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Town Planner's Review
Wednesday, July 26, 2023

X. Other Business

- **Discussion of new statute about density of workforce housing and senior housing**

➤ I recommend that the board start the discussion about this issue.

This is the same information that I sent to the Planning Board by email earlier.

This statute was adopted in 2022. We need to determine if any amendment to the Zoning Ordinance is in order.

674:17 Purposes of Zoning Ordinances.

...IV. If a municipality allows an increased density, reduced lot size, expedited approval, or other dimensional or procedural incentive under this section for the development of housing for older persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it may allow the same incentive for the development of workforce housing as defined in RSA 674:58, IV.

Beginning July 1, 2023, incentives established for housing for older persons shall be deemed applicable to workforce housing development.

Please note the following:

- Here is the state's definition of workforce housing.

674:58 Definitions.

...IV. " Workforce housing " means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. " Workforce housing " also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50

percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

Thus, the metric for housing based on the area median income is **100% for sale and 60 percent for rent**. Durham is part of the Portsmouth-Rochester market area. For 2023 the area median family income is \$136,000 (up from \$116,400 in 2022!). **The level for sale is \$407,000. The level for rent is \$1,840.** I believe that these numbers apply to any houses or rental units independent of unit size or the size or type of household purchasing or renting.

- “Housing for older persons” means senior housing, which is defined in the Zoning Ordinance as follows:

SENIOR HOUSING – In accordance with RSA 354-A:15, either: a) housing where at least 80% of the units are occupied by at least one person 55 years of age or older; or b) housing where 100% of the occupants are 62 years of age or older.

- Durham has this density bonus for senior housing in the Zoning Ordinance. Generally, with a multi-unit residential development the number of allowed dwelling units is **double** what would otherwise be allowed. It would be triple where studio or one-bedroom units are included. The density would not be increased in a conventional single family subdivision, with individual lots, since this allowance does not affect minimum lot sizes.

175-57. Special Situations Affecting Dimensions.

A. Density.

1. Density for senior residential uses. In determining the maximum density for Senior Housing, Senior care 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*

- The ordinance also allows higher density within multi-unit residential buildings.

Table 175-56. Minimum Habitable Floor Area by Dwelling Type for Unrelated Households

The minimum habitable floor area within a building per person for a senior dwelling unit is 200 square feet. It is variously 250, 300, and 400 square feet per person for several other dwelling types.

I am not clear whether or not this allowance would be applicable under the new state law for workforce housing.

- 175-53. Table of Land Uses.

The allowance for senior housing – single family residences, duplexes, and multi-unit residences – in the Table of Uses is more generous than for residences not serving seniors. The Town Attorney confirmed that the locations for allowed uses would not be affected by the new state law.

- The only reference to Workforce Housing in the Zoning Ordinance is in the article on Conservation Subdivisions, where a density bonus is provided for workforce housing. I do not believe this allowance has ever been used.

175-107.1 Workforce Housing Option

...F. Density Incentive. Any Conservation Subdivision that seeks to include workforce housing shall be permitted to increase the number of market units by 20% above the Maximum Development Density as calculated per Section 175-107 E (2) and that will guarantee an additional 20% of units above the Maximum Development Density to be designated as workforce housing.

- A town can establish that the sale or rent of workforce housing in the future be limited to households that meet the income thresholds. We probably should include this in the Zoning Ordinance or Site Plan Regulations.

674:60 Procedure.

...IV. A municipality may require that an applicant record restrictive covenants acceptable to the land use board that the workforce housing may not be rented to or sold to any household whose income is greater than that specified in RSA 674:58, IV [Definition of Workforce Housing, above]. The covenant shall be for the term specified in the regulations of the land use board. The municipality may adopt regulations to insure compliance with the covenants, which regulations may include requirements for the monitoring of the project by the municipality or by a suitable third party agency qualified to carry out such requirements, including but not limited to requiring the production of annual income verification for renters and non-owner occupiers. The land use board may consider the existence of recorded covenants or income qualification and occupancy criteria as satisfying the purpose of this paragraph if such covenants or criteria are administered by a state or federal entity.

The Town has a few options now.

- 1) Make no changes to the Zoning Ordinance. Thus, if we received any application for workforce housing now the Town would need to grant a density bonus, most likely of

double the density otherwise allowed. What is the chance of this occurring? Would it be problematic in any way? I don't believe this would affect a conventional subdivision with individual lots since we don't offer a bonus on lot sizes. It would apply to the sale of condominiums within a building or on land where there are not individual fee simple lots (This would apply to a project like Gerrish Drive, for example). We would likely want to include a condition that the units remain affordable for a long time if not in perpetuity. Would we see units for sale for under \$407,000? Would we see units for rent for under \$1,840? We might see a multi-unit residential project, including one available to undergraduate students with studios, one bedrooms, and possibly two bedrooms where an owner would find that rent level acceptable, especially with a density bonus. Would it be a concern if the allowed number was double the zoning otherwise allowed? It might be desirable to have a project with more smaller units. Note that the maximum number of bedrooms in any apartment in Durham is 4. The maximum number of bedrooms in the Central Business District is 2.

- 2) Remove the density bonus for senior housing. Should there be a density bonus for senior housing? There are two reasons to encourage senior housing: a) senior housing does not generate children who use the public schools; and b) it is one of few reliable ways in Durham to build housing that does not allow undergraduate students. If the bonus for senior housing is removed, should a bonus be included for workforce housing?
- 3) Retain the bonus for senior housing for the most part but modify the terms of that bonus and add new language to regulate the terms of workforce housing, as allowed in state law.