



**TOWN OF DURHAM**  
15 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064 603/868-8065  
FAX 603/868-8033  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

**Notice of Decision**  
**APPROVAL OF AMENDMENT**

**Applicant:** River's Edge Apartments  
**Project:** Amendment to approved 48 unit multifamily site plan to allow an increase to 114 occupants/beds and to not require any increase in parking  
**Engineer:** Doug LaRosa, Tritech Engineering  
**Property Owners:** Jeff White  
**Zoning:** Office Research/Light Industry Zoning District  
**Date of approval:** January 23, 2013

The Planning Board approved the request for an amendment with the following conditions of approval and findings of fact.

**Conditions of approval**

Leases The leases which were previously approved by the Planning Board when the original conditional use permit was granted provide that each apartment is entitled to two parking spaces. The landlord shall issue stickers with each lease, and each apartment shall receive no more than 2 stickers. This would allow for parking for only the 96 spaces that exist (48 units x 2 stickers per unit).

Connection Fee The additional water/sewer connection fee for the additional 18 residents is \$4,707.48.

Specific Units The unit numbers that contain more than 600 square feet and that can now accommodate up to three occupants/beds are 102, 106, 107, 108, 109, 112, 202, 206, 207, 208, 209, 212, 302, 306, 307, 308, 309, 312.

No Parking Signs Two vertical "No Parking" signs shall be installed at both ends of the Fire Lane.

Drainage Gutters shall be installed and the area of erosion shall be repaired with rocks and stone to prevent future erosion. The work shall be completed prior to issuance of a new certificate of occupancy or a \$2,000 surety shall be posted. If a surety is posted the work shall be completed by June 30, 2013.

Bicycle Storage There currently are 24 slots. Another rack shall be installed to add 8 more slots.

Certificate of Occupancy. A revised certificate of occupancy may be issued once the connection fee is paid, the no parking signs are installed, the bicycle storage is installed, and the drainage improvements are made (or an acceptable surety is posted).

## Findings of fact

- A site plan and conditional use for a 48 2-bedroom units with 96 parking spaces was approved by the Planning Board on August 29, 2007.
- Tom Johnson, CEO, issued a certificate of occupancy for 96 residents (2 in each of the 48 units) but the applicant would like to have 114 residents (i.e. to have 3 residents in 18 of the 2-bedroom units).  $114 = 30 \text{ units} \times 2 \text{ residents} + 18 \text{ units} \times 3 \text{ residents}$ .
- There was no condition on the approval limiting the approval to 96 residents or specifying that there may be only 2 residents per dwelling unit or 1 resident per bedroom, but the Zoning Ordinance only permitted 2 residents per dwelling unit at the time that the project was approved (see next bullet item).
- Under *Household* in the definitions section in the Zoning Ordinance, the maximum number of unrelated occupants permitted in a unit is 1.5 per 300 square feet of habitable area or 1 occupant per 200 square feet. At the time that the project was approved *Floor Area, Habitable* as defined in the ordinance did not include bathrooms and bedroom closets. Based upon that definition, the habitable area of all 48 units was less than 600 square feet, thus allowing only 2 occupants per unit.
- Subsequent to the approval the definition of Floor Area, Habitable was changed to include bathrooms and bedroom closets in the calculation of square feet.
- Based on documentation provided by the applicant there are 18 units with at least 600 square feet of area, which could now legally accommodate 3 occupants.
- When the project was approved the parking requirement was .75 parking spaces per resident. The site presently has 96 parking spaces so the number provided exceeded the number of required spaces.
- The Zoning Ordinance subsequently changed for parking so that now 1 parking space is required per resident. Thus, to increase to 114 residents would require 114 parking spaces, unless otherwise determined by the Planning Board.
- The applicant requested that the 96 existing spaces be deemed adequate. The Planning Board made the determination under the Conditional Use section of the ordinance, Section 175-23 subsection D, Item #10, that the 96 existing spaces is sufficient for 114 residents based upon information provided by the applicant and the conditions of this approval.
- There is now bus service to the development that should mitigate the need for parking.
- The Fire Department determined that there is adequate means of egress and the building is set up for the increased occupant load.