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Town Planner's Review
Wednesday, March 13, 2024

- X. **Public Hearing - Workforce Housing – Proposed Zoning Amendment and Rezoning of Parcel.** Consideration of a set of proposed amendments to the Zoning Ordinance pertaining to workforce housing including adding a definition, adding a line to the Table of Uses, adding a section providing the standards for workforce housing, making several other text changes, and rezoning a 117-acre lot of land owned by the Leda M. Keefe Rev. Trust, c/o Daniel Keefe, at 59 Piscataqua Road, Tax Map 209, Lot 39, from Residential Coastal (RC) to Office Research (OR). The amendments have been endorsed by the Durham Housing Task Force.
- I recommend that the board determine next steps after holding the public hearing. The hearing could be continued to another meeting or the board could close the hearing and start discussing the proposed amendments. Mainly, I recommend that the board proceed slowly as there are numerous issues to work through with the proposal.

Please note the following:

The proposal includes several changes to the Zoning Ordinance and the rezoning of one parcel of land. The proposal was sent in the last packet to the Planning Board and is posted on the Town's website.

Students. Two of the key issues pertain to students: 1) potential impact upon the Oyster River School District; and 2) potential for attracting an inordinate number of undergraduate college students given that the objective is to create workforce housing.

John Randolph, a potential developer of the site, and I met on Wednesday with Dr. James Morse, School Superintendent, and Suzanne Filippone, Assistant Superintendent, to discuss school capacity and the potential impact of a proposed project on the schools. They will join the Planning Board on April 10 to talk about school capacity, school projections, and potential impact of a workforce housing project, as currently discussed, upon the school district.

The proposal has been sent to the Town Attorney. Todd Selig and I will meet with her (but not before the March 13 Planning Board meeting).

There are various potential strategies for limiting the number of likely Oyster River students and undergraduate students including setting a maximum number of units, setting limits on the number of three-bedroom units, allocating a part of the project to senior housing,

including some amount of market housing, phasing the project, and including requirements for income generated from work or other personal resources.

Note that the matter before the Town now is a zoning amendment and not a site plan application so we would need to be very thoughtful about how to incorporate specific requirements into the ordinance to bring a desired result when and if a site plan or subdivision application is subsequently submitted.

Overlay District. It was suggested that workforce housing be allowed through an overlay district rather than adding the use to the Office Research – Route 108 Zoning District (OR) and rezoning the subject lot to OR. The concern expressed with the current proposal is that with a rezoning of the subject lot to OR, numerous other uses, mainly commercial and light industrial uses, would be allowed on that lot now, along with workforce housing. This includes, in part, a recreation facility, a hotel, an office, research and development, light industrial, and a warehouse (by conditional use). Some of those uses might not be appropriate for the lot plus if we think the lot is especially valuable for workforce housing the lot might be purchased for one of those other new uses rather than for workforce housing.

One way to deal with this concern would be to exclude some of those uses from the Office Research district as part of this zoning amendment. The OR district is largely built out and there are very few lots where those uses could be established, the subject lot being the most likely candidate. But I think that using an overlay district would probably be a better approach.

If an overlay district is used I recommend that it be very limited in area and include the current OR zone (but probably not the small lots west of Dover Road) along with the subject lot. The criteria for using (or “landing”) the overlay district onto any particular lot should be objective and not subjective. A potential developer should be able to see readily whether a proposed site and project will qualify without having to go through a long site plan review.

We could include a few objective criteria for when the overlay district can be applied, e.g., the lot must be more than say 25 acres, there must be water and sewer available, and possibly that there must be a good sized developable area in the interior of the lot that would allow for healthy buffers from adjacent roads and residents.

Then there would be numerous specific requirements for a project like those that we have already laid out in 6) Standards for Specific Uses in the draft ordinance which would be applied in the course of the site plan or subdivision review.

Office Research District. If the current proposal involving adding workforce housing to the OR district is followed then I would recommend:

- 1) allowing workforce housing only in the OR district and not in any other district (It could be added later if we find in the future that there are real opportunities for workforce housing elsewhere);

- 2) rezoning only the portion of the subject parcel west of Johnson Creek to OR, leaving the portion to the east as Residence Coastal; and
- 3) examining the allowed uses in OR and considering removing some of them or changing them to conditional use.

Workforce Housing. Developing workforce housing is always difficult. This is the case by definition because the rent levels are well below what the market will carry. (In contrast, workforce housing for sale is easier to accomplish as housing for sale is directed at those with median area income whereas housing for rent is directed at those with only 60% of median income.) A very limited number of developers have the interest or the ability to develop workforce housing, at least where the workforce housing constitutes more than a small portion of a project. Some sort of significant subsidy or great creativity is required. If one really wants to support workforce housing, then it is understood that there will be numerous challenges that need to be addressed. If important concerns cannot be adequately addressed then a proposal should not go forward. The Planning Board and the Town Council have considerable discretion in reviewing these zoning changes.

Fiscal impacts. It is appropriate for the Town to consider potential fiscal impacts should the zoning amendments go forward. Of course, potential impacts upon the Oyster River School District is a key concern. Again, Dr. Morse will speak with the Planning Board on April 10.

There are several things to keep in mind in evaluating potential fiscal impacts for this proposal: 1) for any residential development, except for senior housing, the developer would be required to pay a school impact fee of \$3,699 or \$1,812 per unit (depending on the type of unit) to pay for future infrastructure improvements in the schools; 2) Harmony Homes on Route 4 was approved years ago for Phases 2 and 3. Harmony Homes pays full Town taxes. John Randolph, the owner, shared with the Town that he is reluctant to build phases 2 and 3 due to the difficulty in obtaining staffing. He said if a large workforce housing project were built accessible to Harmony Homes he would be much more likely to build those phases; 3) It is possible that any infrastructure on the subject lot would be privately owned and maintained saving the Town those expenses (to be discussed as part of site plan review); and 4) any workforce housing project would pay full taxes.

Dover Project. I recommend that the Planning Board schedule a site visit at the appropriate time to a project in Dover. John and Maggie Randolph developed the Cottages at Back River Road, 44 single units with a bedroom and a loft. 100% of the units are workforce housing. Visiting the site would be helpful to learn how workforce housing works and to see how a specific project looks. The Randolphs may or may not end up doing a project on this site should the zoning proceed but it would be appropriate and beneficial to see what kind of project they have already done, recognizing that a project in Durham would be different in various ways.

*Some have questioned the Town speaking with and about a particular developer regarding this potential zoning change. I want to emphasize that it is entirely appropriate to do so, with the understanding that it remains uncertain whether the zoning amendments will go through and in what form, and that if they do, the property owner could sell the land to any party they wish for development of any allowed use. The majority of rezonings occur because there is a particular project that the landowner and often a specific developer are contemplating. This is the impetus for many small area rezonings. Plus, when a town considers zoning changes to encourage a particular kind of development, whether for a downtown revitalization, an industrial project, or a workforce housing project, it is good practice to speak with potential developers about the proposed zoning changes to ensure that they are realistic and not merely aspirational, otherwise such zoning changes are a waste of time.

General issues. There will be numerous things to evaluate as part of a site plan review should the zoning go forward, in addition to those issues discussed above and referred to in the draft ordinance, including sustainability measures (solar panels? EV chargers?), transportation initiatives to reduce single car occupancy, utilities (water and sewer service are available to the site), fire department access, open space (We will be certain to include clear language in the ordinance providing that a significant amount of open space and important natural resources be preserved in perpetuity), approval of access onto Route 4 by NHDOT (We have had a preliminary meeting with NHDOT and it is possible some turning lanes would be required, but not a traffic light). We also need to discuss more the exact language in the ordinance dealing with rent levels and other matters.

Next steps. Whenever the board closes this public hearing, the board will have much to discuss revising the draft. Assuming that the board wishes to continue with its consideration, the board will likely modify the draft significantly and then hold a new public hearing on that