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Town Planner's Recommendation
Wednesday, July 8, 2015

- XV. **Harmony Homes - Eldercare Facility.** Durham Business Park. *Design review* (preliminary application) for a site plan for an eldercare facility with up to 3 single-story buildings and 1 duplex with parking and associated improvements. John Randolph, Harmony Homes, applicant; Eric Chinburg, Grant Development, LLC, property owner; Mike Sievert, MJS Engineering, Design Engineer; Steve McHenry and Branden Bolden, McHenry Architecture, Architects. Tax Map 11, Lot 27-1 through 27-7. Durham Business Park District. ***Recommended action:*** Discussion. The public hearing is set for July 22.
- I recommend discussion, setting a site walk, and continuing the design review to July 22. The public hearing has been set for that evening (per PB Rules)

Please note the following:

Process

- 1) **Earlier application.** Eric Chinburg had submitted a design review application for an eldercare project which was subsequently withdrawn. He then considered revising the application for an elderly housing project. A zoning amendment was adopted to allow elderly housing by conditional use. Mr. Chinburg still owns the property at this point but he is not submitting an application. Instead, John Randolph, proprietor of Harmony Homes, the assisted living facility on Newmarket Road in Durham, submitted this new application.
- 2) **Design Review.** This application is for design review. Note that the purpose of design review is to work out general issues on a proposal prior to the applicant spending significant money engineering a formal application. Mike Sievert said that they hope to close the design review at the July 22 meeting. Either the Planning Board or the applicant may close a design review at any time.
- 3) This is the first presentation so the Planning Board can take whatever time it wishes for discussion and presentation on July 8. The board may wish to have the larger presentation on July 22 when the public hearing will be held.
- 4) **Technical Review Group.** The applicant presented the project to the TRG on June 16.
- 5) **Site walk.** A site walk should be scheduled.

- 6) EDC. John Randolph has also met with the Economic Development Committee to discuss the project.

Zoning

- 7) Eldercare facility. The Durham Business Park Zone allows an eldercare (assisted living) facility, which is permitted by right. There may be a memory-care unit.
- 8) Density. The recent zoning amendment (that also allowed elderly housing) established a density in the Durham Business Park of 35,000 square feet of lot area per dwelling unit. Section 175-56 of the Zoning Ordinance states that 4 beds or accommodations for 4 residents counts as 1 dwelling unit in facilities (like this one) that do not provide dwelling units. The density is based upon gross lot area, as “Lot Area” is defined in the ordinance as “The total horizontal area within the confines of the boundary lines of a lot.” Based on a parcel area of 28.4 acres (This needs to be confirmed), the zoning could allow up to 141 beds/residents.
- 9) Zoning review. We will do a zoning review soon to determine if all zoning is met, and if any variances or conditional uses are needed.

Basic project

- 10) Site. The property is 28.4 acres. It is currently undeveloped. It is subdivided into 7 commercial lots. The lots will be combined into one lot.
- 11) Phases. There will be up to 3 one-story buildings. The applicant proposes to have 2 buildings approved as part of a Phase I. The second building would likely be built some time after the first. The applicant would then return to the board for approval of the third building in the future. As part of the Phase I, we should be sure that the plan will accommodate the third building (in terms of the site, utilities, grading, parking, etc.) so that when it is designed in the future it will fit onto the site as seamlessly as possible. Building 3 may have more services and fewer residences than buildings 1 and 2.

Design Guidelines

- 12) Design Standards. When the Town conveyed the property to a private owner years ago, the Town executed a private covenant for Design Guidelines. These actually function as “standards” as they are mandatory. The review panel (or “design committee”) will review the architecture and site design for compliance. This review should be conducted in parallel with the Planning Board’s review. The site plan review is bound by this process because the guidelines are referenced in the Zoning Ordinance, under Section 175-52. Durham Business Park (DBP):

F. Development Standards in the Durham Business Park District

In addition to the dimensional standards, development in the Durham Business Park District shall conform to the following additional requirements:

1. Design Standards – Any structure must conform to the design guidelines for the district established by the Town Council.
- 13) Review Panel. The committee is composed of the Town Administrator, Town Planner, Kitty Marple (Town Council representative), and Peter Wolfe (Planning Board representative). We will arrange for a first meeting soon. The meetings will be open to the public. We will schedule our first meeting very soon.
- 14) Guidelines. Various standards are contained in the Design Guidelines, related to the relationship with the surroundings, a theme, traditional building materials, and windows.
- 15) Architect. The applicant has hired Steve McHenry as his architect.
- 16) Buildings. The buildings are one story on a slab. The exterior architectural design is subject to change/adjustment. Floor plans are included in the submittal. There will be interior courtyards. The courtyards will not be cleared of snow in the wintertime. The buildings will have a pass code so that residents cannot simply come and go on their own. The buildings will be 20,000 square feet. There might be a rain garden, pergola, landscaping in the courtyards.

General Site Design

- 17) Street trees. An avenue of trees should be planted along both sides of the entry road. It should be denser than what is shown. How formal/informal should the plan be?
- 18) Sidewalk planting strip. There should be a planting strip between the sidewalk and the driveway around the cul de sac and along the entire road. It should be quite wide along the road section.
- 19) Parking. There will be about 55-60 parking spaces.
- 20) Duplex. The duplex could serve a property manager or an elderly resident.

Views toward the project

- 21) Conservation Easement. The applicant has agreed to establish a conservation easement for the front portion of the property in order to minimize the visual impact from Route 4. This would extend from the pump station forward to Route 4.
- 22) From Route 4. The Design Guidelines state that buildings shall be sited to preserve significant views from Route 4. The views from the river are very open to the site. It will be important to have renderings of the final views from the river from several vantage points. Likely, significant landscaping will be needed to help buffer the view

of the buildings. The proposal is for lower, 1-story buildings, which should be less obtrusive.

- 23) From the Oyster River. The Design Guidelines state that buildings shall be sited to preserve significant views from the Oyster River. It will be important to have renderings of the final views from the river from several vantage points. Additional landscaping will probably be needed.

Site Issues

- 24) Site alteration. The Design Guidelines state that buildings shall be sited to preserve significant vegetation and existing land forms, that design shall minimize changes in natural drainage patterns and the natural slope of the land, and that significant, healthy vegetation be retained wherever possible.
- 25) Parking. The Design Guidelines state that parking areas shall be landscaped to reduce visual impact and shall not be located on the riverfront side of buildings unless thoroughly screened with vegetation. This will need to be looked at carefully so that the parking is as unobtrusive as possible.
- 26) Overlay Districts. The Shoreland Protection, Wetland Protection, and Flood Hazard Overlay Districts apply to the site.
- 27) Permeable pavement. This needs to be explored. Mike Sievert questioned whether it was practicable for the site.
- 28) Amenities. The applicant said he might want to have horses in the front portion, in the easement area, as a visual amenity. He envisions this area as being like a park. There could be a community garden.

Traffic and Circulation

- 29) Route 4 access. NHDOT stipulated a maximum of 60 trips are peak hours in a memorandum from May 16, 2008 (though it must be determined if this standard still applies). The applicant has been in contact with NHDOT. A traffic analysis acceptable to NHDOT will be needed.
- 30) Private road. The existing road accessing the site will remain as a private road. This is Mike Lynch's preference.
- 31) Cul de sac. The cul de sac will likely be two-way with perpendicular parking situated off it. The cul de sac should be designed so that it is walkable and an amenity for the project.

Pedestrian Connections

- 32) Old Piscataqua Road. It would be desirable to connect with Old Piscataqua Road if practical. This walking and bicycle path might run within the Route 4 right of way or across intervening properties if easements can be obtained. The TRG discussed this being perhaps 7 feet wide +/- . The surface would need to be determined – gravel, crushed stone, or asphalt. There are plans for a potential sewer force main running to

Piscataqua Road, along which a path could more readily be constructed, but those plans are a few years off.

- 33) Footpaths. Footpaths are shown to destinations along the river – a patio, overlook, and boathouse. This will be a nice amenity.
- 34) Public access. It would be highly beneficial if the applicant were willing to allow public access to the footpaths and the riverfront. Mr. Randolph said that he is receptive to this but would want to restrict hours for the public. The purchase and sales agreement contained this language but it was not included in the deed:

Deed Real Estate Taxes: PILOT Public Access. ... The Buyer shall provide for public access to the Oyster River in perpetuity over a portion of the area to be designated as an access easement for passive recreational use (the "Access Easement") in a location to be determined in the Phase I planning and approval process; provided however that the Access Easement shall be located in restricted wetland buffer areas along the shore and not interfere with any developable building area. Each deed or other transfer document from the Buyer to any future transferee of any interests shall be subject to the Access Easement.

Fire Issues

- 35) Arthur Grant Road. It will need to be verified that the road meets access requirements. The department stated that vegetation should not encroach within the required clearances.
- 36) Sprinklers. The large buildings will probably need to be sprinkled.
- 37) Fire Hydrants. Locations will be examined in the course of the project review.
- 38) Duplex. The cottages on the point may or may not meet NFPA requirements. One option is providing sprinklers.
- 39) Cul de sac. Turning radii will need to be confirmed for fire trucks.
- 40) Building requirements. Depending on exact use, the buildings will need to meet specific code requirements for elderly/assisted living.
- 41) Assisted living. The Fire Department has pointed out the fiscal and services issue with assisted living. Assisted living units do generate more calls for medical assistance.

Utilities

- 42) Services. The site is served by Town water and sewer.
- 43) Underground. The Design Guidelines stipulate that all existing and proposed utilities must be buried. The applicant proposes to retain existing above ground utilities so a waiver would be needed for that.

- 44) Equipment. The Design Guidelines stipulate that mechanical equipment be screened from public view.
- 45) Energy Checklist. This will be completed with the formal application.
- 46) Solar panels. This should be explored.

Services

- 47) McGregor. Mr. Chinburg met with McGregor Memorial EMS for his project. We have a memorandum from Bill Cote, Executive Director, about the project. This was sent to the Planning Board. This may need to be updated.
- 48) Recycling. The applicant should include a recycling program. DPW would pick up the materials gratis.

Miscellaneous

- 49) Jobs. The applicant anticipates 30 full time jobs with the project.
- 50) Timeframe. The applicant said that he would like to start construction in November, 2015 and open in the Fall of 2016. That is an ambitious schedule.
- 51) Assisted living. Mr. Randolph said there are 2 levels of assisted living in New Hampshire – 804 and 805. The existing Harmony Homes is 804. 805 involves a slightly higher level of care and higher accessibility. The proposed project would be an 805 project.
- 52) PILOT. There was a provision about a payment in lieu of taxes for the development in the purchase and sales agreement that did not make it into the deeds. We would like to address this as part of the project (Also see item at the bottom).

Deed Real Estate Taxes: PILOT Public Access. Seller will deliver to Buyer at Closing a warranty deed acceptable to the Buyer in its sole discretion. The deed will contain a restriction that if any buyer or owner of the Property or a portion of the Property is a tax exempt organization, such buyer or owner shall be obligated to make a payment in lieu of taxes (a "PILOT") equal to the amount of state, county, municipal and school district taxes that otherwise would be payable as real estate taxes, or an amount that is less than said taxes due if the Town Council deems it in the best interest of the Town of Durham.

- 53) WWTP Indemnification and PILOT. See the information below.

Town Administrator Todd Selig sent the following email to me on May 19, 2015:

At the April 20, 2015 Town Council meeting, the Council approved a motion requesting the Planning Board to integrate the language below into any conditions of approval for a future development at the Durham Business Park. Please convey this information along

to the Planning Board for its information and consideration when an application is ultimately submitted for the parcel.

Town Council member Firoze Katrak sent the following email to Todd Selig on April 21, 2015:

Hi Todd,

At yesterday's meeting, Chair Gooze asked me to send you the motion related to the Durham Business Park.

The motion as proposed and passed was:

"The Durham Town Council hereby instructs the Town Administrator to work with the Planning Board to ensure that two conditions are met:

- 1) there will be payments in lieu of taxes required if there is a non profit entity that operates/owns the business on this site; and,*
- 2) any owner or operator of this site will at a minimum inform any buyer or leasee-tenant (of units) that they are buying or renting property adjoining a waste water plant, and that the town has the flexibility to operate the waste water plant (in different ways) as conditions change in the future."*

End of Motion --- As further background that may help you and the PB implement the above motion, some key points made during our discussion included:

- a) The Town Council would like the Planning Board to explore any possible indemnifications that the site owner could provide to the town. If that is not possible, then the minimum requirement for notification is as mentioned above.*
- b) It should be clear that the town has no obligation to run the waste water plant in the future as it runs it now, and if technology or other conditions change the town may run the plant differently as it so chooses*
- c) These conditions should ride with the property even if it is sold by the current developer*
- d) Encourage the Planning Board to incorporate the above items as requirements within the conditions of approval or some other recorded mechanisms.*