



TOWN OF DURHAM
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Town Planner Recommendations
DURHAM PLANNING BOARD
Wednesday, April 8, 2015

- VIII. ***Public Hearing –Mill Plaza Redevelopment***. Design Review (preliminary application) for significant redevelopment of Mill Plaza Shopping Center site including 89,400 square feet of commercial space (existing and new), an addition to the existing Durham Marketplace building, five new buildings, 185,750 square feet of residential space, 442 beds, greenspaces and plazas, and 168 parking spaces (there are 345 existing spaces). Colonial Durham Associates, LP, c/o John Pinto, owner. Sean McCauley, representative. Joseph Persechino, Tighe & Bond, Design Engineer. Adam Wagner, DeStefano Architects, Architect. Tax Map 5, Lot 1-1. Central Business Zoning District.
- I recommend that the application be tabled until 30 calendar days after the date when the ZBA process has ended. At that point, the Planning Board can determine whether it is appropriate to continue the design review.

The applicant requested that the application be tabled (indefinitely) as stated in Attorney Ari Pollack's email to me, as follows:

Michael-

As we pledged we would in January, I am writing to again update the members of the Planning Board as to the Mill Plaza design review, and to address our preparedness to return to the Board on April 8, 2015.

Recently, the project team presented administrative appeals and variance requests to the Durham ZBA. Our hope was that some combination of relief would allow the project to move forward in design review and towards final planning. Unfortunately, the ZBA refused to offer any relief, and the project nearly has exhausted administrative remedies within the Town. Recognizing the reality of its present situation, Colonial Durham is forced to weigh its appellate and judicial options.

Accordingly, and until a Court may reverse the Town's treatment of our requests/application, Colonial Durham believes it is unable to make forward progress in design review. For this reason, it is requesting that the design review application be tabled indefinitely. At such time as the redevelopment plan is able to reasonably move forward, we will ask that the Board remove the application from the table and schedule the continuation of public discussions. For its part, Colonial Durham will agree to reimburse the Town's reasonable notification expenses associated with future consideration.

Please confirm that you will distribute this e-mail to the Planning Board for its consideration and action. Please also confirm that the attendance of our design professionals on April 8 is unnecessary.

Thank you.

-Ari

Ari B. Pollack, Esq.

IX. **Public Hearing - Eldercare Facility – Durham Business Park.** Design Review (preliminary application) for an eldercare facility with a total of 116 dwelling units situated in three large buildings and 14 cottage and duplex units. Grant Development, LLC, c/o Eric Chinburg, property owner and developer. Mike Sievert, MJS Engineering, Engineer. Tax Map 11-27-1 through 11-27-7. Durham Business Park Zoning District.

➤ The applicant has requested that this be postponed to May 13.

Please note the following:

- 1) The applicant presented his design review plans for an eldercare facility on February 11. There was concern expressed whether the proposal met the definition of an “eldercare facility,” so the application was continued and a zoning amendment was drafted to allow elderly housing by conditional use.
- 2) On March 11, the Planning Board initiated amendments to the Durham Business Park to allow elderly housing by conditional use – single family, duplex, and multifamily - and to establish a minimum lot area per dwelling unit.
- 3) The Town Council is holding first reading on the amendments on April 6.
- 4) If the Town Council proceeds, then second reading, a public hearing, and prospective action may occur as early as April 20 (or May 11).
- 5) The applicant has stated his desire to keep this design review open pending action on the proposed zoning amendments. He stated that if the amendments are adopted he would modify the design to an elderly housing development instead of an eldercare facility for additional design review (In that event, it would need to be determined whether the current design review can be continued and changed or if a new design review application is needed).

X. **Public Hearing - Automobile Service Facility – 3 Dover Road.** Redevelopment of former Cumberland Farms property into facility with 3 service bays, an office and 12 parking spaces. James Mitchell, Tropic Star Development, applicant; Cumberland Farms, property owner; Barry Gier and Wayne Morrill, Jones & Beach, Design Engineers. Map 4, Lot 49. Courthouse Zoning District. Recommended action: Discussion.

➤ I recommend discussion and continuation to another meeting. The project was postponed by the applicant from the March 11 meeting. No new information has been submitted.

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- XI. **Former Mill Pond Center Property – 2-lot Subdivision.** 50 Newmarket Road. Formal application for a 2-lot subdivision. Seacoast Repertory Theatre, property owner; Matt Faginger-Auer for Doucet Survey, Surveyor. Tax Map 6, Lot 9-8. Residence B Zoning District. Recommended action: Discussion

➤ See separate writeup.

- XII. **HDC Term Limits.** Proposed amendment to the Zoning Ordinance to eliminate limits on terms for members of the Historic District Commission. Section 175-91. A.3. states that members of the HDC shall serve no more than two successive terms. Initiated by the Town Council. Recommended action: Set public hearing for April 22.

➤ I recommend the Planning Board set a public hearing on the proposed amendment for April 22.

Please note the following:

- 1) The purpose of this proposal is to eliminate term limits for members of the Historic District Commission that are contained in the Zoning Ordinance under Article XVII – Durham Historic Overlay District.
- 2) Peter Stanhope, HDC chair, requested that the Town Council or Planning Board remove this restriction. The Town Council reviewed the following proposed amendment on March 16 and forwarded it to the Planning Board for consideration.

175-91. Historic District Commission.

A. Membership.

Members of the Historic District Commission (HDC) shall be appointed by the Town Council.

The HDC shall consist of seven (7) members. All members shall be residents of the Town of Durham; one (1) shall be a member of the Town Council, and one (1) shall be a member of the Durham Planning Board. In determining the qualifications of a Commission member, consideration will be placed on her/his demonstrated interest and ability to understand, appreciate and promote the purpose of the HDC.

The Commission members shall be appointed for three-year terms, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time. Members shall serve without compensation. ~~and shall serve no more than two (2) successive terms.~~ In the event of a vacancy on the Commission, interim appointments may be made to complete the unexpired term of such position.

- 3) I am not aware of such term limits set for any other Durham boards or commissions.

- 4) Three items from the Town Council are included in the packet: a letter from Chair Jay Gooze, the Council Communication about the amendment, and the proposed ordinance.
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XIII. **Site Plan Regulations.** The Durham Site Plan Regulations have been overhauled with a new draft including Part I – General Provisions, Part II – Site Plan Review Process, and Part III – Development Standards.

- Part III – Development Standards, Articles 1 through 6

Recommended action: Endorse with or without changes or continue review.

➤ See separate write up

XIV. **Other Business**

A temporary certificate of occupancy has been issued for the Lodges on Mast Road, and they are waiting for a permanent CO. There is one particular item that does not conform with the approved plans. There are a number of utility structures that were built behind the clubhouse, visible from Mast Road. See the drawing below, on the next page, showing the generator pad, air conditioning unit and other items. I believe that the applicant needs to apply for an amendment to the Planning Board to address this change (An amendment involves notices and a public hearing). The applicant questioned why this cannot be reviewed as an administrative modification, which I do not think appropriate, and asked that I check with the Planning Board. Peter Wolfe okayed my including this question under Other Business.

