



**TOWN OF DURHAM**  
15 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064 603/868-8065  
FAX 603/868-8033  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

***Town Planner's Recommendation***  
**Wednesday, January 15, 2014**

**25-35 Main Street.** Formal site plan application to redevelop three lots into a **mixed-use student housing project.** The proposal involves rehabilitating the houses at 25 and 35 Main Street, demolishing the houses at 27 and 29 Main Street, demolishing/relocating the barn in the rear, erecting two new houses fronting on Main Street, erecting two large new buildings, one in the rear and one fronting on Main Street. **Orion Student Housing.** Bill Fideli and Philip Wills, applicant; Bob Clarke, Allen and Major, engineer; Lisa DeStefano and Adam Wagner, DeStefano Architects, architect; Tim Phoenix, attorney. Tax Map 5, Lots 1-6, 1-7, and 1-8, Central Business District. (The public hearing is closed.)

➤ I recommend approval if the Planning Board is satisfied that all is in order.

Please note the following:

- I am pleased to report that the sewer issue appears to be resolved. Todd has worked this out with the applicant and Mike Lynch. The plan is as follows:
  - The applicant plans to open August 2015
  - A sewer extension will be built to connect Main Street to Mill Road. This will be done by the summer of 2015, prior to Orion's opening.
  - Orion will, of course, pay the full utility connection fees. These will go into the standard fund and help to pay for the improvements along with other contributions to the fund. The very rough estimated cost of this extension is \$200,000.
  - Orion will also pay an additional \$15,000 which will help defray the engineering costs for this new extension.
  - There is a major deficiency in the Town's existing sewer that runs under the Campus Convenience building. This project would need to be approved by the Town Council in the 2015 CIP. We would expect strong support for this important improvement.
- I have forwarded final comments from the Police, Fire, Public Works, and Building Departments, and incorporated all comments below, as appropriate.
- I have added a number of items. *[I put a note underneath like this for such items.]*
- Steve Pernaw, who did the traffic peer review, recommends the board decide which traffic signs it wishes to include, as some may cause visual clutter and not be essential. I recommend below that the applicant meet with the DPW to determine which final signs should be installed.
- I sent the energy committee's letter to the Planning Board. Does the board think that any additional bicycle spaces are needed?

\*\*\* ***I have requested written responses from the applicant for each comment by Tighe and Bond speaking to each item. I think this needs to be addressed in some manner prior***

*to Planning Board approval. Orion could either: a) answer a question/address an issue adequately now or b) propose that the issue can be addressed adequately after Planning Board approval either as a precedent condition or a general and subsequent term and condition, or in some other acceptable manner.*

- Orion gave an extension on January 8 to January 15 for final action. If the project is not approved on January 15 then we would need another extension from the applicant to January 22.

**\*DRAFT\***

**NOTICE OF DECISION**

**Project Name:** Orion Student Housing  
**Project description:** Mixed-use project located in the Durham Historic District with 179 beds and nonresidential uses in the entire of Buildings C and D, and the front block of Building A. The project involves rehabilitating the houses at 25 and 35 Main Street, demolishing the houses at 27 and 29 Main Street, demolishing/relocating the barn in the rear, erecting two new houses fronting on Main Street (Buildings C and D), and erecting two large new buildings, one in the rear and one fronting on Main Street.  
**Address:** 25 – 35 Main Street  
**Applicant:** Orion Student Housing c/o Bill Fideli and Philip Wills  
**Engineer:** Bob Clarke, Allen and Major  
**Map and Lot:** Tax Map 5, Lots 1-6, 1-7, and 1-8  
**Zoning:** Central Business District  
**Date of approval:** January 15, 2014

---

**PRECEDENT CONDITIONS**

*[Office use only. Date certified: \_\_\_\_\_; CO signed off \_\_\_\_\_;  
As-built's received? \_\_\_\_\_; All surety returned: \_\_\_\_\_]*

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Town Planner. Certification of the plans is required prior to issuance of a building permit or performing any significant site work. Once these precedent conditions are met and the plans are certified the approval is considered final. Note that no precedent conditions involve actual construction (except where otherwise specified). All work shall be completed prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted. "Applicant," herein refers to the applicant and his/her/their/its agents, successors and assigns.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval, i.e., - by \*\*\* (or as extended) - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. **It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline.** See RSA 674:39 on vesting.

**Plan modifications**

1) Plan modifications. Make the following modifications to the plan drawings, on the appropriate sheet(s) (Items do not need to be physically constructed as a precedent condition):

- a) Traffic Circulation. Modify the plans for circulation through the site, as shown to the Planning Board on January 8, 2014 (pursuant to Steve Pernaw, traffic reviewer's comments).

*[I added this]*

- b) Traffic Signs. Meet with the Durham Public Works Department to determine which traffic control signs as recommended in the traffic study should be installed. The DPW shall determine which signs are appropriate and how and where they should be installed.

*[I added this]*

- c) Handicap parking. Add one van accessible parking space with appropriate signage.

- d) Parking spaces. Delineate the parking spaces in front of Building A with striping, signage, and/or another appropriate manner.

*[I added this provision.]*

- e) Bike Slots. Label both 6 slot bike racks in front of building A

*[I added this for clarification.]*

- f) Interior Bike Spaces. Submit specific plans for interior bicycle spaces as discussed (racks with 12 slots for 24 bicycles) identifying the room/space, locations of the racks, and how the room will be accessed.

*[I added this.]*

- g) Fire lane. Provide appropriate signage for the fire lane that will be located along the easterly entrance drive to be approved by the Fire Department.

- h) Fire connections. Show fire department connections to be approved by the Fire Department.

- i) Hydrant. Eliminate the fire hydrant in the middle as it is not necessary (The easterly one would be used).

- j) Tree Diversity. Consider replacing some of the Honey Locust and Pear trees with other species (recommended but not required). If desired by the applicant obtain the approval of the Durham Tree Warden for substitution and show on the plans.

*[I added this at John Parry's suggestion: "More species diversity would be desirable. There will be 28 trees planted, but only of four different species. Consider replacing some of the Honey Locust and Pear trees with a couple of other species."]*

- k) Pear Trees. Replace the pear trees on Main Street with larger shade trees in coordination with the Durham Tree Warden. If he determines that this is not workable due to spacing limitations then use of the pear trees is fine.

*[I added this at John Parry's suggestion: "The larger the tree crown the more benefits that are provided (shade, storm water management, etc.) Where there is adequate rooting and overhead space, consider planting species that will be large at maturity. For instance, the strip along Main St. appears to be at least 10 ft. wide on the plan. Callery Pear are selected for this area. This is an attractive flowering tree, but only gets about 40 ft. tall and has a narrow crown. If there is adequate space here consider substituting a species that will have a larger mature Ht. and crown. If there is a space restriction here that I am not aware of (utilities, infrastructure, etc.) than the Pear may be a good choice."]*

- l) Caliper measurement. Change note on landscape plan to measure caliper 6 inches above the ground rather than one foot above the root crown.

*[I added this at John Parry's suggestion.]*

- m) Caliper. Increase the caliper of the 6 pear trees on Main Street from 2-1/2" to 3-1/2" on the landscaping plan unless waived by the Durham Tree Warden, due to lack of availability or sufficient space.

*[I added this per John Parry's email: "For trees planted on Main Street, establishing the largest nursery stock feasible would be desirable (trees up to 3 1/2 inch caliper should be considered) as long as a desired species is available, and there is adequate space both above and below ground for larger stock."]*

- n) Cultivars. Specify the tree cultivars for the Honey Locusts and Red Maple trees.

*[I added this at John Parry's suggestion.]*

- o) Irrigation. Show information for irrigation or hose bibs.

- p) Fence Rail. Revise note regarding fence rail as discussed at the Planning Board on January 8, 2014.

*[I added this]*

- q) Fence. As discussed with the Planning Board on January 8, close off the rear area with the fence on sheet C1. In addition, clarify how access will be reach to the rear area for maintenance.

*[I added this as discussed by the Planning Board on January 8]*

- r) Bollards. Tighten the spacing of the bollards in front in the courtyard to prevent vehicles from entering.
- s) Approval block. Add the approval block on each page of drawings to read: “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner  
\_\_\_\_\_ Date \_\_\_\_\_”

**Notes on plans**

2) Notes on plans. Add the following notes on the plans, on the appropriate sheet(s):

- a) Inspections. “All inspection/observation services for the installation of water, wastewater, stormwater management, porous pavement, and other infrastructure shall be performed by authorized representatives of the Town of Durham as stipulated by the Durham Department of Public Works. The Developer shall reimburse the Town for all associated inspection/observation costs.”
- b) Underground utilities. “All utility piping and wiring shall be located underground.”
- c) Debris. “No cut trees, stumps, debris, junk, rubbish, or other waste materials shall be buried in the land, or left or deposited on site at the time the certificate of occupancy is issued, or at any time after that.”
- d) Maintenance of Landscaping. “The provision for maintenance of landscaping materials as specified in Section 175-124 – Maintenance Requirements of the Article XXII – Landscaping in the Durham Zoning Ordinance, shall apply.”

*[I added this]*

- e) Tree Planting. “Trees should be planted using commonly accepted best management practices, such as those listed in ANSI A300 Part 6: Tree Maintenance Standard Practices (Transplanting), which is available from the International Society of Landscape Architects.” Add to the Landscaping plan.

*[I added this at John Parry’s suggestion.]*

- f) Space for Trees. “The contractor shall ensure that there is adequate rooting space and overhead space and fit for the trees to be installed.” Add to the Landscaping plan.

*[I added this at John Parry’s suggestion.]*

- g) Fertilizer. “Only low phosphorus/slow release nitrogen fertilizers for landscaping materials may be used.”
- h) SWPPP. “This project will disturb over one acre of ground cover and/or meets other thresholds related to permit criteria for EPA National Pollutant Discharge Elimination System (NPDES) compliance. The site contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of

Termination (NOT) to EPA. The site contractor is also responsible to comply with all other Federal, State and Local stormwater or NPDES requirements."

- i) Erosion and sedimentation. "All erosion and sedimentation control structures shall remain in place and be maintained until vegetation is established and the ground surface is stabilized. Erosion and sedimentation control measures shall be monitored by the applicant on a periodic basis during construction and any deficiencies shall be corrected as soon as possible."
- j) Fire access. "Access into the site for fire apparatus shall be maintained at all times during the construction process. Please contact the Fire Department at 868-5531 with any questions about access requirements".
- k) Blasting. "Blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday. There shall be no processing of stone on site. A notice of intent to blast shall be provided at least 24 hours in advance via signage placed in appropriate places and other appropriate media provided by the Town (such as the Town's website and Friday Updates)."

*[I embellished this based on Robin Mower's suggestions.]*

- l) Building Code. "This approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time. The applicant is strongly encouraged to meet with Building and Fire Officials early to expedite the review process."
- m) Construction hours. "All outside construction activity related to the development of this site shall be restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturday. Truck loading and hauling will take place only between the hours of 7:00 a.m. (9:00 a.m. on Saturday) and 5:00 p.m. The use of rock drills or hammers will be limited to the hours of 9:00 a.m. to 4:00 p.m. on weekdays, with no drilling or hammering on weekends or holidays. See table on page 5 in the construction management plan prepared by Allen & Major Associates, Inc., dated October 28, 2013, for a summary of the hours of operation." (See Blasting, below.)

*[I embellished this based on suggestions from Robin Mower]*

- n) Demolition. "Because of the historic character of the buildings that shall be demolished, no buildings, nor parts of any buildings, may be demolished on site until the building permit is issued."
- o) Stormwater infrastructure. "All stormwater management infrastructure shall be designed and installed in accordance with Design Standards of the Durham Site Plan Review Regulations. The infrastructure shall be owned by the property owner and it shall be operated and maintained by the property owner to protect the quality of on-site and off-site water resources and wetland habitat.
- p) Snow removal. "Snow shall be removed from the site, as needed, and shall not be pushed against trees or other vegetation."

*[I embellished this based on Robin Mower's comments]*

- q) Bedrooms. "There shall be only one tenant per bedroom."

*[I added this as discussed by the Planning Board on January 8]*

- r) Additional information. "For more information about this site plan, or to see the complete plan set, contact the Town of Durham Planning Department, 15 Newmarket Road, Durham, NH 03824. (603) 868-8064."
- s) Notice of Decision. "It is the applicant's, site contractor's, and building contractor's responsibility to follow all requirements related to this site plan approval. Please review these plans and the Planning Board Notice of Decision carefully. Contact the Durham Planning Department at (603) 868-8064 with any questions or concerns."
- t) Fence Material. "The fence will be made of the heavy duty metal material that was presented to the Planning Board on January 8, 2014."

*[I added this]*

### **Construction Management**

- 3) Construction Compliance Deposit. Submit a \$10,000 construction compliance deposit (See provision below).

*[I am suggesting this be for \$10,000]*

- 4) Construction Management Plan. Modify the Construction Management Plan to include all of the following information/statements:
- a) Laydown. Show the laydown and delivery area to be used.
- b) Signs. Show where construction zone signs will be posted, if appropriate.
- c) Hours. Modify the hours of construction to be consistent with the provision herein.
- d) Trucks. Trucks accessing the site from outside of Durham shall be restricted to Route 108 (then to Main Street/Church Hill) and Route 4 (then to Main Street/Old Concord Turnpike).

*[I added this]*

- e) Meeting with Building Official. "The applicant/contractor shall meet with the Building Official at least two months (60 days) prior to the start of construction in order to discuss the building process and to plan for the proper submittal of all structural, mechanical, electrical, plumbing and other plans. The Building Official may reduce this timeframe at his reasonable discretion for good cause."
- f) Construction Management Plan. "The applicant/contractor shall comply with the provisions contained in the Construction Management Plan."

- g) Weekly meetings. “The applicant/contractor shall hold weekly meetings with the Town Engineer and other appropriate Town staff (as determined by the Town Engineer) to discuss the construction process and the schedule for the upcoming week. In addition, the applicant/contractor shall be responsible for communicating with appropriate Town staff should issues arise in the interim.”

*[I embellished this based on Robin Mower’s comments]*

- h) Road Obstruction. “In accordance with Planning Board requirements, the applicant/contractor shall not obstruct any road or sidewalk without approval of the Durham Police Department. The applicant/contractor shall contact the Police Department a minimum of 24 hours prior to any activity or delivery that would obstruct any road or sidewalk and the Police Department will determine whether or not a police detail is needed. In all cases, the Police Department shall determine when a police officer is needed on site. Police details shall be billed for a minimum of 4 hours at the prevailing billing rate used by the Police Department.”
- i) Lane Closure. “The Durham Police will not allow any construction or delivery that would cause any lane closure during the period of the last week in August through Labor Day weekend that would coincide with UNH ‘move-in’.”

*[I added this at the request of the Police Chief.]*

- j) Departures from Plan. “In accordance with Planning Board requirements, the Town Engineer may approve reasonable departures from the provisions in the Construction Management Plan for good cause.”
- k) Plans Review. “In accordance with Planning Board requirements (and pursuant to RSA 676:15), upon failure of the applicant/contractor to comply with the requirements of the Construction Management Plan or other orders related to the construction of the site made by the Durham Public Works Director, Police Chief, Fire Chief, or Building Official, the Town Administrator, upon recommendation of the Durham Public Works Director, Police Chief, Fire Chief, or Building Official may order the job site closed and/or assess a fine payable from the Construction Compliance Deposit. The first fine shall be \$275.00. Each subsequent fine shall be \$550.00. Each day that a violation continues shall be considered a separate offense.”
- l) Expedited Review. “In accordance with Town policy, the applicant’s building permit fees cover the plans review conducted by the Durham Building Official at the building permit stage. It is understood that should the applicant seek a quicker turnaround than what is available with an in-house review, the applicant has the option of paying additional fees to enable the Building Official to hire an outside reviewer.
- m) Fire Inspections. “The Town of Durham Fire Code Official, or designee, shall perform on-site inspections during fire code and life-safety matters. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Fire Department in its inspection of this project.”



- n) BMP's for Trees. "Best management practices shall be followed for the protection of existing trees and vegetation that are planned to be preserved. Also, the provisions of Section 175-123 – Protection During Construction under Article XXII - Landscaping of the Durham Zoning Ordinance shall be followed."

*[I added this.]*

- o) Occupancy. "There shall be no occupancy on the site of existing buildings while construction is ongoing unless approved by the Building Official."
- p) Fencing. "The site is to be fenced in during the duration of project."
- q) Phasing. "All buildings are to be completed in the same month: there will be no phasing in the issuance of individual Certificate of Occupancy during construction, unless approved by the Building Official."

*[I added these three above provisions at the request of the Building Official.]*

- r) Arborist. "A qualified arborist shall be on site to oversee construction work around existing trees to be preserved. No such work shall be conducted in the absence of this arborist."

*[I added this at Robin Mower's suggestion]*

- s) Tree Impact. "If feasible, conduct construction near existing trees during the winter or dormant season, when stress to trees will be less."
- t) Vegetation Root Zone. "To the extent feasible, trees and shrubs to be preserved shall be protected at or along the critical root zone by fencing sufficiently substantial to make clear the intent to protect them. (The critical root zone is a circle with radius equal to 1.5 feet per 1 inch of trunk diameter. If more than 40% of that critical root zone will be disturbed, the tree may be damaged beyond recovery.)"
- u) Severing Roots. "Where roots of existing trees will be disturbed, sever roots cleanly by hand or with a rock saw, rather than using heavy equipment, to minimize tree root system damage. (If too much of the tree root system is removed or damaged by construction, the tree may decline or die.)"
- v) Compacted Soils. Care shall be taken to avoid passes by heavy equipment near planted areas and trees to be preserved, especially when the soil is wet. (Compacted soils have less open pore space, and hence less space for moisture and oxygen needed to sustain tree health. Even one pass with heavy equipment can cause soil compaction.)"

*[I added these provisions based on Robin Mower's suggestions]*

#### **Other precedent conditions**

- 5) Historic District Commission review. Pursuant to the purview of the HDC specified in the Zoning Ordinance, obtain approval from the HDC for all: a) architectural changes developed after the initial HDC approval on August 22, 2013; b) lighting fixtures; c) paver

designs and patterns; d) fences; and e) signage. Incorporate the final HDC approval into the plan set.

- 6) Pavers. Submit physical samples of final approved HDC approved-pavers to the Planning Department, as presented to the Planning Board. (Gray and red pavers were presented to the Planning Board and there were no concerns expressed about them.)

*[I modified this condition]*

- 7) Signage. Submit a sign master plan to the Planning Board for approval. The Historic District Commission shall approve individual signs and the Planning Board shall approve the overall master plan.
- 8) Utility Connection Permit. The applicant shall submit a complete Utility Connection Permit Application for connection to the Town's water, stormwater, and wastewater systems to the Department of Public Works for review and approval in accordance with the Durham Water and Wastewater ordinances. The applicant shall provide all necessary information and documentation for a public hearing to be held in support of the proposed sewer extension and wastewater connection as required by Chapter 106 of the Durham Town Code. Representatives of the applicant shall be present at the Public Hearing to describe the project and answer questions.

*[The PB approved Peak with the above precedent condition. I modified this based on Dave Cedarholm's comment below. Todd believes that this is reasonable as a precedent condition. Dave Cedarholm states: "Prior to Planning Board Site Plan Approval the applicant shall submit a complete Utility Connection Permit Application for connection to the Town's water, stormwater, and wastewater systems to the Department of Public Works, and submit a wastewater connection permit application to the New Hampshire Department of Environmental Service Wastewater Engineering Bureau. The applicant shall conduct a Sewer Feasibility Study in accordance with Chapter 106 Section 3 that demonstrates that the proposed peak discharge will not exceed a disproportionate amount of the minimum available downstream sewer capacity based on the site's proportion of total gravity sewer shed area. All Utility Connection fees shall be paid and approvals of Town of Durham Utility Connection and Driveway Permits shall be obtained prior to performing any site work including demolition and ground disturbance.*

*"The applicant shall provide all necessary information and documentation for a public hearing to be held in support of the proposed sewer extension and wastewater connection as required by Chapter 106 of the Durham Town Code. Representatives of the applicant shall be present at the Public Hearing to describe the project and answer questions."]*

- 9) Tighe & Bond. The applicant shall address all substantive comments included in the January 7, 2013 design review letter prepared by Tighe & Bond to the satisfaction of the Department of Public Works. All subsequent Plan revisions shall be incorporated into the project Construction Plans and Specifications and provided for review and approval by the Department of Public Works.

*[I have recommended that Orion respond to each of the items in Tight and Bond letter – either addressing the issue now or proposing that it be addressed later as a condition of*

*approval - prior to Planning Board approval. I added this per Dave Cedarholm's comment. "Prior to Site Plan Approval, the applicant shall address all substantive comments included in the January 7, 2013 design review letter prepared by Tighe & Bond to the satisfaction of the Department of Public Works. All subsequent Plan revisions shall be incorporated into the project Construction Plans and Specifications and provided for review and approval by the Department of Public Works prior to issuance of the any permits including Utility Connection Permits, Driveway Permits, and Building Permits." ]*

- 10) Stormwater Plan. The applicant shall submit for review and approval an updated Stormwater Management Plan in accordance with the Durham Site Plan Review Regulations Section 9.03 to the Department of Public Works. The Stormwater Management Plan shall include an operations and maintenance plan with a description of how all components of the stormwater management system shall be accessed for maintenance. No point discharges are to be directed toward abutting properties and provisions are to be made to prevent short circuiting between infiltration structures and foundation drains. Any discharge to the Town's stormwater management system shall not increase the discharge rate or volume above what is discharging from the site, nor violate any aspect of the Town's MS4 Permit.

*[Todd thinks this reasonable to handle as a precedent condition in this case. I added this per Dave Cedarholm's comment. "The applicant shall submit for review and approval an updated Stormwater Management Plan in accordance with the Durham Site Plan Review Regulations Section 9.03 to the Department of Public Works prior to Planning Board Site Plan Approval. The Stormwater Management Plan shall include an operations and maintenance plan with a description of how all components of the stormwater management system shall be accessed for maintenance. No point discharges are to be directed toward abutting properties and provisions are to be made to prevent short circuiting between infiltration structures and foundation drains. Any discharge to the Town's stormwater management system shall not increase the discharge rate or volume above what is discharging from the site, nor violate any aspect of the Town's MS4 Permit." ]*

- 11) Utility Easements. The applicant shall grant utility easements of adequate width for the purpose of access and maintenance to all underground service connections and public water and wastewater infrastructure (piping, valves, manholes, etc.) located on the premises.

*[I added this per Dave Cedarholm's comment]*

- 12) Payment Toward Sewer. Payment of \$15,000 (in addition to other utility fees) toward the design and construction of the sewer line extension from Main Street to Mill Road.

*[I added this]*

- 13) Fire Access. NFPA 1, 2009 Edition requires access to the buildings. Since it has been indicated that the buildings will have sprinkler systems, then all exterior doors must be accessible within 450 feet from a fire department access road, fire lane, etc. Also, one exterior door from each building must be accessible within 50 feet. Obtain confirmation from the Fire Department that this condition is met.

*[I added this at the request of John Powers]*

- 14) Geotechnical. Submit a geotechnical plan to the Planning Board. The plan shall include details on any ledge and how blasting, if needed, will be handled.
- 15) NHDES Sewer Connection Permit. The applicant shall submit a wastewater connection permit application to the New Hampshire Department of Environmental Service Wastewater Engineering Bureau, and submit a copy of the approval to the Planning Department.
- 16) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments.
- 17) Lot combination. The three lots shall be combined (merged) in conformance with RSA 679:39a and Town policy (providing for administrative review).
- 18) Outstanding fees. The applicant shall pay any fees that are due (except for the parking impact fee which is due prior to the CO, below).
- 19) Construction Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of all driveways, water service, sewage disposal, drainage, erosion control, and other infrastructure/improvements, and shall be effective until work is completed by the applicant. The surety may be released in phases as portions of the secured improvements are finalized. A cash deposit or letter of credit is an acceptable form.
- 20) Maintenance Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type) to guarantee that all site work is installed in a correct and workmanlike manner. The surety shall be in an amount of two percent of the estimated site (not building) improvement costs and shall remain in effect for two years after site improvements are completed. If repairs are subsequently needed and are not satisfactorily installed by the developer, then the surety may be used to complete/install the improvements. A cash deposit or letter of credit is an acceptable form.
- 21) Landscaping Guarantee. The applicant shall post an acceptable surety to be approved by the Tree Warden/Director of Public Works (and the Town Business Manager for form and type) to guarantee the success of the landscaping materials. The guarantee shall be for a period of two years commencing from the time the certificate of occupancy is issued or installation of the landscaping materials, whichever occurs later. If replacements of any materials are subsequently needed within this two-year period, as reasonably determined by the Tree Warden/Director of Public Works, then the applicant shall promptly replace those materials (subject to weather constraints). If the applicant does not replace those materials within a reasonable period as determined by the Tree Warden/Director of Public Works then the Town may use the guarantee to pay for and install the materials. This guarantee and/or those specified above may be combined at the discretion of the Business Manager. A cash deposit or letter of credit is an acceptable form.
- 22) Property and Security Management Plan. The property management plan shall be modified to incorporate the following elements, if these are not already included in the plan. The plan may be modified by the applicant in the future with the approval of the Town Planner

in consultation with the Police, Fire, Public Works, and Building Departments, as appropriate (pertinent and substantive elements of the plan as determined by the Town Planner).

- a) rules and regulations of the development;
- b) night-time security for the site from Thursday night through Saturday night, from 9:00 p.m. to 2:00 a.m. (the following morning);
- c) acknowledgement that if problems persist on the property, as reasonably determined by the Police Chief, the property owner shall provide full time security 7 days a week from 8:00 p.m. to 6:00 a.m. until the problems are rectified, as reasonably determined by the Police Chief;
- d) contact information for a primary agent with authority to resolve security and other issues and who can be reached 24 hours a day/7 days a week;
- e) contact information for a secondary agent, who can address the concerns, above, if the primary agent is not available;
- f) assurance that all information will be updated with the Police, Fire, and Building Departments, as needed;
- g) permission for the Building Official to have access to the development to enforce the Durham Town Code Section 118:11 for Offensive Material (Waste Material), as needed; and
- h) signature and title of the party responsible for the plan and date
- i) provision that at least one full-time staff member and at least one courtesy officer shall reside on-site, or that there be somebody on site, or immediately available to the site, overseeing the operation, 24 hours a day, 7 days a week.

*[I think this language addresses the concern about partying. Does the board wish to change or embellish this language in any manner?]*

- j) The following statement: “It is understood that professional management of the site is critical and the Town of Durham expects that the ownership/management will be highly diligent in overseeing and suppressing any activity on the part of residential tenants or their visitors or any other parties on site which would be unreasonably disturbing to any of the neighbors of the project, including loud parties, especially late at night, and other unruly and disturbing behavior. The Town of Durham retains its right to take any appropriate measures to ensure such professional management of the site.”

*[I added this provision]*

- 23) Architectural plans. Submit two final sets of 11x17 paper copies in color of the approved architectural elevations in color (one for the Building Official). All of the building designs approved by the Historic District Commission, including colors and materials are part of this approval.

- 24) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of mylars; b) one large set of black line drawings; c) one set of 11"x17" drawings; plus d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect (licensed in the State of New Hampshire) responsible for the plans. *Please note*. If there are significant changes to be made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings. (The primary set of plans was last received January 2, 2014.)
- 25) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

\_\_\_\_\_  
Bill Fideli

\_\_\_\_\_  
Date

\_\_\_\_\_  
Philip Wills

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peter Wolfe, Planning Board Chair or designee

\_\_\_\_\_  
Date

**SUBSEQUENT AND GENERAL TERMS AND CONDITIONS**

All of the conditions below are also attached to this approval.

**Conditions to be met prior to commencing any site work**

- 1) Site work. No significant site work or ground disturbance may be undertaken until:
- a) all of the precedent conditions are met;
  - b) the preconstruction meeting with Town staff has taken place (See below);
  - c) limits of clearing have been established in the field and approved by the Public Works Department; and
  - d) all appropriate erosion and sedimentation control structures are in place.

These erosion and sedimentation control measures and designation of the limits of clearing must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting.

- e) All Utility Connection fees are be paid and approvals of Town of Durham Utility Connection and Driveway Permits are obtained.

*[I added this as recommended by Dave Cedarholm]*

- 2) Preconstruction meeting. Contact Michael Behrendt, the Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting.

**Conditions to be met prior to issuance of any certificate of occupancy**

- 3) Parking fee. The applicant shall pay the parking impact fee under Section 175-112 A. 1. of the zoning ordinance.
- 4) Natural gas. If natural gas will be used, provide a letter of approval from Unitil.
- 5) Tenant leases. Draft tenant leases shall be submitted to the Town Planner. See waste material, inspection of units, and parking permits, below.
- 6) As-built drawings. One set of full size, one set of 11" x 17", and one electronic copy of as-built ("record") drawings of all buildings, structures, infrastructure, utilities, drainage structures, roads, parking areas, and other pertinent elements shall be provided prior to the certificate of occupancy (unless a surety to cover the cost of the as-built drawings is given). The plans shall be stamped and signed by the Engineer or Surveyor and include the following language or comparable: "This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning Department except for the following significant modifications: ....". If no significant modifications were made simply state "none". Otherwise, itemize the modifications on the as-built or on an accompanying letter.
- 7) Improvements. All on-site and off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an acceptable surety is posted.
- 8) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied prior to issuance of a certificate of occupancy.

**Other terms and conditions**

- 9) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 10) Sewer Connection. The Town of Durham intends to install a sewer extension (subject to approval in the 2015 CIP) from Main Street to Mill Road by the summer of 2015. This will be paid through the CIP. The applicant will contribute \$15,000 to help pay for engineering costs. If that sewer is not built for some reason, the applicant will conduct a Sewer Feasibility Study for the existing sewer line, in accordance with Chapter 106 Section 3 that demonstrates that the proposed peak discharge will not exceed a disproportionate amount of the minimum available downstream sewer capacity based on the site's proportion of total gravity sewer shed area.

*[I added this per discussions with Todd Selig who worked this arrangement out]*

- 11) Dwelling units/beds. This project is approved with a maximum of 179 beds. No additional dwelling units or beds may be established on this parcel without specific new approval from the Planning Board. This specification is made pursuant to the Planning Board's

detailed review of the project and a determination that the number of units/beds approved is the maximum appropriate for the parcel.

- 12) Bedrooms. No units in Buildings A and B may have more than 4 bedrooms.
- 13) Water infrastructure. All public water system infrastructure extensions as depicted on the plans shall be designed and installed at the expense of the developer in accordance with Town Water Ordinance Chapter 158, AWWA guidelines and applicable State regulations. Once installed and approved by the Town this infrastructure shall be owned by the Town of Durham (except where otherwise specified) and operated by the UNH/Durham Water System including all water mains, valves, fire hydrants, water meter assemblies (1 per each building), and master meter (prior to water main branch at entrance), and associated appurtenances. Water service lines and plumbing internal to each structure shall be owned and maintained by the applicant/property owner.
- 14) Wastewater. All public wastewater system infrastructure extensions shall be designed and installed at the expense of the developer in accordance with Town Sewer Ordinance Chapter 106 and applicable State regulations. Once installed and approved by the Town this infrastructure shall be owned and operated by the Town of Durham (except where otherwise specified) including all sewer mains, sewer manholes, and associated appurtenances. Sewer service lines and waste lines internal to each structure shall be owned and maintained by the applicant/property owner.
- 15) Waste management. The waste management plan shall include single-stream recycling. The property owner's waste management hauler's name, account number, and phone number shall be provided to the Durham Building Official/Health Officer (DHO) so that the DHO can call and order an emergency pick up if necessary. The DHO is authorized to request this service at the applicant's expense should it be deemed necessary. The DHO is authorized to contact the waste management hauler only after first contacting the property owner and allowing the property owner to order a pick up.
- 16) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 17) Start of construction. The Building Official recommends starting the project during the school year on the rear buildings (subject to his approval of proper fencing and other appropriate measures) to facilitate desired completion of the project by August 2015.
- 18) Building Plans. Expecting the review of the building plans during the normal work schedule is not recommended. It is strongly recommended that an expedited plan review by an outside agency retained by the Building Official be conducted (as stated in Construction Management Plan, above).

*[I added this at the request of the Building Official.]*

- 19) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 20) Inspection of units. The tenant leases shall include notice that Durham Town Officials may randomly inspect any residential units annually. Five percent of the units, or as determined



by the Town, shall be inspected annually. Inspections shall be randomly selected by the Durham Building Official/Health Officer (DHO) and may be scheduled with minimum notice as stated in the lease.

- 21) Amenity inspections. Any common amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.
- 22) Sprinklers. All buildings within the development shall have sprinkler systems if so determined by the Durham Fire Department.
- 23) Security Recommendations. It is recommended (but not required by herein) that the applicant install video monitoring in any interior common stairwells or hallways or exterior walkways would be helpful for theft prevention and resident safety and to enhance the police department's ability to resolve criminal acts. It is also recommended that hardware include window locks, dead bolts for doors, interior door hinges and well lit interior corridors, and that all common building entrances have locks that automatically catch when the door closes.

*[I added this based on the Police Chief's memo.]*

~~Staffing. At least one full-time staff member and at least one courtesy officer shall reside on-site. There shall be somebody on site overseeing the operation, 24 hours a day, 7 days a week.~~

*[I think this can be eliminated with the conditions above under Property Management Plan.]*

- 24) Weekend clean ups. The applicant is strongly encouraged (in accordance with Chapter 118 of the Durham Town Code) to inspect and to clean up the site on Friday, Saturday, and Sunday mornings, and as otherwise needed.
- 25) Building Egress. The means of egress from the buildings terminate at a public way. The egress paths on the outside of the buildings shall be maintained, including during the winter months. Egress doors to the sides and rears of buildings not commonly used are often forgotten during snow removal or are difficult to maintain because of the walking surface. If these conditions exist, the developer or owner may want to consider installing some sort of maintainable walkway or surface that can be shoveled or cleared during the winter months.

*[I added this based on John Powers's comments]*

- 26) Fire Lane. A fire lane will be provided at the easterly-most driveway to accommodate the first-due fire apparatus. This lane will provide proper access to the fire department connections that will be installed in the same area on buildings A, B, and #25. The exact locations of all fire department connections will be determined during the building & systems plan reviews. It is the intent that the connections for A, B, and #25 be installed in close proximity to the fire lane.

*[I added this per John Powers's comments]*

- 27) Fire Lane Enforcement. The property owner is responsible for maintaining and enforcing the fire lane requirements

*[I added this per John Powers's comments]*

- 28) Alarms. Final locations for the fire alarm control panels will be determined during the building & systems plan review process

*[I added this per John Powers's comment]*

- 29) Radio coverage. The requirements of the Durham Public Safety Amplification ordinance, Section 68-4 F., regarding installation of a radio repeater system for emergency service, shall be satisfied. Coordinate with the Fire Department during the building application process to determine if this ordinance applies.

- 30) Parking permits. The applicant shall not sell or otherwise provide parking permits to non-tenants of this site other than to employees or courtesy officers. The tenant leases shall also stipulate that tenants may not sell or convey their parking permits.

*[I added this provision.]*

- 31) Parking and Leases. The apartment leases shall state that for apartment tenants there is no overnight parking on site, and no overnight parking on any adjacent streets nor on Town property.

*[I added this per the Police Chief's request.]*

- 32) Traffic pattern. The circulation pattern on site is as depicted. Trash trucks may operate in the reverse direction provided that the applicant takes all due care.

- 33) Commercial users. Any commercial/nonresidential uses that are allowed under the Zoning Ordinance may occupy nonresidential spaces without further site plan review.

- 34) Sustainability Recommendations. The following sustainability measures are strongly recommended (but not required):

- a) Installation of smart thermostats with occupancy sensors and provide educational materials about managing the heating and cooling costs of living in the complex.
- b) Installation of electricity-monitoring devices to provide feedback for student tenants on their energy use with their major electricity uses such as clothes washing and drying.
- c) A review of the technology selected for the individual heating and air conditioning units and consideration of Ductless Air-Conditioning and Heating Units based on air source heat pump technology.
- d) Exploring the use of heat pump water heaters

- e) Consulting a solar installer to do a site potential analysis and provide advice about possible PPA financing, grants, and rebates to improve payback period.
- f) For roofs with solar potential, installation of conduit and/or piping to support future installation of electrical or hot water solar systems if and when the payback period becomes more attractive.

*[I added this section based upon the Energy Committee's recommendations]*

- 35) Minor changes. Minor changes to the approved plans may be approved by the Code Enforcement Officer, Town Engineer, or Town Planner, as appropriate. Staff shall inform the Planning Board of all such approved changes.
- 36) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town as provided in this document (See Minor Changes provision herein).
- 37) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall be determining.
- 38) Violations. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation control, wetlands, stormwater management, construction, and general site development standards – the Town reserves the right to take any appropriate permissible action, including, but not limited to, assessing a fine from the construction compliance deposit, withholding building permits, withholding certificates of occupancy, withholding driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of sureties.
- 39) Waivers. The following waivers were applied for and granted: A waiver was granted from the school impact fees (Ordinance 75-9 B) as specified immediately below. This waiver was granted upon a finding that specific circumstances relative to the site plan or the conditions of the land in the site plan indicate that the waiver will properly carry out the spirit and intent of these regulations.
- 40) Variances. Variances were granted to allow residential uses on all parts of the site except for the entirety of Buildings C and D and the front portion of Building A; for the dumpster location; for parking in front of Building B; and for two buildings to exceed 35 feet in height.
- 41) School impact fee. The appropriate fee(s) shall be paid for any grade school students who live at the development for whom the Town must provide educational services.
- 42) Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting documents, and plans for the project; **B)** The Planning Board accepted the application as complete on September 25, 2013 and held a site walk on October 4, 2013; **B)** The Planning Board held numerous

continuous public hearing(s) on the application; the public hearings were closed on December 4, 2013; **C)** The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group, and other Town boards and committees; **D)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements (except where waivers or variances may have been granted); **E)** the Planning Board found that the eight criteria for conditional uses outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use; **F)** The Planning Board reviewed the design in accordance with the Architectural Standards contained in the Site Plan Regulations; and **G)** This project is not considered to be a Development of Regional Impact; **H)** The Planning Board duly approved the application as stated herein, including the conditional uses; **I)** The Planning Board approved the reduction in parking under Section 175-112 A. 2. There are currently 51 parking spaces on site. **J)** The applicant met with the Economic Development Committee on October 15, 2013 to discuss the project. **K)** Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project would be prepared as needed.