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Town Planner's Review
Wednesday, May 8, 2024

- IX. **Workforce Housing – Potential Zoning Amendment.** (Time permitting) Continued discussion about issues related to potential zoning amendments to facilitate the creation of workforce housing. The Planning Board put aside an earlier proposal and is now working on a new/revised draft.
- I recommend that the board continue discussing the various issues related to prospective zoning amendments.

Following this discussion I should be able to put together a new draft ordinance, probably for the next regular meeting on June 12. Here are the various pertinent issues.

- 1) **Overlay Districts.** This should be set up as the Workforce Housing Overlay District (WHOD). I recommend two areas roughly as shown on the maps at the bottom. One area would encompass a portion of the Office Research Light Industry (ORLI) District including Technology Drive and UNH's West Edge and the other would include the present Office Research District along Dover Road plus most of the Keefe property located off Route 4 (the area west of Johnson Creek). We need to determine whether the standard for an overlay district like this should be: a) any site within the overlay is eligible for a workforce housing project; or b) a site would need to meet certain criteria to be eligible such as a minimum lot size, availability of Town water and sewer, access to a major road, etc. It should not be available for conditional use. Any developer should have certainty about the basic zoning requirement up front without having to spend a significant amount of time and money developing a plan to then receive a determination whether the project is allowed or not.
- 2) **Overlay district locations.** I included maps of two potential overlay districts in my last memo. Include the Office Research (OR) district but not the small lots to the west of Dover Road/Route 108. Include the Keefe property to the east of the OR district but not the portion that is east of Johnson Creek. Include portions of the Office Research Light Industry (ORLI) district north of Route 4 and the UNH property in the easterly section north of Mast Road considered for the future Edge project.

- 3) Multi-unit residential. The ordinance should be oriented toward multi-unit rentals. I recommend that projects built under the ordinance be multi-unit projects only so there would not be any single-family houses *on their own lots*. Under the state's workforce housing statute houses (and condominiums) for sale are based on a much higher income level and would thus be significantly less affordable. The ordinance and review process would be more complicated if there is a mix with single family houses. Already under state law now one can develop a single-family subdivision with workforce housing at double the base density. A separate short ordinance for this could be developed later if desired. Workforce housing sets houses for sale as being available to a household with 100% of the area median income. I believe that rents at the HUD Fair Market level would be affordable to people at less than 100% of the area median income. For units that would be sold as condominiums we should determine the level of affordability comparable to the HUD rent levels in order to level the playing field between development of condominiums and development of a rental project. Density levels should be set to make a rental project viable. Sales of townhouses at 100% of the area median income would require a lower density. I can coordinate with housing professionals on this issue (NH Housing and the Workforce Housing Coalition, etc.)
- 4) Density. The density should just be set for workforce housing. This would not be a "bonus" as there would simply be a set density when one uses this ordinance. For simplicity, it should be one level, not include various levels depending on the percentage of units that are workforce housing, since the ordinance is oriented toward a project with a strong majority, at least, of workforce housing. Application of the overlay district should probably be limited to sites with water and sewer so density could simply be set by lot size and area of wetlands, open water, streams, rivers, and ponds without needing to subtract lands subtracted as "unusable areas" in the Conservation Subdivision provisions (e.g. somewhat poorly drained soils and soils with shallow depth to ledge).
- 5) Number of units. Say we set the density level at one unit per 10,000 square feet after subtracting wetlands and open water. For a 5-acre lot with say 25% of the lot containing wetlands and open water that would allow 16 units. A 20-acre lot would yield 65 units. A 100-acre lot would yield 326 units. We should include a process to constrain the number of units on large lots that do not have extensive wetlands as any single development with that many units could have various adverse impacts. We can't alter the density based on lot size. Perhaps we could allow more than say 200 units on a lot, or in a single development by conditional use.
- 6) HUD Fair Market Rents. The New Hampshire workforce housing statute defines workforce housing based on rentals being affordable to those at 60% of the area median income and units for sale being affordable to those at 100% of the area median income. However, the standard that was used for the Dover project, and which is recommended by Sarah Wrightsman and George Reagan of New Hampshire

Housing is the HUD Fair Market Rent levels. These rent levels are based on the number of bedrooms in a unit and are reset according to market conditions each year. The ordinance should use the HUD Fair Market Rents as the reference. I will send an email to the Planning Board, and post it on the website, explaining this issue in detail.

- 7) Bedrooms. For any site there should be a maximum of one third three-bedroom units. I recommend not including any four-bedroom units due to potentially higher impact on the school district and possibility of problem behavior for larger unrelated groups. For a project above a certain number of units there should be a requirement to have at least two sizes of units – studios, one-bedroom, two-bedroom, and three-bedroom apartments.
- 8) Senior housing. The ordinance should not provide for a specific percentage/amount of senior housing (available only to those 55 and older) and this was the sense of the board. However, people of any age could simply rent units like anybody else. There would not be any additional bonus should the developer incorporate a percentage of senior only units.
- 9) Income requirement. However, there was a discussion on March 27 about possibly restricting tenancy to those with employment income (rather than retirement income and other types of income). The sense of the board was to not do that, in part because it might not be legal. See section on income requirements.
- 10) Percent workforce housing. The original proposal called for 100% workforce housing. The sense of the board is to include a percentage of market-rate housing in order to enhance the financial viability of a project and to accommodate some mix in residents. I suggest requiring that at least 75% of the units meet the HUD Fair Market Rent level. We should probably require that the workforce units be built prior to or simultaneous to any market units.
- 11) Housing types. For projects over a certain number of dwelling unit there should probably be a requirement to have at least two or three types of housing included (tiny houses, duplexes, triplexes, townhouses, apartments, single family houses, etc.).
- 12) Perpetuity. I believe that the units should remain as workforce housing in perpetuity but perhaps some language dealing with potential future conversion to market rate housing should be included. By not including single family houses on their own lot this is easier since we would not be relying on deed restrictions to limit future sales prices. We would need to limit future sales prices for condominiums but that would be easier to do with an association.
- 13) Income threshold. The board debated whether the ordinance should require that the units be available only to households whose income falls within the affordable threshold. It was the sense of the board to require that. However, Ryan Pope, Housing Navigator for Dover, said, *“It’s worth noting that we do not make any*

income-targeted stipulations, meaning that people of any income can live in these units provided the rent never exceeds the current year's Portsmouth-Rochester FMR. This approach requires less municipal oversight, simplifies the leasing process, and guarantees that attainable units (40th percentile anyway) remain a part of our rental housing stock in perpetuity."

- 14) Full-time students/source of income. The board has been debating whether an effort should be made to not allow full-time non-working undergraduate students from living in the units. Some have expressed concern that without some controls many of the units, especially if relatively affordable, would be taken up by full-time undergraduate students. These are intended to be "workforce housing" units. We can probably require that the tenants demonstrate to the property owner that they have their own employment income to cover the rent. The earlier proposal also allowed for "personal income." The site could be inviting for retired people, people on disability, people living off their savings, etc. Is it appropriate to specify that tenants show they can meet the rent through employment income or "personal income." Perhaps we could reinforce this by not allowing a lease guarantor. John Randolph, one potential developer, has implemented a similar process at his project in Dover. The board discussed whether to allow only people who are working to live in the development. The board did not seem supportive of this approach and it is uncertain whether or not it would be legal.
- 15) Sustainability. The ordinance could encourage various sustainability measures. But most developments will be reviewed under the Site Plan Regulations so those provisions would apply. Important resources on site should be preserved through the HISS analysis and set aside of open space.
- 16) Environmental standards. All environmental provisions in the zoning ordinance, including buffers, would apply, those in the WCOD and SPOD in particular.
- 17) Perimeters buffers. We should include specific buffers from adjoining roads and properties. For a large parcel the buffers should be quite deep, for example a minimum 200-foot buffer from any public roads and a 100-foot buffer from adjacent property.
- 18) Open space. I recommend 50% or 60% of the gross acreage be permanently preserved as open space (at least on larger parcels). The conservation subdivision ordinance provides good guidance for selecting the area to be preserved. A HISS analysis should probably be required to gain a detailed understanding of the site.
- 19) Support facilities. We should discuss this further, perhaps listing more facilities that would be allowed as accessory uses and principal uses.
- 20) Workforce Housing Statute. The Town can and should depart from provisions of the state law as we see fit in crafting the ordinance. Using HUD Fair Market Rents

already is a departure, arguably, from the statute (and is endorsed by New Hampshire Housing). Creating this ordinance will go a long way toward meeting the goals of the statute (which is really about municipalities making serious, good faith efforts to create more affordable housing opportunities), and *I believe that Town is already in compliance with the law*. Our purpose here, in my professional opinion, is to facilitate the development of one or more optimal projects which provide new housing opportunities and choice, in accordance with the Town's priorities. For example, the statute states that projects where more than 50% of the units are studio or one-bedroom units are "not workforce housing." We need not comply with that provision.

- 21) Zoning standards. The ordinance would need to specify building height and some other zoning parameters. Apart from allowed uses and density, the parameters of the Office Research district could apply.
- 22) Site plan review. If single family houses on their own lots are not included, then any project would be reviewed under the site plan regulations. This would be much less burdensome than requiring that an affordable housing project go through the conservation subdivision process. Condominiums are reviewed under the subdivision regulations but those reviews are fairly straightforward.