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Town Planner's Recommendation
Wednesday, October 22, 2014

Public Hearing - Mill Plaza Redevelopment. Design Review for partial redevelopment of Mill Plaza Shopping Center site including 44,110 square feet of new commercial space, with an addition to the existing Durham Marketplace building, two new mixed-use buildings, a separate bank with drive through, 120 residential apartments, and other site changes. Colonial Durham Associates, LP, c/o John Pinto, owner. Joseph Persechino, Tighe & Bond, Design Engineer. Adam Wagner, DeStefano Architects, Architect. Tax Map 5, Lot 1-1. Central Business Zoning District.

➤ I recommend the design review and public hearing be continued to an upcoming meeting.

Please note the following:

- Design review. This is in design review. At the appropriate time the Planning Board should close the design review, but it would be best to continue it until a general plan is developed that seems to be acceptable. This is the purpose of design review. If the applicant wishes to continue it could take a while to develop such a plan given the range of concerns. This is the opportunity to discuss the full range of potential issues – design, proposed uses, traffic, impact upon the neighborhoods, impact upon businesses, etc. – recognizing that the concerns need not be resolved at the design review stage provided there is confidence that the general plan will ultimately be workable. In my opinion, it will not be beneficial for the applicant to go to the expense of engineering a formal plan until there is some sense of support for the preliminary plan (though the applicant also retains the right to close the design review whenever they wish).
- Residential apartments. Again, the Planning Board will want to evaluate the proposal to add 120 residential apartments to accommodate 480 residents very carefully. This use is permitted only by conditional use.
- New ordinance. The Planning Board initiated an amendment to the Zoning Ordinance to increase the minimum habitable area per occupant in apartments from 300 square feet to 600 square feet. In accordance with RSA 676:12, this application is subject to the proposed amendment (unless the amendment is ultimately rejected).

I understand that the applicant disagrees with this finding. The Planning Board initiated the amendment prior to submission of the design review application and consequently, consistent with the Planning Board and Planning Department procedures, the public notice for the amendment was placed in the newspaper prior to the notice for the design review application. Regarding the applicability of pending ordinances such as this one, the Town has followed the general direction provided by Laura Spector, the Durham Town Attorney.

Over many years, several municipal attorneys in New Hampshire have provided the same guidance to me regarding the applicability of this statute.

- Assuming that the 600 square foot requirement would apply to all new multi-unit dwellings the applicant should clarify how this would affect their plans.
- Mill Plaza Study. As numerous people have pointed out, a great deal of work went into the Mill Plaza Study for this site. The designs should comport as closely as possible to the findings of that study, given that some elements of the study may no longer apply (such as the construction of the library and Town Hall and the development of the Orion site on Main Street).
- Parking Lot. A harmonious layout and location for the parking lot(s) is needed.
- College Brook. If the project goes forward, there will likely be the need for conditional uses (and possibly variances) for construction in the vicinity of College Brook.
- Faculty Road Neighborhood. A key consideration will be potential impacts of the project upon the adjacent Faculty Road and Chesley Drive Neighborhoods.
- Existing Business. I understand that the Planning Board raised the question with the applicant the potential impact upon existing businesses in the development
- Sustainability. There is a strong desire in this community for various environmental sustainability measures to be incorporated.