



TOWN OF DURHAM
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NOTICE OF DECISION
Amendment

Project Name: Pauly's Pockets Redevelopment
Project Description: Site plan for redevelopment of an existing one-story commercial site for a three-story building with commercial on the first floor and up to 6 residential units with 24 bedrooms and 34 occupants on the upper two floors
Address: 49 Main Street
Applicant: Paul Eja
Engineer: Mike Sievert, MJS Engineering
Property Owner: Paul Eja
Map and Lot: Map 5, Lot 1-2
Zoning: Central Business District
Date of approval: The amendments notated below were approved September 17, 2014. They are shown in this manner. The original approval was July 9, 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 January 9, 2015 (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

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

- 1 pc) Approval block. Change the approval block on each page of drawings to read: “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner
_____ Date _____”
- 2 pc) Site logistics plan. Add site logistics plan from construction management plan to the plan set.
- 3 pc) Entry Steps. Clarify/adjust the entry steps into the building at the corner to ensure that proper access to the building (particularly for the handicap route) is not impeded.

Notes on plans

Add the following notes on the plans:

- 4 pc) Inspections. “All inspection/observation services for the installation of water, wastewater, stormwater management, 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.”
- 5 pc) Underground utilities. “All utility piping and wiring on site shall be located underground.”
- 6 pc) 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”.
- 7 pc) Improvements. “All on-site and off-site improvements shown on the approved site plan shall be properly completed prior to issuance of a certificate of occupancy, unless appropriate surety (sufficient to cover the cost of outstanding items, in accordance with surety standards for the Town of Durham) is placed with the Planning Department.”
- 8 pc) 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.”
- 9 pc) 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.
- 10 pc) 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.”

- 11 pc) Dwelling units/beds. “No additional dwelling units, bedrooms, nor occupants 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 dwelling units/bedrooms/occupants approved is the maximum appropriate for the parcel”.
- 12 pc) 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.”
- 13 pc) Erosion and sedimentation. “All erosion and sedimentation control structures shall remain in place and be maintained until 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.”
- 14 pc) Egress. “Egress from the rear of the building (and from the Libby’s exit) shall be maintained and remain unobstructed at all times. This egress path must maintain the required width to the public way and will need to have regular and emergency illumination. Snow and ice removal will need to be conducted during winter months to keep this egress path available for immediate use.”
- 15 pc) Parking. “There is no overnight parking for any potential apartment renters on any adjacent streets nor on property owned or controlled by the Town of Durham. This must be communicated to all apartment renters preferably via a lease agreement. However, the commercial enterprises may purchase annual business permits from the police department at established fee structure. This allows employees to park at several satellite locations reserving the closest parking for customers.”
- 16 pc) Trash bins. “The trash bins will be kept along the rear face of the building in order to not block egress from Libby’s.
- 17 pc) Landscaping. Add prominent note to the park plan that the plan is preliminary only.

Construction Management Plan

The Construction Management Plan shall include, among other things, all of the following information/statements in the Construction Management Plan:

- 18 pc) Schedule. A detailed construction and sequencing schedule.
- 19 pc) Address. Change address on cover to 49 Main Street.
- 20 pc) *September 17 memo. Incorporate the language from the September 17, 2014 memorandum from MJS Engineering into the Construction Management Plan.***
- 21 pc) Lane or sidewalk Closure. The applicant/contractor shall not obstruct any road or sidewalk without approval of the Durham Police Department. Any construction that will result in the closure or blocking of the traffic lane will require at least one traffic control officer retained through the Durham Police Department with minimum notice of one-week to the agency. 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. The Durham Police will not allow any construction or delivery that would cause any lane closure or closure of any sidewalks during the period of the last week in August through Labor Day weekend that would coincide with UNH 'move-in'. The applicant shall also discuss with the Durham Fire Department any plans for the use and closure plans of the Main Street and Mill Road lanes for deliveries.

- 22 pc) *“Lane or sidewalk closure - additional requirement. Prior to any lane or sidewalk closures, a pedestrian and vehicular management plan and an updated construction management plan shall be presented to and approved by the Planning Board. Input from the Public Works, Fire, and Police Departments shall be provided to the Planning Board prior to its review and approval. The pedestrian and vehicular management plan shall address hours of closure in order to minimize conflicts at peak traffic times.”*
- 23 pc) Occupancy. “There shall be no residential occupancy on the site while construction is ongoing unless approved by the Building Official.”
- 24 pc) Laydown and delivery. Show the laydown and delivery area to be used.
- 25 pc) Fencing and signs. Show fencing for the site and where construction zone signs will be posted
- 26 pc) Building official. 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.”
- 27 pc) Compliance. The applicant/contractor shall comply with the provisions contained in the Construction Management Plan.”
- 28 pc) Weekly meetings. The applicant/contractor shall hold weekly meetings with the Department of Public Works and other appropriate Town departments to discuss the construction process and the schedule for the upcoming week.”
- 29 pc) Changes to the plan. In accordance with Planning Board policy, the Department of Public Works may approve reasonable departures from the provisions in the Construction Management Plan for good cause.”
- 30 pc) Violations. 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 any of these personnel may order the job site closed and/or assess a fine payable as follows: 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.”
- 31 pc) Building plans. 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.”

- 32 pc) “Fire Inspections. 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.”
- 33 pc) “Hours of Outside Construction. 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 Saturday. Additional hours outside of these specified hours may be approved on a case by case basis by the Durham Department of Public Works.”
- 34 pc) Trucks during construction. Trucks *entering* the site from outside of Durham are restricted to the following 2 routes: a) from the west - Route 4/Route 155A (Mast Road) to Old Concord Turnpike and Main Street; OR b) from the east – Route 108 to Main Street to Madbury Road to Pettee Brook Lane to Main Street. Trucks leaving the site to locations outside of Durham are restricted to this route: easterly on Main Street over Church Hill to Route 108.

Property and Security Management Plan.

Modify the draft plan to include the following:

- 35 pc) Rules. Rules and regulations of the development;
- 36 pc) Security. There shall be 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);
- 37 pc) Problems. 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;
- 38 pc) Contact information. 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; contact information for a secondary contact person who can address these concerns if the primary contact person is not available;
- 39 pc) Updating information. assurance that all information will be updated with the Police, Fire, and Building Departments, as needed;
- 40 pc) Access. 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.
- 41 pc) Modifications. The Property and Security Management plan may be modified by the applicant in the future with the approval of the Planning, Building, Police, Fire, and Public Works Departments, as appropriate.

Other Precedent Conditions

- 42 pc) Other permits. All required state and federal permits shall be obtained with copies of permits delivered to the Planning Department.
- 43 pc) Signatures. Signature by applicant and Planning Board chair at the end of this document.
- 44 pc) Deeds and easements. Submit all draft deeds and easements to the Town for review and approval.
- 45 pc) Mill Plaza and Park. Confirmation in writing that the Mill Plaza property owner will permit redevelopment of the park as generally proposed, or that it is otherwise allowable under the Town's easement. *If the park will not be redeveloped despite the applicant's reasonable efforts then this condition becomes null and void.*
- 46 pc) Construction staging. Obtain written approval from the owners of the park (i.e. the Mill Plaza property owner) to use this as staging for construction. *If the park can not be used for construction staging then this condition becomes null and void.*
- 47 pc) Blasting. The applicant stated that he does not expect there to be any blasting on site. Provide definitive information to the Planning Department determining whether or not any blasting on site will be needed. If blasting will be required then the protocols established for blasting will be followed and incorporated into the Construction Management Plan, with a revised plan to be submitted to the Planning Department. (See Orion Student Housing approval which contains Durham blasting protocols.)
- 48 pc) Public Works Inspection fees. The applicant shall sign the Agreement for Payment of Inspection Fees and make a cash deposit to cover the expected costs of inspections, in an amount that is determined by the Public Works Department. The inspections will be conducted by the Durham Public Works Department or its designee. The applicant must pay for inspections - at an hourly rate as determined by the Public Works Department - of the site, including all new infrastructure serving the site.)
- 49 pc) Encroachments. Obtain appropriate approval from the Town for the minor encroachments of pier and steps into right of way
- 50 pc) Outstanding fees. The applicant shall pay any fees that are due.
- 51 pc) Off site improvements. The applicant shall sign a statement acceptable to the Town agreeing to appropriate terms for all off site improvements, including the sewer line and the park. [It is expected that the applicant will remove vegetation and other items from the park during construction, stockpile certain items for later reuse in the park, and clear and grade the park preparing it for reconstruction as a new park. The applicant will coordinate with the Department of Public Works on this. The applicant will pay for the physical improvements to the park up to an amount agreed upon by the applicant and the Town. The amount should include the bicycle rack to be located in the park. The applicant will pay for the design of the sewer extension. At this time, construction on the sewer is expected to run from March 2015 to June 2015. *If the park will not be redeveloped despite the applicant's reasonable efforts then this condition becomes null and void.*

- 52 pc) Utility Easement. Provide a copy of the easement that allows for utilities to cross the Mill Plaza property to reach the electric pole behind Pauly's Pockets.
- 53 pc) 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.
- 54 pc) Utility connection. A utility connect permit application with necessary plans and specifications shall be submitted to DPW for review and approval by the Town in accordance with the Durham Water and Wastewater ordinances.
- 55 pc) Encroachment into Libby's. Provide confirmation in writing from the owner of the Libby's lot that he has no objection to executing an appropriate easement with the applicant for the proposed building encroachment. (This will be finalized, below, as a subsequent condition.)
- 56 pc) 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 July 2, 2014.) *The Planning Board approved an amended set of drawings on September 17, 2014. The drawings were received by the Planning Department on September 12, 2014.*

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

No significant site work, ground disturbance, nor work on the building(s) may be undertaken until:

- 1 sc) Precedent conditions. all of the precedent conditions are met;
- 2 sc) Preconstruction meeting. the preconstruction meeting with Town staff has taken place (Contact Michael Behrendt, Durham Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting). At the meeting, or at another acceptable time, the applicant shall discuss with the Fire Department plans to maintain means of egress from the building and Libby's.
- 3 sc) Clearing. limits of clearing have been established in the field and approved by the Public Works Department (This can be approved at the preconstruction meeting); and

- 4 sc) Erosion. all appropriate erosion and sedimentation control structures are in place and approved by the Public Works Department (This can be approved at the preconstruction meeting).
- 5 sc) Recording. This notice of decision must be recorded at the Registry of Deeds prior to starting any significant site work disturbing the ground or within 14 days of certification of the plans, whichever occurs first.

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

- 6 sc) Architectural plans. The two main building elevations for the Main Street/north façade and the park/west façade, submitted via email from Shannon Alther to Michael Behrendt on July 9, 2014, are approved, subject to finalizing a number of secondary details. The Town Planner shall convene a committee to finalize the details, including final colors, brick and mortar selection, decorative lights, window color, material and color of shop walls behind the piers, materials, any minor modifications to the overall design that might be appropriate, and the rear elevation of the building. The committee shall consist of the individuals who attended the informal meeting to discuss Pauly's Pockets architecture on July 9, 2014, or as may be changed at the reasonable discretion of the Town Planner (based on people's availability). Resolution of these issues shall be consistent with the discussion held by the group on July 9, 2014. The committee shall work expeditiously to finalize these details, completing its work by August 29, 2014 at the latest. It is expected that construction will commence prior to this date but this timeframe is workable because these details need not be finalized in the early stages of construction. It is understood that the rear elevation is of secondary importance due to its limited visibility. The applicant shall present proposed final plans to the Planning Board for approval. Once the Planning Board approves the final architectural design with all pertinent details the applicant shall submit two final sets of 11x17 paper copies in color of the approved architectural elevations [one for the Building Official].
- 7 sc) Design of park. Submit final design to the Planning Board for approval, including any plans for irrigation. The plans should include a bicycle rack. If the park will not be redeveloped despite the applicant's reasonable efforts then this condition becomes null and void.
- 8 sc) Lighting. A lighting plan with light locations (including lighting to provide sufficient light under the overhang should the overhang remain in the architectural plans) and fixture details shall be submitted to the Planning Board for approval. The plans will likely include adding a light to the building to replace the existing lamp post which will likely be removed. The physical lighting will then need to be installed prior to issuance of a certificate of occupancy.
- 9 sc) Arrangements for the park. Finalize legal, financial, and maintenance arrangements for the park. See easements granted to the Town of Durham on April 20, 1973 and on April 30, 1973 for the creation of a park on property owned by the Mill Plaza development. If the park will not be redeveloped despite the applicant's reasonable efforts then this condition becomes null and void.
- 10 sc) Park completion. The park is to be physically completed or an acceptable surety will be needed. If the park will not be redeveloped despite the applicant's reasonable efforts then this condition becomes null and void.

- 11 sc) Sidewalk encroachment. The applicant shall grant an easement for the small sidewalk encroachment
- 12 sc) NHDES Sewer Connection Permit. The applicant shall submit a wastewater connection permit application to the New Hampshire Department of Environmental Service Wastewater Engineering Bureau, and submit a copy of the approval to the Planning Department.
- 13 sc) Parking fee. The applicant shall pay the parking impact fee under Section 175-112 A. 1. of the zoning ordinance.
- 14 sc) Easements. Evidence of recording of all easements at the Registry must be provided, including the easement for encroachment onto the Libby's lot, above (Easements should also be shown on the plans, above).
- 15 sc) 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.
- 16 sc) Plans for Fire Department. The as-built drawings and floor plans, sprinkler plans, and fire alarm plans shall be provided to the Fire Department.
- 17 sc) 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.
- 18 sc) Fees. Any outstanding fees, including parking impact fees, shall be paid.
- 19 sc) 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.
- 20 sc) Addressing. Develop a numbering system for the building to be approved by the Fire and Police Departments. A system like 2A for unit A on the 2nd floor and 3C for unit C on the 3rd floor is recommended.
- 21 sc) 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.

- 22 sc) Alarms. Final locations for the fire alarm control panels will be determined during the building and systems plan review process
- 23 sc) Sprinklers. The building shall have an approved sprinkler system if so determined by the Durham Fire Department.

Other terms and conditions

- 24 sc) Alternate Plans. The plans are approved assuming that the applicant will not be able to coordinate with the owners of the Mill Plaza for the project – including using the park as a staging area, upgrading the park, relocating the utility pole behind Pauly’s Pockets, and grading onto the Mill Plaza property. If the applicant is able to coordinate with Mill Plaza then the project will revert back to the earlier plans that were based on Mill Plaza’s cooperation.
- 25 sc) Staging area. If the applicant is not able to use the park as a staging area it is understood that the applicant will need to secure another off-site staging/parking/storage area. The applicant will need to secure an agreement for this staging area with the property owner, as appropriate, whether this is for use of the (soon to be former) Town Hall site at 15 Newmarket Road or another site.
- 26 sc) Energy Checklist. The applicant will meet with the Durham Energy Committee and make a good faith effort to incorporate sustainable measures (Adding sure measures is encouraged but not required). Any additional measures shall be incorporated into the site plans and/or building plans, as appropriate. The results of this meeting and any plans for such sustainable measures will be reported back to the Planning Board by October 1, 2014.
- 27 sc) Sign Master Plan. A sign master plan for the commercial occupants shall be submitted to and approved by the Planning Board.
- 28 sc) Commercial users. Any type of commercial use that is permitted under the Zoning Ordinance in the Central Business District, as amended, is permitted in the first floor commercial spaces. No site plan review shall be required for any change to such a permitted use provided the use is contained largely within the building (except for customary outdoor activities, such as dining), as reasonably determined by the Durham Town Planner.
- 29 sc) Sewer design. The design engineer will submit the final approved design of the sewer extension to the Public Works Department by February 1, 2015, unless otherwise extended by the Public Works Department.
- 30 sc) Parking exemption. This approval includes the exemption from parking requirements under Section 175-112 A. 2. to reduce the number of existing spaces to zero.
- 31 sc) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.

- 32 sc) Interior security. It is recommended (but not required by herein) that the applicant install video monitoring in any interior common stairwells or hallways or exterior walkways would be helpful for theft prevention and resident safety and to enhance the police department's ability to resolve criminal acts. It is also recommended that hardware include window locks, dead bolts for doors, interior door hinges and well lit interior corridors, and that all common building entrances have locks that automatically catch when the door closes.
- 33 sc) Number of beds. This project is approved with a maximum of 6 residential dwelling units, 24 bedrooms, and 34 occupants.
- 34 sc) 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.
- 35 sc) 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.
- 36 sc) 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.
- 37 sc) 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.
- 38 sc) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 39 sc) 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.

- 40 sc) Amenity inspections. Any special tenant amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.
- 41 sc) Minor changes. Minor changes to the approved plans may be approved by the Town Planner, Building Official, or Department of Public Works, as appropriate, in accordance with Planning Board policy.
- 42 sc) 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 subject lot (not intended here to include the park), as needed, on Friday, Saturday, and Sunday mornings.
- 43 sc) 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).
- 44 sc) 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.
- 45 sc) 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.
- 46 sc) Sustainability Recommendations. The following sustainability measures are strongly recommended (but not required):
 - a) Installation of smart thermostats with occupancy sensors and provide educational materials about managing the heating and cooling costs of living in the complex.
 - b) Installation of electricity-monitoring devices to provide feedback for student tenants on their energy use with their major electricity uses such as clothes washing and drying.
 - c) A review of the technology selected for the individual heating and air conditioning units and consideration of Ductless Air-Conditioning and Heating Units based on air source heat pump technology.
 - d) Exploring the use of heat pump water heaters

- e) Consulting a solar installer to do a site potential analysis and provide advice about possible PPA financing, grants, and rebates to improve payback period.
 - f) For roofs with solar potential, installation of conduit and/or piping to support future installation of electrical or hot water solar systems if and when the payback period becomes more attractive.
- 47 sc) Variance. A variance was granted for the building height to exceed 35 feet, but not 40 feet, on February 11, 2014. The building will encroach onto the Libby's lot but no variance is needed for this since there is no side setback and the applicant will need to obtain an easement for the encroachment.
- 48 sc) Waivers. A waiver was granted from the school impact fees (Ordinance 75-9 B). This was granted upon a finding that specific circumstances relative to the site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.
- 49 sc) School impact fee. The appropriate fee(s) shall be paid for any grade school students who live at the site for whom the Town must provide educational services.
- 50 sc) Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** A conceptual review was held on October 9, 2013; **B)** The applicant submitted an application, supporting documents, and plans for the project; **C)** The Planning Board accepted the application as complete on May 21, 2014; **D)** The Planning Board held several public hearing(s) on the application (starting on June 11, 2014 and concluding on July 9, 2014); **E)** The applicant revised and updated the plans and other documentation numerous times pursuant to comments from the Planning Board, public, and Technical Review Group; **F)** 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); **G)** The Planning Board reviewed the design in accordance with the Architectural Standards contained in the Site Plan Regulations; **H)** The applicant submitted an application for Downtown Revitalization under RSA 79E but then withdrew the application after holding one discussion with the Town Council; **I)** This project is not considered to be a Development of Regional Impact; **J)** This application was protected against 2 zoning amendments regarding density, setbacks, and building height, as it preceded those amendments (for design review); and **K)** The Planning Board duly approved the application as stated herein. 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. **L)** According to the design engineer no state permits are needed for this project. **M)** A small portion of the subject lot encroaches onto the adjacent Libby's lot to the east for the new upper stories.
- 51 sc) Signature. As the applicant for this project I hereby acknowledge all of the terms and conditions of this approval herein.

Paul Eja

Date

Andrew Corrow, Planning Board Vice Chair

Date