

**REVISED  
Second Draft**

August 26, 2015

Re: Site Plan Regulations

Dear Members of the Durham Planning Board,

First, I want to thank all those who have worked on this impressive document. When adopted, it will give the Planning Board many valuable tools for guiding development. For that reason, I hope the process of revision and adoption moves along quickly before new projects comes before the Planning Board.

Below are my specific suggestions:

**Part I**

**Definitions:**

Page 8, **Buffer:**

**Proposed:** A vegetated area or zone separating a development from a sensitive resource or neighboring

**Corrected by Robin:** A vegetated area or zone separating a development from a sensitive resource or neighboring [property in which proposed development is restricted or prohibited].

**Concern:** There apparently are several meanings for the word buffer. Robin's corrected version refers to non-buildable area such as a wetlands buffer or a shoreland buffer. Yet the term buffer is often used in the context of visual screening, such as Peak had promised a 50-foot vegetative buffer between Mast Road and their buildings. I was told by a member of their team that they consider grass to serve as a vegetative buffer. I think we should make sure that when we are talking about vegetative buffers for screening, we understand that the purpose is to substantially screen what is on the other side.

I see we have a definition for **Screen:** A type of buffer that provides significant visual shielding of the subject site. But the term vegetative buffer seems to be used much more frequently to refer to vegetative screening. Thus after the (corrected) definition of buffer above, please include "Also see Screen."

**Commercial Core**—*Did we decide to take Coe's Corner out of the Commercial Core during the Master Plan rewrite of the Downtown & Commercial Core Chapter? If so, this should be corrected.*

**Part II**

**Pages 3-5: Section 1.2 Deign Review Phase.** *Does the new language in the Design Review Process section prevent misuse of the regulations as we saw occur with Mathes Terrace by preventing "getting a foot in the door" prematurely when few details are presented?*

**Page 7: Section 1.5: Conditions of Approval:**

**Proposed:** The applicant shall have 1 (one) year to comply with the conditions of approval and have the plan certified. If the conditions are not met within 1 (one) year, the conditional approval shall lapse, unless the Board has granted a mutually agreeable extension. The Board for conditional approval shall grant only two 6- month extensions. Extensions shall be granted only if there have been no amendments to the Zoning Ordinance, these regulations, or any other ordinance or regulations which would render the Site Plan non-conforming, and if all required permits are still valid.

**Comment:** *This time frame seems too generous. I would suggest 6 months and then two 3-month extension periods. Dragging these projects out as suggested by the proposed language creates more opportunity for a project to be out of compliance with current zoning regulations. This is particularly true if a developer purposely brings a project forward timed specifically to get in under the wire, before a pending zoning change and then drags out the project after that because he is really not ready to move forward.*

**Page 10: Article 2: Application Submission Requirements.**

**Section 2.2 Formal Application Content**

**J. Elevation Drawings. Proposed:** The elevation drawings shall be prepared by an architect, landscape architect, engineer, or architectural designer (Use of an architect for larger projects is strongly encouraged), but the Planning Board may waive this requirement for smaller structures or those less prominently located, or as it deems appropriate.

**Concern:** *Why not a licensed architect to aligned with our Architectural Regulations? Why are we allowing an engineer or a landscape architect to produce elevation drawings? Why weaken a requirement with a “strongly encouraged”? Haven’t we learned our lesson from Pauly’s? Also, from Orion we should have learned that elevation drawings should include accurately drawn to scale adjacent buildings.*

**Revise:** The elevation drawings shall be prepared by a licensed architect. Where applicable, elevation drawings shall include accurately drawn abutting properties with the exact height of each building noted.

**Page 14: Article 3 Fees. Section 3.2** *Under fees, does “administrative expenses” include charging developers for the town to hire someone to oversee the project and make sure the architectural features are in compliance with the plan? If not, it should. Clearly we are not equipped to provide the necessary oversight to make sure projects are built according to the plan. How are we going to improve our failed system? And who will pay? Does the language regarding fees need to be revised to cover these costs?*

**Part III**

**Article 2: Architectural Design Standards**

**Proposed:** An architect licensed in the State of New Hampshire shall prepare the drawings.

**Comment:** *Why licensed in the State of New Hampshire, especially when we are so close to Maine and Massachusetts? As we learned from Pauly’s, pretty drawings are not*

*enough. We need to make sure the outside of the building connects to the structural needs of the building. This revised language below would address this.*

**Revise to read:** A licensed architect shall design the building(s) and prepare the architectural drawings. Where applicable, elevation drawings shall include accurately drawn abutting properties with the exact height of each building noted.

**Note:** *Also our Architectural Regulations should apply not only in the Commercial Core but to all buildings (other than private residences) that are built along our gateways. We were lucky that the DBP had its own design requirements but other prominent locations along our gateways do not. In the recent citizen questionnaire, nearly 200 people expressed concern about preserving the character of our gateways. What is or isn't built along our gateways defines, in good measure, our community.*

**Article 4 Cultural Resources, Section 4.3 Cemeteries, 4.3.1:** *While understanding that State regulations require a 25-foot buffer between new development and burial sites, I suggest that Durham can and should do better. Twenty-five feet is a lot shorter than one would think. I suggest the PB consider requiring 50 feet (which is the distance from Mast Road to the Peak buildings). If there is a reason why this is not workable in any given case, the developer can always go to the ZBA.*

**Section 4.4 Stone walls:** *Should the Historic District and Heritage Commission be referenced as part of the review process when making decisions about existing stone walls?*

## **Article 5: Landscaping and Screening Standards**

### **Section 5.1 Purpose**

Please add one additional item: 17) Preserve the character of our town by protecting our gateways from unnecessary visual noise. *Again please keep in mind the findings from the recent citizen questionnaire regarding gateway preservation.*

### **Section 5.2 Objectives**

Please add one additional item: Protect gateways by requiring substantial vegetative screening where appropriate. *See above.*

### **Section 5.4 Plant Materials**

**5.4.7** Plant materials shall be of specimen quality conforming to the most recent version of the American Standards for Nursery Stock (ANSI) and be pest free. Plant materials shall be guaranteed for at least two years or two growing seasons, whichever is greater. Plant materials that die or are in poor condition during the 2-year warranty period shall be replaced. *Suggested by local urban forester John Parry.*

## **Section 5.7 Landscaping Along Public Rights of Way**

**5.7.1** Where feasible and when required at the discretion of the Planning Board, street trees ~~may~~ shall be planted along public rights-of-way with the goal of providing a tree-lined street. *In the recent citizen questionnaire, about 2 hundred townspeople expressed support for more trees downtown.*

**5.7.3 Landscaping strip.** Along Route 4, Route 108, Route 155/Lee Road, Route 155A/Mast Road, and the Old Concord Turnpike, but not including any property located in the five core commercial zoning districts (C, CB, CC, CH, and PO), there shall be established a front landscaping strip ~~25~~ 50 feet wide, extending onto the property from the front right of way/property line. The landscaping strip shall be laid out with an appropriate combination of trees, shrubs, hedges, planted berms, fences, brick or stone walls, and other landscaping elements, as determined by the Planning Board. Where the landscaping area will be wider than ~~25~~ 50 feet the appropriate landscaping may be spaced across the wider area. *Same comment regarding residents' desire for protecting our gateways. Note that the Peak landscaping strip along Mast Road is 50 feet and many people in town think it should have been greater!*

**5.8.6** There shall be no more than four continuous parallel parking rows on the interior of the parking lot (i.e. parking rows along the perimeter of the parking lot are not situated on the interior) without installation of a landscaped median separating those parking rows from any additional parking rows. The landscaped median shall be at least 6 feet wide and shall be parallel to and run the same length as the adjacent parking rows.

**Concern:** *Is the strip 6' wide or the landscaped (soil) area? Either way, this seems too narrow for planting trees expected to actually grow. DMP is a good example of what not to do. For a point of reference, the DMP planting areas for trees is approximately 5'x5' (some are 6' x 5') and we can all attest to the fact that these trees do not grow and eventually die. Please check with John Parry for an appropriate square footage.*

**5.8.9 Foundation Planting Strip.** There shall be a minimum 4 foot wide foundation planting strip between the building and any parking lot or driveway situated on the front or side of the building. *Note: This should be wider. Let's green up our downtown.*

## **Section 5.9 Screening**

**5.9.1** Where nonresidential uses and/or off-street parking facilities abut a vacant lot in a residential zone or an existing residential use, the perimeter shall be screened to provide physical and visual separation from the residential zone or use. This shall also apply to development in our commercial core and along our gateways.

## **Section 5.11 Maintenance and Replacement of Landscaping and Screening**

**5.11.1** The developer or property owner shall be responsible for the maintenance, repair, and replacement of all required landscaping and screening materials for ~~two~~ three years or three growing seasons, whichever is greater, from the date of planting. A written, 3-year

tree maintenance plan shall be submitted that includes specifications for watering, mulching, removal of guy wires/stakes (if used), pruning, and tree protection. Plants that appear not to be healthy at the end of the 3 year period shall be replaced and cared for during an additional 3 years. Plantings along gateways or prominent locations downtown shall be maintained in a healthy condition in perpetuity.

*Note 1: Several of the trees planted along the Peak Path died because they never got watered.*

*Note 2: I would also hope that we can beef up language about the importance of saving existing tree in or adjacent to development sites. In some communities (such as Wayland, MA) every mature tree that is removed must be replaced with 5 new trees. I suspect that this provides a deterrent to removing trees unnecessarily, otherwise it is too easy to remove existing mature trees out of convenience and replace them with a spindly young tree.*

*Note 3: I am generally concerned about regulations relating to how much space is allotted for tree plantings in urban areas such as parking lots and along streets. I defer to John Parry, our local urban forester for recommendations on this and other items related to his area of expertise. I urge the PB to follow all of John's recommendations as we are fortunate to have him offering his expertise free of charge.*

*Note 4: I concur with Robin Mower's request to make sure we have language in our Site Plan Regulations that allow us to hire an independent third-party person to review site construction plan drawings, and other matters required by the site plan application at the applicant's expense. Clearly our small staff is not able to handle the workload required by large construction projects. Many of the errors that have occurred would not have occurred had we hired a third party to keep watch as projects are being built.*

Thank you for your consideration of these issues.

Beth Olshansky