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Town Planner's Recommendation
Wednesday, October 22, 2014

XV. **The Lodges – Mast Road.** **Proposal to increase number of beds from 460 to 514.** Amendment to approved site plan for 142 unit/460 bed housing development. Peak Campus Development, LLC, c/o Jeff Githens and Jonathon Barge, developer. Tax Map 13, Lots 6-1, 10-0, 3-0 UNH and 4-0 UNH. Office Research Light Industry Zoning District.

- I recommend the board set a public hearing for November 12 (depending on how the parking situation is to be handled). The proposal would involve an amendment to the approved site plan, a conditional use, and expansion of parking facilities or a variance.

Please note the following:

- Approval. The project was approved for (a maximum of) 142 residential dwelling units and 460 beds.
- Proposed increase. The applicant has submitted an amendment to increase the bed count from 460 to 514. They would add a third bed in 54 2- bedroom units in Phase II of the project. No new construction is contemplated to accommodate this proposal.
- Ordinance change. Multi-unit residences were a conditional use in the ORLI zoning district when this project was approved but after the site plan approval the zoning ordinance was changed to prohibit this use in the ORLI district. Thus, the existing development is “grandfathered” as a legal nonconforming use.
- Continuation of nonconforming use. The provisions of Article IX Nonconformance in the Zoning Ordinance govern the treatment of such nonconforming uses. Regarding continuation of the nonconforming use, the ordinance states:

175-28. Nonconforming Uses

*...C. **Continuation of a Nonconforming Use.** Any nonconforming use may be continued, except that if any such nonconforming use is abandoned or desisted or voluntarily or by legal action caused to be discontinued for a period of one (1) year, then any subsequent use of the building, other structure or use of the land shall be required to be in conformity with the provisions of these regulations.*

- Expansion of nonconforming use. Regarding the expansion of this nonconforming use, a conditional use would be needed as follows:

175-28. Nonconforming Uses

*...D. **Enlargement of a Nonconforming Use.** A nonconforming use may be expanded only upon the approval and issuance of a conditional use permit, within the confines of*

the lot or parcel of land upon which it was located at the time of the adoption or amendment of these regulations; provided, however, that the land area and/or size of the building or the structure being used for said nonconforming use at the time of the adoption or amendment of these regulations is not increased by more than fifty (50) percent.

- Conditional Use. All of the requirements for conditional use will apply, including broader notification requirements, posting of a sign, a 5 person vote of Planning Board members, and compliance with the 8 conditional use criteria.
- Habitable square footage. The ordinance stipulates a maximum of 1.5 occupants per 300 square feet of habitable square footage (or a minimum of 200 square feet per occupant), so the applicant would need to confirm that this requirement is still met with 3 occupants in the 2-bedroom units rather than 2 occupants. They state that this would comply.
- Article XXI Off Street Parking and Loading of the Zoning Ordinance requires 1 parking space per resident in the ORLI zoning district, so the applicant would need to either add new spaces to meet this or obtain a variance. Section 175-113 stipulates 1 parking space per resident for dwelling units permitted to be occupied by 3 or more unrelated individuals. ORLI permits more than 3 unrelated individuals so this provision would apply (In zones limited to 3 unrelated individuals the requirement is for 2 parking spaces per dwelling unit).
- Parking. The applicant should clarify how they intend to address parking. If by variance, should the applicant apply for the variance prior to holding the public hearing? The next ZBA meeting is Tuesday, November 18 with a submission deadline of November 3. If by adding spaces, a revised site plan will be needed.