reason we have zoning.

This amendment, or a similar step to put the brake on, IS needed. It is needed exactly because we cannot control the market on matters of significance to the health and welfare of the community.

Don't let anyone try to persuade you that the **appetite for the revenue** from "unrelated housing" is abated. Someone **will buy** even at the height of the market. Look at the Orion properties. Look at Young Drive. Our downtown includes two large parcels ripe for redevelopment for which there are no approved applications at this time. Other underdeveloped, aging properties in the Central Business District that are not currently in play could be redeveloped, or even combined and redeveloped.

Zoning is difficult. It is rife with all types of risk: loopholes, unforeseen consequences, unforeseen circumstances. Most zoning is imperfect, and we discover that's the case only when it's up against a real-world situation.

Would this amendment solve the problem? No, but it is a temporary solution that buys us breathing space while we evaluate the impact of the addition of student housing and consider how best to allow mixed-use in our very small, geographically-challenged downtown. We might even develop a more concrete vision for developing it, a holistic plan, working with our business owners and representatives from our downtown neighborhoods.

Sincerely yours,

[Signed: Robin Mower]