



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

Town Planner's Recommendation
Wednesday, January 8, 2014

25-35 Main Street. Formal site plan application to redevelop three lots into a **mixed-use student housing project.** The proposal involves rehabilitating the houses at 25 and 35 Main Street, demolishing the houses at 27 and 29 Main Street, demolishing/relocating the barn in the rear, erecting two new houses fronting on Main Street, erecting two large new buildings, one in the rear and one fronting on Main Street. **Orion Student Housing.** Bill Fideli and Philip Wills, applicant; Bob Clarke, Allen and Major, engineer; Lisa DeStefano and Adam Wagner, DeStefano Architects, architect; Tim Phoenix, attorney. Tax Map 5, Lots 1-6, 1-7, and 1-8, Central Business District. (The public hearing is closed.)

- I recommend discussion and continuation to either January 15 or January 22. If all is in order this could be ready for final action at the next meeting. The key issue is how sewer will be handled. I do not yet have final comments from every department (New sets of plans came in electronically on December 23 and paper copies arrived January 2). Plus, these conditions need to be cleaned up some. I propose a number of these as new standard conditions and some require review by the Planning Board.

DRAFT

NOTICE OF DECISION

Project Name: Orion Student Housing
Project description: Mixed-use project with 179 beds and nonresidential uses in the entire of Buildings C and D, and the front block of Building A. The project involves rehabilitating the houses at 25 and 35 Main Street, demolishing the houses at 27 and 29 Main Street, demolishing/relocating the barn in the rear, erecting two new houses fronting on Main Street (Buildings C and D), and erecting two large new buildings, one in the rear and one fronting on Main Street.
Address: 25 – 35 Main Street
Applicant: Orion Student Housing c/o Bill Fideli and Phillip Wills
Engineer: Bob Clarke, Allen and Major
Map and Lot: Tax Map 5, Lots 1-6, 1-7, and 1-8
Zoning: Central Business District
Date of approval: January...2014

PRECEDENT CONDITIONS

[Office use only. Date certified: _____; CO signed off _____;
As-built's received? _____; All surety returned: _____]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified by the Town Planner. Certification of the plans is required prior to issuance of a building permit or performing any significant site work. Once these precedent conditions are met and the plans are certified the approval is considered final. Note that no precedent conditions involve actual construction (except where otherwise specified). All work shall be completed prior to issuance of a certificate of occupancy unless otherwise specified or a surety acceptable to the Town is posted. "Applicant," herein refers to the applicant and his/her/their/its agents, successors and assigns.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by *** (or as extended) - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. **It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline.** See RSA 674:39 on vesting.

Plan modifications

1) Plan modifications. Make the following modifications to the plan drawings (Items do not need to be physically constructed as a precedent condition):

- a) Traffic signs. Clarify which off site traffic signs should be installed.
- b) Elevations. The elevations are mislabeled for Buildings C and D.
- c) Bollards. Tighten the spacing of the bollards in front in the courtyard to prevent vehicles from entering.
- d) Handicap parking. Add on van accessible parking space with appropriate signage.
- e) Inside bicycle parking. Show provisions for inside bicycle parking.
- f) Outside bike racks. Show additional outside bicycle racks.
- g) Fire lane. Provide appropriate signage for the fire lane that will be located along the easterly entrance drive to be approved by the Fire Department.
- h) Fire connections. Show fire department connections to be approved by the Fire Department.
- i) Hydrant. Eliminate the fire hydrant in the middle as it is not necessary (The easterly one would be used).
- j) Irrigation. Show information for irrigation or hose bibs.
- k) Approval block. Add the approval block on each page of drawings to read: "Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner
_____ Date _____"

Notes on plans

2) Notes on plans. Add the following notes on the plans:

- a) Inspections. “All inspection/observation services for the installation of water, wastewater, stormwater management, porous pavement, and other infrastructure shall be performed by authorized representatives of the Town of Durham as stipulated by the Durham Department of Public Works. The Developer shall reimburse the Town for all associated inspection/observation costs.”
- b) Underground utilities. “All utility piping and wiring shall be located underground.”
- c) Debris. “No cut trees, stumps, debris, junk, rubbish, or other waste materials shall be buried in the land, or left or deposited on site at the time the certificate of occupancy is issued, or at any time after that.”
- d) Fertilizer. “Low phosphorus/slow release nitrogen fertilizers for landscaping materials shall be used.”
- e) Fire access. “Access into the site for fire apparatus shall be maintained at all times during the construction process. Please contact the Fire Department at 868-5531 with any questions about access requirements”.
- f) Building Code. “This approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time. The applicant is strongly encouraged to meet with Building and Fire Officials early to expedite the review process.”
- g) Bedrooms. “No units in Buildings A and B may have more than 4 bedrooms.”
- h) Stormwater infrastructure. “All stormwater management infrastructure shall be designed and installed in accordance with Design Standards of the Durham Site Plan Review Regulations. The infrastructure shall be owned by the property owner and it shall be operated and maintained by the property owner to protect the quality of on-site and off-site water resources and wetland habitat.
- i) Construction hours. “All outside construction activity related to the development of this site is restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturday”.
- j) Additional information. “For more information about this site plan, or to see the complete plan set, contact the Town of Durham Planning Department, 15 Newmarket Road, Durham, NH 03824. (603) 868-8064.”
- k) Demolition. “Because of the historic character of the buildings that will be demolished, no buildings should be demolished on site until the building permit is issued.”
- l) Dwelling units/beds. “No additional dwelling units or beds may be established on this parcel without specific new approval from the Planning Board. This specification is

made pursuant to the Planning Board's detailed review of the project and a determination that the number of units/beds approved is the maximum appropriate for the parcel".

- m) Notice of decision. "It is the applicant's, site contractor's, and building contractor's responsibility to follow all requirements related to this site plan approval. Please review these plans and the Planning Board Notice of Decision carefully. Contact the Durham Planning Department at (603) 868-8064 with any questions or concerns."
- n) SWPPP. "This project will disturb over one acre of ground cover or meets other thresholds related to permit criteria for EPA National Pollutant Discharge Elimination System (NPDES) compliance. The site contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of Termination (NOT) to EPA. The site contractor is also responsible to comply with all other Federal, State and Local stormwater or NPDES requirements."
- o) Erosion and sedimentation. "All erosion and sedimentation control structures shall remain in place and be maintained until vegetation is established and the ground surface is stabilized. Erosion and sedimentation control measures shall be monitored by the applicant on a periodic basis during construction and any deficiencies shall be corrected as soon as possible."
- p) Blasting. "Blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday."
- q) Snow removal. "Snow will be removed from the site, as needed."

Construction Management

- 1) Construction Compliance Deposit. Submit a construction compliance deposit in an amount determined by the Planning Board (See provision below).
- 2) Construction Management Plan. Include all of the following information/statements in the Construction Management Plan:
 - a) Provide a detailed construction and sequencing schedule.
 - b) Show the laydown and delivery area to be used.
 - c) Show where construction zone signs will be posted, if appropriate.
 - d) Clarify when an arborist will be on site to oversee construction work around existing trees to be preserved.
 - d) "The applicant/contractor shall meet with the Building Official at least two months (60 days) prior to the start of construction in order to discuss the building process and to plan for the proper submittal of all structural, mechanical, electrical, plumbing and other plans. The Building Official may reduce this timeframe at his reasonable discretion for good cause."

- e) “The applicant/contractor shall comply with the provisions contained in the Construction Management Plan.”
- f) “The applicant/contractor shall hold weekly meetings with the Town Engineer and other appropriate Town departments to discuss the construction process and the schedule for the upcoming week.”
- g) “In accordance with Planning Board requirements, the applicant/contractor shall not obstruct any road or sidewalk without approval of the Durham Police Department. The applicant/contractor shall contact the Police Department a minimum of 24 hours prior to any activity or delivery that would obstruct any road or sidewalk and the Police Department will determine whether or not a police detail is needed. In all cases, the Police Department shall determine when a police officer is needed on site. Police details shall be billed for a minimum of 4 hours at the prevailing billing rate used by the Police Department.”
- h) “In accordance with Planning Board requirements, the Town Engineer may approve reasonable departures from the provisions in the Construction Management Plan for good cause.”
- i) “In accordance with Planning Board requirements (and pursuant to RSA 676:15), upon failure of the applicant/contractor to comply with the requirements of the Construction Management Plan or other orders related to the construction of the site made by the Durham Public Works Director, Police Chief, Fire Chief, or Building Official, the Town Administrator, upon recommendation of the Durham Public Works Director, Police Chief, Fire Chief, or Building Official may order the job site closed and/or assess a fine payable from the Construction Compliance Deposit. The first fine shall be \$275.00. Each subsequent fine shall be \$550.00. Each day that a violation continues shall be considered a separate offense.”
- j) “In accordance with Town policy, the applicant’s building permit fees cover the plans review conducted by the Durham Building Official at the building permit stage. It is understood that should the applicant seek a quicker turnaround than what is available with an in-house review, the applicant has the option of paying additional fees to enable the Building Official to hire an outside reviewer.”
- k) “The Town of Durham Fire Code Official, or designee, shall perform on-site inspections during fire code and life-safety matters. The applicant shall pay the costs of any supplemental staff hired by the Town to assist the Fire Department in its inspection of this project.”

Other precedent conditions

- 1) Historic District Commission review. Obtain approval from the Historic District Commission for: a) all changes to the buildings developed after the initial HDC approval on August 22, 2013; b) lighting fixtures; c) paver designs and patterns; d) fences; and e) signage.
- 2) Pavers. Submit physical samples of final approved pavers to the Planning Department.

- 3) Signage. Submit a sign master plan to the Planning Board for approval. The HDC shall approve individual signs and the Planning Board shall approve the overall master plan.
- 4) Geotechnical. Submit a geotechnical plan the Planning Board with a plan for how to any ledge and blasting will be handled.
- 5) Other permits. All required state and federal permits shall be obtained with copies of permits delivered to the Planning Department.
- 6) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments.
- 7) Lot combination. The two lots shall be combined (merged) in conformance with RSA 679:39a and Town policy.
- 8) NHDES Sewer Connection Permit. Submit permit to the Planning Department.
- 9) Outstanding fees. The applicant shall pay any fees that are due (except for the parking impact fee which is due prior to the CO, below).
- 10) Construction Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of all roads, water service, sewage disposal, drainage, erosion control, and other infrastructure/improvements, and shall be effective until work is completed by the applicant. The surety may be released in phases as portions of the secured improvements are finalized. A cash deposit or letter of credit is an acceptable form.
- 11) Maintenance Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type) to guarantee that all site work is installed in a correct and workmanlike manner. The surety shall be in an amount of two percent of the estimated site improvement costs and shall remain in effect for two years after site improvements are completed. If repairs are subsequently needed and are not satisfactorily installed by the developer, then the surety may be used to complete/install the improvements. A cash deposit or letter of credit is an acceptable form.
- 12) Landscaping Guarantee. The applicant shall post an acceptable surety to be approved by the Tree Warden/Director of Public Works (and the Town Business Manager for form and type) to guarantee that the success of the landscaping materials. The guarantee shall be for a period of two years commencing from the time the certificate of occupancy is issued or installation of the landscaping materials, whichever occurs later. If replacements of any materials are subsequently needed, as reasonably determined by the Tree Warden/Director of Public Works, within this two-year period then the applicant shall promptly replace those materials (subject to weather constraints). If the applicant does not replace those materials within a reasonable period as determined by the Tree Warden/Director of Public Works then the Town may use the guarantee to pay for and install the materials. This guarantee and/or those specified above may be combined at the discretion of the Business Manager. A cash deposit or letter of credit is an acceptable form.
- 13) Utility connection. A utility connect permit application with necessary plans and specifications shall be submitted to the Durham Public Works Department for review and

approval and, if so determined by the Public Works Department, consideration by the Durham Town Council.

- 14) Property and Security Management Plan. A property and security management plan shall be approved by the Town Planner (or, if he deems appropriate, by the Planning Board) in consultation with the Police, Fire, and Building Departments. The plan may be modified by the applicant in the future with the approval of these four departments. The plan shall include the following:
- a) rules and regulations of the development;
 - b) night-time security for the site from Thursday night through Saturday night, from 9:00 p.m. to 2:00 a.m. (the following morning);
 - c) acknowledgement that if problems persist on the property, as reasonably determined by the Police Chief, full time security will be provided 7 days a week from 8:00 p.m. to 6:00 a.m. until the problems are rectified, as reasonably determined by the Police Chief;
 - d) contact information for a primary contact person, who can resolve security and other issues and be reached 24 hours a day/7 days a week;
 - e) contact information for a secondary contact person who can address these concerns if the primary contact person is not available;
 - f) assurance that all information will be updated with the Police, Fire, and Building Departments, as needed;
 - g) permission for the Building Official to have access to the development to enforce the Durham Town Code Section 118:11 for Offensive Material (Waste Material), as needed; and
 - h) signature and title of the party responsible for the plan and date
 - i) provision that at least one full-time staff member and at least one courtesy officer shall reside on-site, and that there be somebody on site overseeing the operation, 24 hours a day, 7 days a week.
- 15) Architectural plans. Submit two final sets of 11x17 paper copies in color of the approved architectural elevations in color [one for the Building Official]. All of the building designs approved by the Historic District Commission, including colors and materials are part of this approval.
- 16) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of mylars; b) one large set of black line drawings; c) one set of 11"x17" drawings; plus d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the land surveyor, engineer, or architect responsible for the plans. *Please note*. If there are significant changes to be made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings. (The primary set of plans was last received)

- 17) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

Bill Fideli

Date

Phillip Wills

Date

Peter Wolfe, Planning Board Chair or designee

Date

SUBSEQUENT AND GENERAL TERMS AND CONDITIONS

All of the conditions below are also attached to this approval.

Conditions to be met prior to commencing any site work

- 1) Site work. No significant site work or ground disturbance may be undertaken until:
 - a) all of the precedent conditions are met;
 - b) the preconstruction meeting with Town staff has taken place (See below);
 - c) limits of clearing have been established in the field and approved by the Public Works Department; and
 - d) all appropriate erosion and sedimentation control structures are in place.

These erosion and sedimentation control measures and designation of the limits of clearing must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting.

- 2) Preconstruction meeting. Contact Michael Behrendt, the Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting.

Conditions to be met prior to issuance of any certificate of occupancy

- 1) Parking fee. The applicant shall pay the parking impact fee under Section 175-112 A. 1. of the zoning ordinance.
- 2) Natural gas. If natural gas will be used, provide a letter of approval from Unitil.
- 3) Tenant leases. Draft tenant leases shall be submitted to the Town Planner. See waste material, inspection of units, and parking permits, below.
- 4) As-built drawings. One set of full size, one set of 11” x 17”, and one electronic copy of as-built (“record”) drawings of all buildings, structures, infrastructure, utilities, drainage

structures, roads, parking areas, and other pertinent elements shall be provided prior to the certificate of occupancy (unless a surety to cover the cost of the as-built drawings is given). The plans shall be stamped and signed by the Engineer or Surveyor and include the following language or comparable: “This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning Department except for the following significant modifications:”. If no significant modifications were made simply state “none”. Otherwise, itemize the modifications on the as-built or on an accompanying letter.

- 5) Improvements. All on-site and off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an acceptable surety is posted.
- 6) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied prior to issuance of a certificate of occupancy.

Other terms and conditions

- 1) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 2) Traffic pattern. The circulation pattern on site is as depicted. Trash trucks may operate in the reverse direction provided that the applicant takes all due care.
- 3) Commercial users. Any commercial/nonresidential uses that are allowed under the Zoning Ordinance may occupy nonresidential spaces without further site plan review.
- 4) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 5) Water infrastructure. All public water system infrastructure extensions as depicted on the plans shall be designed and installed at the expense of the developer in accordance with Town Water Ordinance Chapter 158, AWWA guidelines and applicable State regulations. Once installed and approved by the Town this infrastructure shall be owned by the Town of Durham (except where otherwise specified) and operated by the UNH/Durham Water System including all water mains, valves, fire hydrants, water meter assemblies (1 per each building), and master meter (prior to water main branch at entrance), and associated appurtenances. Water service lines and plumbing internal to each structure shall be owned and maintained by the applicant/property owner.
- 6) Wastewater. All public wastewater system infrastructure extensions shall be designed and installed at the expense of the developer in accordance with Town Sewer Ordinance Chapter 106 and applicable State regulations. Once installed and approved by the Town this infrastructure shall be owned and operated by the Town of Durham (except where otherwise specified) including all sewer mains, sewer manholes, and associated appurtenances. Sewer service lines and waste lines internal to each structure shall be owned and maintained by the applicant/property owner.
- 7) Radio coverage. The requirements of the Durham Public Safety Amplification ordinance, Section 68-4 F., regarding installation of a radio repeater system for emergency service,

shall be satisfied. Coordinate with the Fire Department during the building application process to determine if this ordinance applies.

- 8) Staffing. At least one full-time staff member and at least one courtesy officer shall reside on-site. There shall be somebody on site overseeing the operation, 24 hours a day, 7 days a week.
- 9) Waste management. The waste management plan shall include single-stream recycling. The property owner's waste management hauler's name, account number, and phone number shall be provided to the Durham Building Official/Health Officer (DHO) so that the DHO can call and order an emergency pick up if necessary. The DHO is authorized to request this service at the applicant's expense should it be deemed necessary. The DHO is authorized to contact the waste management hauler only after first contacting the property owner and allowing the property owner to order a pick up.
- 10) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 11) Inspection of units. The tenant leases shall include notice that Durham Town Officials may randomly inspect any residential units annually. Five percent of the units, or as determined by the Town, shall be inspected annually. Inspections shall be randomly selected by the Durham Building Official/Health Officer (DHO) and may be scheduled with minimum notice as stated in the lease.
- 12) Amenity inspections. Any common amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.
- 13) Sprinklers. All buildings within the development shall have sprinkler systems if so determined by the Durham Fire Department.
- 14) Minor changes. Minor changes to the approved plans may be approved by the Code Enforcement Officer, Town Engineer, or Town Planner, as appropriate. Staff shall inform the Planning Board of all such approved changes.
- 15) Weekend clean ups. The applicant is strongly encouraged (in accordance with Chapter 118 of the Durham Town Code) to inspect and to clean up the site, as needed, on Friday, Saturday, and Sunday mornings.
- 16) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town as provided in this document (See Minor Changes provision herein).
- 17) Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall be determining.
- 18) Violations. In the event of any violations of these conditions of approval or of any pertinent local, state, or federal laws – such as those regarding erosion and sedimentation

control, wetlands, stormwater management, construction, and general site development standards – the Town reserves the right to take any appropriate permissible action, including, but not limited to, assessing a fine from the construction compliance deposit, withholding building permits, withholding certificates of occupancy, withholding driveway permits, revocations of permits/approvals, referring violations to other agencies, and calling of sureties.

- 19) Waivers. The following waivers were applied for and granted: A waiver was granted from the school impact fees (Ordinance 75-9 B) as specified immediately below. This waiver was granted upon a finding that specific circumstances relative to the site plan or the conditions of the land in the site plan indicate that the waiver will properly carry out the spirit and intent of these regulations.
- 20) Variances. Variances were granted to allow residential uses on all parts of the site except for the entirety of Buildings C and D and the front portion of Building A; for the dumpster location; for and having parking in front of Building B; and for two buildings to exceed 35 feet in height.
- 21) School impact fee. The appropriate fee(s) shall be paid for any grade school students who live at Peak for whom the Town must provide educational services.
- 22) Parking permits. The applicant shall not sell or otherwise provide parking permits to non-tenants other than employees or courtesy officers. The tenant leases shall also stipulate that tenants may not sell or convey their parking permits.

[just added]

- 23) Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting documents, and plans for the project; **B)** The Planning Board accepted the application as complete on September 25, 2013 and held a site walk on October 4, 2013; **B)** The Planning Board held numerous continuous public hearing(s) on the application; the public hearings were closed on December 4, 2013; **C)** The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group, and other Town boards and committees; **D)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements (except where waivers or variances may have been granted); **E)** the Planning Board found that the eight criteria for conditional uses outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use; **F)** The Planning Board reviewed the design in accordance with the Architectural Standards contained in the Site Plan Regulations; and **G)** This project is not considered to be a Development of Regional Impact; **H)** The Planning Board duly approved the application as stated herein, including the conditional uses; **I)** The Planning Board approved the reduction in parking under Section 175-112 A. 2. There are currently 51 parking spaces on site. **J)** The applicant met with the Economic Development Committee on October 15, 2013 to discuss the project. **J)** Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.