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Town Planner's Recommendation
Wednesday, February 25, 2015

- XV. **Durham Business Park – Proposed Zoning Amendment.** Proposed amendments to DBP Zoning District to:
- A. Change Elderly housing, single family; Elderly housing, duplex; and Elderly housing, multiunit from not permitted to allowed by conditional use;
 - B. Change Minimum Lot Area Per Dwelling Unit from NA (not applicable) to 35,000 square feet.
- I recommend the Planning Board set a public hearing for March 11 on the proposed amendments, as stated or with any appropriate changes. See language at the bottom.

Please note the following:

- 1) This is a shift in direction from the site plan as submitted by Mr. Chinburg, pursuant to the general discussion at the Planning Board on February 11.
- 2) At that meeting, Mr. Chinburg said that he would meet with Beth Olshansky and Peter Wolfe to discuss how to proceed from here. (The board did not appoint any committee but rather this was simply the applicant's proposal to meet with them to obtain their ideas.)
- 3) Mr. Chinburg met with Beth Olshansky and now proposes these amendments. The Planning Board may proceed with this proposal as it sees fit. If it wishes to hold a public hearing and if it chooses to do so after the public hearing the Planning Board may formally initiate any appropriate amendment.
- 4) Current project. The public hearing and design review for Mr. Chinburg's site plan application was continued to March 11. The board may continue with that review while a zoning amendment is pending as it sees fit, particularly as the application is still in the preliminary stage.
- 5) I think that the amendment makes sense. It would allow for Mr. Chinburg's project to proceed, albeit at a somewhat lower density.
- 6) Total density. If the minimum lot area per dwelling unit is set at 35,000 square feet, and the total gross lot/parcel size is 28.4 acres (as stated by the applicant), and the road through the site is not considered a "public right of way," then the change would allow for

35 dwelling units before considering the elderly housing bonus. The maximum allowable number of units for elderly housing would then be 105 units if all units were 1-bedroom or studio units and 70 units if all units had 2 or more bedrooms. "Lot area" in the Zoning Ordinance includes the entire parcel except for any public right of way which it fronts or abuts. Of course, zoning maximums and minimums are not guarantees. Planning Boards determine the appropriate level of development based on the zoning standards, site plan regulations, site constraints, and other considerations in the course of site plan review.

- 7) Elderly housing bonus. Section 175-56 A. of the Zoning Ordinance states:

Density for elderly residential uses. In determining the maximum density for Elderly Housing, Eldercare Facilities, and Nursing Homes, the following provisions shall apply to the entire development:

- a dwelling unit containing one bedroom or a studio unit without a separate bedroom shall count as 0.33 dwelling units for the purpose of the density calculation
- a dwelling unit containing two or more bedrooms shall count as 0.50 dwelling units for the purpose of the density calculation
- four (4) beds or accommodations for four (4) residents in those facilities that do not provide dwelling units shall count as one (1) dwelling unit for the purpose of the density calculation

- 8) Earlier proposed amendment. The zoning amendment developed earlier by the Economic Development Committee and Planning Board (and ultimately rejected by the Town Council) was more complex, but that was driven in part by certain site plan goals. A number of the goals embraced in that amendment are incorporated into Mr. Chinburg's proposed project. One reason that a new use category – Elderly Housing, Mixed Housing Types – had been proposed in that amendment was to ensure that there would be a mix of housing types. If Mr. Chinburg's current project did not proceed then the current proposed amendment would allow for a single use on the site (elderly single family, duplex, or multiunit). However, the proposed uses would be by conditional use, so, in such a situation, the Planning Board would have more discretion on how the site would be developed.

- 9) Percentage of Elderly. With any elderly housing development, we will need to clarify at some point whether 100% of the units and occupants would need to be 55 or over or if only 80% of the units would need to have at least one person 55 or over. The definition in the Town's Zoning Ordinance – "*Elderly Housing – Housing principally used, designed or adapted for use by elderly citizens, fifty-five (55) years of age and older...*" - for this definition is somewhat different from the definition under state law:

<http://www.gencourt.state.nh.us/rsa/html/XXXI/354-A/354-A-15.htm>

- 10) Conservation easement. Mr. Chinburg stated that he would place a conservation easement on the land between Route 4 and the pump house if the proposed changes are all adopted (and the site plan?). This "gateway land" easement would allow uses such as community gardens, bocce, recreation, small outbuilding for tools, etc.

11) Mr. Chinburg discussed the following potential options with Beth Olshansky (as described by Ms. Olshansky: “1) bringing in a full care Eldercare Facility company to build one large building toward the rear of the site or 2) creating an over 55 development himself which would likely have one large main building and then cottages scattered in the buildable areas around the circle. If this scenario, his current vision is a design similar to what he built at Shepherd's Cove in Kittery, but more modest in dwelling unit size. The main building, which is 2-1/2 stories, would include a nice community space where people could gather socially or take classes such as yoga, tai chi, etc. He is also talking about creating walking trails throughout the property including ones that cut over to Jackson's Landing.”

12) Proposed amendment. The proposed amendment would involve the following:

❖ In the Table of Land Uses, Section 175-53, under the Durham Business Park Zoning District, change X to CU, as follows:

Elderly housing, multi-unit	X	<u>CU</u>
Elderly housing, single-family	X	<u>CU</u>
Elderly housing, duplex	X	<u>CU</u>

❖ In Table 175-54 – Table of Dimensional Requirements, under the Durham Business Park Zoning District, change NA to 35,000 SF, as follows:

Minimum Lot Area Per Dwelling Unit ³	NA	<u>35,000 SF</u>
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