



TOWN OF DURHAM
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Town Planner's Review
Wednesday, August 11, 2021

VIII. **Public Hearing - 19-21 Main Street – Parking Lot**. Formal application for site plan and conditional use for parking lot on four lots and reconfiguration of the entrance. Toomerfs, LLC c/o Pete Murphy and Tim Murphy, owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 5, Lots 1-9, 1-10, 1-15, and 1-16. Church Hill District.

- I recommend that the board specify what additional images and documentation are needed; determine if the traffic during construction constitutes a Development of Regional Impact; and continue the review and hearing to a future meeting.

Please note the following:

- I am writing this memo on July 28 before I leave the office for vacation so if there is any new information submitted after that time, I have not covered it in this memo.
- I understand from Mike Sievert that the plans may be modified but I have not received any updated plans.
- There have been numerous requests from abutters for specific images to give a better understanding of the plan. Only the board can determine what exactly is needed. I recommend the board discuss the following items and specify what must be submitted, recognizing that we should wait if there will be significantly modified plans forthcoming:
 - a) An image of the revised plans as seen from the south. Tim Murphy provided one using Photoshop or equivalent for the prior plans. Is there a concern with who provides this image? Should this be provided from Chesley Drive or from the southerly lot line of the subject parcel?
 - b) A longitudinal profile extending from Main Street to at least Chesley Drive.
 - c) An image of the subject site plan juxtaposed with the proposed Mill Plaza project.
 - d) I believe that Mike Sievert spoke about a 3D type image that could be produced on a two dimensional sheet.
 - e) Some kind of rendering to understand how the parking lot and regrading meets the stone wall on the westerly side.
 - f) An image of the parking lot as seen from the Urso property.
- The board should determine if the construction traffic constitutes a Development of Regional Impact. The only element of the project which I believe could reasonably be deemed a development of regional impact is the construction traffic. Riverwoods was deemed a DRI for the construction traffic. If so, we must notify abutting municipalities and the regional planning commission. See the pertinent statute at the end of this memo.

(over)

- Other key issues include proposed buffers on the easterly, southerly, and westerly sides; a revised landscaping plan (to be submitted); and a revised drainage plan (to be submitted).
- Would another preliminary discussion of the conditional use criteria for the revised plan be useful?
- Zoning Board of Adjustment upheld the Planning Board's determination that the revised plan, using sloping earth rather than retaining walls, constituted "surface parking" rather than "structured parking." Thus, the design as now proposed is allowed by conditional use.
- The applicant filed an appeal to Superior Court of the ZBA's earlier finding that the previous plan, using a retaining wall, constitutes *structured parking*. The appeal will be presented to the court in November.
- Development of Regional Impact:

Review of Developments of Regional Impact

36:54 Purpose.

The purpose of this subdivision is to:

- I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.
- II. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the municipality having jurisdiction.
- III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

36:55 Definition. –

In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. **Transportation networks.**
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

36:56 Review Required. –

I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.

II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.

36:57 Procedure. –

I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.

II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

III. At least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.