



TOWN OF DURHAM
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Town Planner's Recommendation
Wednesday, June 10, 2015

- XIII. **The Lodges – Amendments and Conditional Use to add Beds and Landscaping.** 259
Mast Road. Application for amendments and conditional use to add 26 beds and landscaping and make other changes to the approved site plan for a 142 unit/460 bed housing development. A conditional use is needed to expand *residence, multi-unit*, a nonconforming use. Peak Campus Development, LLC, c/o Jonathon Barge and Jeff Githens, developer. Tax Map 13, Lot 6-1. Office Research Light Industry Zoning District.
- I recommend that the board discuss the application and set a public hearing for June 24. I would encourage the board to give every reasonable consideration to this proposal for the reasons discussed at the bottom.

Please note the following:

- 1) Application. The applicant submitted an amendment and conditional use to add landscaping and make related site plan changes and to add 26 beds. Peak will not be attending the meeting on June 10 but they will attend the public hearing.
- 2) Conditional use. The conditional use is required because this is an expansion of a nonconforming use, *residence, multi-unit*, which is no longer allowed in the ORLI zone.
- 3) Community concern. For many months, the community has been asking Peak to add landscaping to better screen the views toward the development both from the west (toward the retaining wall) and along Mast Road.
- 4) Earlier submission. Peak submitted a similar application at the October 22, 2014 Planning Board meeting to add beds and landscaping. That proposal was for an additional 54 beds. A public hearing was held on November 12, after which, the Planning Board designated a committee to work with the applicant in enhancing the proposed landscaping plan. A committee was also convened by Todd Selig to talk with Peak about the number of beds being proposed. The application was continued to January 14, 2015, at which time Peak withdrew the application because they questioned whether it would be possible to come to mutually acceptable terms with the Town. Peak kept open the possibility of coming back to the board at a future date though.
- 5) Beds and landscaping. Peak has thus come back to the board now. While the addition of beds and enhancement of landscaping are separate items, they are tied together because:

a) It is very unlikely that Peak would install the landscaping if additional beds are not approved; and b) I believe there would be little support for approving additional beds without the highly beneficial landscaping installation.

- 6) Submission. The following items are included in the submission: an amendment to the approved site plan and conditional use to add the beds and make changes to the landscaping and related site items; a conditional use to expand a nonconforming use (*Residence, Multi-Unit*); a proposed landscaping plan; and responses to the 8 conditional use criteria. *** Is there any other information or documentation that would be helpful for the board in reviewing this application?**
- 7) Landscaping plan. The landscaping plan is similar, but not identical, to the one developed earlier.
- 8) Parking. No new parking is proposed. If the board approves a conditional use for the expansion of the nonconforming use, it can reduce the parking requirements per allowable conditional use terms, if it sees fit.
- 9) Nonconforming Uses. Here is an excerpt from the Zoning Ordinance: 175-28. Nonconforming Uses...

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.
- 10) Conditional use procedure. A special procedure is required for conditional uses; notification of abutters within 300 feet, a sign must be posted on the property announcing the public hearing, 8 conditional use criteria must be met, and approval requires an affirmative vote of 5 (rather than 4) Planning Board members.
- 11) Maintenance of landscaping. If the landscaping is approved, there should be a clear condition that it must be maintained in perpetuity.
- 12) Rationale for request. I think that it worthwhile to entertain this proposal for the following reasons:
 - a) It is vitally important to preserve the Mast Road gateway.
 - b) The landscaping subcommittee appointed by the Planning Board in the prior submission held numerous meetings with the applicant to develop the plan.
 - c) We have received a large amount of community feedback supporting addressing the views toward the project, deemed by many to be a problem.
 - d) The additional beds would add value to the tax base without requiring any new buildings or site changes.
 - e) Additional density at the Lodges would be located away from residential neighborhoods.