



**TOWN OF DURHAM**  
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**Town Planner's Recommendation**  
**Wednesday, February 12, 2014 - REVISED**

**\*REVISED ON FEBRUARY 12 PER RECENT COMMENTS\***

Recommended additions since last draft are shown like this

~~Recommended deletions since last draft are shown like this~~

New comments are shown like this

VIII. **Public Hearing - 17 & 21 Madbury Road**. Formal site plan and conditional use application for "Madbury Commons," a complete redevelopment of multifamily site known as "The Greens" for **mixed use project** with student/multifamily housing for 525 residents, office/retail, and several public spaces. **Golden Goose Properties**, Barrett Bilotta, Ken Rubin, and Eamonn Healy (applicant); **Rose Lawn Properties**, Laura Gangwer (owner of 17 Madbury); GP Madbury 17, Barrett Bilotta (owner of 21 Madbury); Michael Sievert, MJS Engineering (engineer); Shannon Alther, TMS Architects ; Robbi Woodburn, Landscape Architect. Tax Map 2, Lots 12-3 & 12-4. Central Business District.

- I recommend approval of the draft NOD, below. A motion to approve should include:
- Approval of the conditional uses for encroachment into the wetland and shoreland buffers/setbacks, after reviewing the 8 criteria;
  - approval for the building to exceed 30 feet in height per the dimensional table;
  - approval to reduce the number of existing parking spaces per Section 175-112 of the Zoning Ordinance

Please note:

- *[I note any additions/changes from the February 5 draft in this fashion]*
- *\*[I add an asterisk wherever I think it worth the Planning Board specifically looking at an item]*
- I have final comments from all Town Departments – Police, Fire, Building, and Public Works. These have been emailed and all appropriate concerns are incorporated into the plans and/or conditions, below.
- *The fiscal impact study was emailed out this morning (February 12)*
- We should be receiving some technical changes in the plan set based on the Tighe and Bond comments. I will forward those when I receive them. I added a precedent condition, below, that all conditions raised by Tighe and Bond must be satisfactorily addressed in revised plans. *Mike Sievert has already incorporated these into updated plans. Those updated plans will be reviewed as a precedent conditions and approved by Public Works.*
- I am expecting some very minor adjustments on the architecture which I will forward. *These were forwarded via email.*

**\*DRAFT\***  
**NOTICE OF DECISION**

**Project Name:** Madbury Commons  
**Project description:** Redevelopment of multifamily site formerly known as “The Greens” for mixed use project with student/multifamily housing for 525 residents, office/retail, several public spaces, and parking.  
**Address:** 17-21 Madbury Road  
**Applicant:** Golden Goose Properties, c/o Barrett Bilotta, Ken Rubin, and Eamonn Healy  
**Engineer/Designer:** Michael Sievert, MJS Engineering  
**Landscape Architect:** Robbi Woodburn  
**Architect:** Shannon Alther, TMS Architects  
**Map and Lot:** Tax Map 2, Lots 12-3 & 12-4  
**Zoning:** Central Business District  
**Date of approval:** February 12, 2014

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**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. Numerous precedent conditions require Planning Board approval. All of these items may be reviewed and approved together after standard notification to abutters and the public and a public hearing.

Please note. If all of the precedent conditions are not met within 18 calendar months to the day of the board’s approval, i.e., - by August 12, 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**

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

- a) 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.
- b) Fire connections. Show fire department connections to be approved by the Fire Department.
- c) Irrigation. Show information for irrigation or hose bibs.
- d) Granite Curbing. Clarify that all vertical curbing will be 6” except where otherwise shown.
- e) Transformer. Show screening in front of the transformer.
- f) Lighting. Submit lighting plan, including security lighting in pedestrian areas, and design of lighting fixtures (both poles and wall sconces) to be approved by the Planning Board.
- g) Street Furniture. Submit planned street furniture (such as benches) for approval by the Town Planner.
- h) Access to Basin. Provide access to the drainage basin for approval by the Town Engineer. Include a plan and cross section of any driveway, as appropriate.
- i) Name for Court. Submit a name for the main court (“court,” “way,” “boulevard,” etc.) to be approved by the Town and show on the plans.
- j) Utility pole. Remove utility pole near northerly bridge.
- k) Architecture colors *and* materials, *glass front and IOL lettering*. Final colors and materials *the exact design of the glass front above the IOL entrance, and the IOL lettering* shall be approved by the Town Planner (An ad hoc committee shall be formed to work with the applicant, architect, and Town Planner on this). The siding is to be cementitious fiber or equivalent and the trim is to be cellular PVC or equivalent, or as approved by the Town Planner.

*\*[I recommend this be added per the most recent architectural plans. I believe that GG is fine with this.]*

- l) Approval block. Add/change the approval block on each page of drawings to read: “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner \_\_\_\_\_ Date \_\_\_\_\_”
- m) 1,200 SF Commercial. Convert 1,200 square feet of residential area on the first floor of the southerly building at the plaza to commercial use.
- n) Porous pavement. Show porous pavement sign(s) at appropriate locations, which shall read as follows, or equivalent: “Porous asphalt pavement for stormwater management. Semi-annual vacuuming is required. The following are prohibited: winter sanding, seal coating, tractor trailers/heavy load vehicles, and handling of hazardous waste.”

*\*[This should be included. I sent an email about this and mentioned it briefly on February 5. I don't see this on the current plans.]*

- o) Solar zones. Architectural drawings shall include dotted lines that identify solar zones on southern-exposure portions of the roofs of each building. These solar zones shall be spaces that are unshaded, un-penetrated, and free of obstructions and may thus serve as a suitable place where solar panels can be installed at a future date. Systems may be installed in the future without need for the property owner to return to any Durham land use board.

*\*[Should be all set. GG is fine with this. Robin Mower and Diana Carroll requested that this provision be added, in their letter of February 5. The applicant was going to check on this. Does the PB think this should be included?]*

### Notes on plans

2) Notes on plans. Add the following notes on the plans, on the appropriate sheet(s):

- 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) Maintenance of Landscaping. “The provision for maintenance of landscaping materials as specified in Section 175-124 – Maintenance Requirements of the Article XXII – Landscaping in the Durham Zoning Ordinance, shall apply. *The property owner shall be responsible for maintenance of the landscaping in perpetuity.*”

*\*[Peter Wolfe asked that this be added. The property owner is responsible for maintenance in perpetuity as he is for all parts of the site plan, but Peter thought it useful to clarify this for the landscaping.]*

- e) Tree Planting. “Trees should be planted using commonly accepted best management practices, such as those listed in ANSI A300 Part 6: Tree Maintenance Standard Practices (Transplanting), which is available from the International Society of Landscape Architects.” Add to the Landscaping plan.
- f) BMP's for Trees. “Best management practices shall be followed for the protection of existing trees and vegetation that are planned to be preserved. Also, the provisions of Section 175-123 – Protection During Construction under Article XXII - Landscaping of the Durham Zoning Ordinance shall be followed.”
- g) Space for Trees. “The contractor shall ensure that there is adequate rooting space and overhead space and fit for the trees to be installed.” Add to the Landscaping plan.

- h) Tree Protection. “All existing trees on the property shall be inspected by a certified arborist after construction. Remedial tree care shall be applied as needed to mitigate any damage caused by construction (pruning of broken branches or exposed roots, mulching, wounds addressed, watering, etc.)”
- i) Protective Fencing. “Protective fencing shall be installed around all existing trees and wooded areas.”
- j) Mulching. “Trees, ground cover, and shrub beds shall be mulched to a depth of 3 inches on level ground and 4 inches on sloped ground and brook banks.”
- k) Mulching During Construction. “Prior to construction: apply 3- 4 inches of bark mulch or wood chips to cover the root system of the existing trees that are enclosed within the temporary fencing. Maintain this mulch until construction is completed.”
- l) Tree Treatment After Construction: “Upon completion, provide water and other tree care as appropriate during the first growing season (May through October).”
- m) Pettee Brook Fencing. “Erect protective fencing outside of the brook bank on the 17-21 Madbury property to keep construction equipment from this area and protect root systems.”
- n) Pettee Brook Invasives. “For those invasive plants appropriate for manual removal the contractor shall carefully excavate smaller stumps, roots and vines using hand tools as needed, while preserving and protecting the root mass of the native trees and shrubs. Larger stumps that are not possible to excavate by hand shall be left, but treated with an appropriate herbicide to kill the plant and prevent resprouting. The contractor shall store, remove and dispose of all parts of invasive species from the site, using commonly accepted practices, so that those plants do not spread via roots, fruit or any other part.”
- o) Arborist. “A qualified arborist shall oversee construction work around existing trees to be preserved and work shall be conducted in accordance with the arborist’s guidelines. ”
- p) Tree Impact. “If feasible, conduct construction near existing trees during the winter or dormant season, when stress to trees will be less.”
- q) Vegetation Root Zone. “To the extent feasible, trees and shrubs to be preserved shall be protected at or along the critical root zone by fencing sufficiently substantial to make clear the intent to protect them. (The critical root zone is a circle with radius equal to 1.5 feet per 1 inch of trunk diameter. If more than 40% of that critical root zone will be disturbed, the tree may be damaged beyond recovery.)”
- r) Severing Roots. “Where roots of existing trees will be disturbed, sever roots cleanly by hand or with a rock saw, rather than using heavy equipment, to minimize tree root system damage. (If too much of the tree root system is removed or damaged by construction, the tree may decline or die.)
- s) Compacted Soils. “Care shall be taken to avoid passes by heavy equipment near planted areas and trees to be preserved, especially when the soil is wet. (Compacted soils have less

open pore space, and hence less space for moisture and oxygen needed to sustain tree health. Even one pass with heavy equipment can cause soil compaction.)”

- t) Damage to Trees. “In the event that any trees to be preserved are damaged or destroyed the applicant shall notify the Durham Tree Warden who may stipulate remediation, as appropriate.”
- u) Sidewalk Replacement. “The applicant shall rebuild the sidewalk along Madbury Road in front of the project.”
- v) Fertilizer. “Only low phosphorus/slow release nitrogen fertilizers for landscaping materials may be used.”
- w) SWPPP. “This project will disturb over one acre of ground cover and/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.”
- x) 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.”
- y) 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”.
- z) 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.”
- aa) 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.
- bb) Snow removal. “Snow shall be removed from the site, as needed, and shall not be pushed against trees or other vegetation.”
- cc) 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.”

dd) 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.”

ee) Road maintenance. “The use of sodium chloride based materials for winter road maintenance shall be the minimum necessary for roadway safety. Since the development calls for the use of porous asphalt, sand should not be used in those areas. However, sand may be used in other areas not using porous asphalt to cut down on the amount of sodium chloride based materials used.”

*\*[Robin Mower pointed out that this condition was part of Peak but had not been included. I sent an email about this and mentioned this briefly at the Feb 5 PB meeting. I suggest adding this.]*

### **Construction Management**

*\*An updated construction management plan was received Friday, February 7 and then emailed to the board. I will not have time to ensure the conditions below are contained in that plan, at least not prior to this draft being sent. The board has determined in the past that these conditions should be in the plan. I recommend keeping these items below. As a precedent condition the construction management plan will be reviewed carefully to ensure these conditions are included (though most/all probably are included in the updated draft, but this will be confirmed as a precedent condition). If not, they will be added/changed as appropriate. At worst, they are already in the plan and are thus superfluous.]*

4) Construction Management Plan. The Construction Management Plan shall be reviewed and approved by Durham Public Works. Modify the Construction Management Plan to include all of the following information/statements:

a) Construction hours. “All outside construction activity related to the development of this site shall be restricted to the following hours:

- Mobilization	6:00 a.m. to 6:00 p.m. Monday through Thursday
(workers on site):	6:00 a.m. to 6:00 p.m. Friday, when UNH is not in session
	6:00 a.m. to 5:00 p.m. Friday, when UNH is in session
	9:00 a.m. to 6:00 p.m. Saturday

- General construction	7:00 a.m. to 6:00 p.m. Monday through Thursday
activities, machinery	7:00 a.m. to 6:00 p.m. Friday, when UNH is not in session
operation, drilling, and	7:00 a.m. to 5:00 p.m. Friday, when UNH is in session
truck loading and hauling:	9:00 a.m. to 6:00 p.m. Saturday

- Blasting, chipping of	9:00 a.m. to 4:00 p.m. Monday through Friday
stone, and use of hoe or	
rock hammers:	

- There are no restrictions on interior construction hours.

- There shall be no operation on UNH Fall move-in day nor on the day of the Spring UNH Graduation

*[I moved this from the prior section to be included in this section]*

- b) Laydown. Show the laydown and delivery area to be used.
- c) Signs. Show where construction zone signs and pedestrian crosswalk signs, if applicable, will be posted, if appropriate.
- d) Construction Schedule. Include a detailed construction schedule. Alternatively, this may be provided with the building permit application to the Building Official.
- e) Trees and Landscaping. See the landscaping plan and notes in the Notice of Approval for requirements regarding trees and landscaping.
- f) Trucks. *“All truck traffic will follow standard State and Town posted trucking laws and requirements. Trucks (serving the project) accessing the site from outside of Durham shall be restricted to the following route: for trucks coming to the site - NH Route 108 to Main Street (over Church Hill), right onto Madbury Road; for trucks leaving the site - right onto Madbury Road, right onto Pettee Brook Lane, left onto Main Street, to Route 108.”*

~~Trucks. *“All truck traffic will follow standard State and Town posted trucking laws and requirements. Trucks accessing the site from outside of Durham shall be restricted to the following routes, both for trucks coming to the site and trucks leaving the site:*~~

- ~~• *Route 4 or Route 155A to Main Street/Old Concord Turnpike, left onto Garrison Road, right onto Madbury Road (and the reverse for trucks leaving the site)*~~
- ~~• *Route 108 to Main Street (over Church Hill), right onto Madbury Road. For trucks leaving the site, right onto Madbury Road, right onto Pettee Brook Lane, left onto Main Street, to Route 108.”*~~

*\*[The Traffic Safety Committee recommended using the language above. Golden Goose has requested that the Main Street route be permitted when UNH is not in session.]*

- g) Parking for Workers. “Workers shall park on site, may use public parking if they pay for it as required, or may make other arrangements if acceptable to the Police Chief.”
- h) Meeting with 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.”
- i) Construction Management Plan. “The applicant/contractor shall comply with the provisions contained in the Construction Management Plan.”



- j) Weekly meetings. “The applicant/contractor shall hold weekly meetings (or as otherwise set by the Department of Public Works) with the Town Engineer and other appropriate Town staff (as determined by the Town Engineer) to discuss the construction process and the schedule for the upcoming week. In addition, the applicant/contractor shall be responsible for communicating with appropriate Town staff should issues arise in the interim.”

*\*[I suggest adding the phrase above. GG requests the meetings be biweekly, the schedule be for the upcoming two weeks, and adding this sentence before the last sentence, “In the initial stages of the project, weekly meetings can be scheduled as necessary by mutual agreement.”]*

- k) Road and Sidewalk Obstruction. “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.”
- l) Lane Closure. “The Durham Police will not allow any construction or delivery that would cause any lane closure during the period of the last week in August through Labor Day weekend that would coincide with UNH ‘move-in’.”
- m) Departures from Plan. “In accordance with Planning Board requirements, the Town Engineer may approve reasonable departures from the provisions in the Construction Management Plan for good cause.”
- n) Construction 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 the Durham Public Works Director, Police Chief, Fire Chief, or Building Official may order the job site closed and/or assess a fine. 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 unless the Town determines that a remedy is in process and grants and waives a fine in recognition of corrective effort put forth in the time allotted to implement such remedies.”

*[The Planning Board determined on Feb 5 to include this]*

- o) Expedited Review. “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.”

*\*[GG requests the following changes.*

*“Expedited Review. “In accordance with Town policy, the applicant’s building permit fees cover the plans review conducted within 30 days by the Durham Building Official at the building permit stage. It is understood that should the applicant seek a quicker turnaround than 30 days 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 using funds previously paid for Permitting.”*

*Tom Johnson says, “...compromise- if expedited review is requested and used by Town, our billing rate is \$35 per hour, if consultant charges more per hour, then applicant pays the difference, not deducted from permit fees?”]*

*I asked Tom on Feb 6 to coordinate with the applicant on proposed revised language]*

- p) 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.”

*\*[GG requests adding this at the end: “...using funds previously paid for Permitting.”]*

*I checked with the Fire Chief (February 6) and he said, “The cost is associated with the FD and it cannot be used by previous fees as this is above and beyond.” Thus, the language above should remain as shown.]*

- q) Occupancy. “There shall be no occupancy on the site of existing buildings while construction is ongoing unless approved by the Building Official.”
- r) Plan – Porous Pavement. Include a construction sequencing plan to protect the porous pavement and porous paver section and subsoil during construction. Due to the limited space on site it is anticipated that this area will be trafficked during construction. Include post construction soil testing be performed to ensure that the sand "filter course" and stone courses maintain the infiltration capabilities assumed in the design.
- s) Pro Con. There are multiple references to "Pro Con". Unless this is the contractor for the project this should be revised or a note added that the plan will be revised once the actual contractor is selected.
- t) Pettee Brook. “Due to the proximity of the property to Pettee Brook, all stockpiles, concrete washout areas, chemicals, fertilizers, hazardous materials, etc. shall be located as far from the brook as possible and at a minimum of 50 feet away.”
- u) Fencing. “The site is to be fenced in during the duration of project along Madbury Road and other pedestrian traffic areas, or as stipulated by the Building Official.”
- v) *[Knox Box. “If the construction site is to be closed in, a Knox Box, Knox Lock, or Town Lock shall be incorporated into the fence gates during construction to allow for emergency access by the Fire Department.”](#)*

***\*[I recommend this be added per my earlier email]***

~~w) **Phasing.** “All buildings are to be completed in the same month: there will be no phasing in the issuance of individual Certificate of Occupancy during construction, unless approved by the Building Official (or Planning Board, as appropriate).”~~

*Phasing: The applicant may phase the project and receive multiple Certificates of Occupancy with the approval of the Town Building Code Official. In the event of a phased development, the exterior construction of all buildings must be complete such that only interior work to residential dwelling units or commercial units remain. Further, the site must be free of debris or other safety hazards in order to receive a Certificate of Occupancy.*

*\*[GG and Tom Johnson thought this language was fine]*

w) Blasting BMP's. Add the following language to the Construction Management Plan, after obtaining approval from the Fire Department. Modify language as stipulated by the Fire Department.

*[All of this language, that was part of the Orion project, was added by the Planning Board on Feb 5.]*

A Town of Durham Blasting Permit shall be obtained from the Durham Fire Department prior to conducting any blasting, and all blasting activities shall be conducted as follows:

**I. General Procedure.** Blasting and on-site chipping or hammering (of stone) is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday (See *Hours of Construction* in this document). There shall be no processing of stone on site. A notice of intent to blast shall be provided at least 24 hours in advance via signage placed in appropriate places and other appropriate media provided by the Town (such as the Town's website and Friday Updates). The applicant is encouraged (but not required) to do all blasting during the summer when UNH is out of session.”

**II. Best Management Practices for Blasting.** All activities related to blasting shall be performed in accordance with the following New Hampshire Department of Environmental Services Blasting Best Management Practices (BMPs) to prevent contamination of groundwater including preparing, reviewing and following an approved blasting plan; proper drilling, explosive handing and loading procedures; observing the entire blasting procedures; evaluating blasting performance; and handling and storage of blasted rock. The blasting plan shall be approved by the Durham Fire Department. In addition, the blasting plan shall be reviewed and approved by a Third-Party Consultant who shall provide nonbinding comments to the applicant and to the Fire Department. The Town of Durham shall propose three names for the Third-Party Consultant who shall then be selected by the applicant.

**1. Loading practices.** The following blasthole loading practices to minimize environmental effects shall be followed:

(a) Drilling logs shall be maintained by the driller and communicated directly to the blaster. The logs shall indicate depths and lengths of voids, cavities, and

fault zones or other weak zones encountered as well as groundwater conditions.

- (b) Explosive products shall be managed on-site so that they are either used in the borehole, returned to the the delivery vehicle, or placed in secure containers for off-site disposal.
  - (c) Spillage around the borehole shall either be placed in the borehole or cleaned up and returned to an appropriate vehicle for handling or placement in secured containers for off-site disposal.
  - (d) Loaded explosives shall be detonated as soon as possible and shall not be left in the blastholes overnight, unless weather or other safety concerns reasonably dictate that detonation should be postponed.
  - (e) Loading equipment shall be cleaned in an area where wastewater can be properly contained and handled in a manner that prevents release of contaminants to the environment.
  - (f) Explosives shall be loaded to maintain good continuity in the column load to promote complete detonation. Industry accepted loading practices for priming, stemming, decking and column rise need to be attended to.
2. **Explosive Selection.** The following BMPs shall be followed to reduce the potential for groundwater contamination when explosives are used:
- (a) Explosive products shall be selected that are appropriate for site conditions and safe blast execution.
  - (b) Explosive products shall be selected that have the appropriate water resistance for the site conditions present to minimize the potential for hazardous effect of the product upon groundwater.
3. **Prevention of Misfires.** Appropriate practices shall be developed and implemented to prevent misfires.
4. **Muck Pile Management.** Muck piles (the blasted pieces of rock) and rock piles shall be managed in a manner to reduce the potential for contamination by implementing the following measures:
- (a) Remove the muck pile from the blast area as soon as reasonably possible.
  - (b) Manage the interaction of blasted rock piles and stormwater to prevent contamination of water supply wells or surface water.
5. **Spill Prevention Measures and Spill Mitigation.** Spill prevention and spill mitigation measures shall be implemented to prevent the release of fuel and other related substances to the environment. The measures shall include at a minimum:
- (a) The fuel storage requirements shall include:

1. Storage of regulated substances on an impervious surface.
2. Secure storage areas against unauthorized entry.
3. Label regulated containers clearly and visibly.
4. Inspect storage areas weekly.
5. Cover regulated containers in outside storage areas.
6. Wherever possible, keep regulated containers that are stored outside more than 50 feet from surface water and storm drains, 75 feet from private wells, and 400 feet from public wells.
7. Secondary containment is required for containers containing regulated substances stored outside, except for on premise use heating fuel tanks, or aboveground or underground storage tanks otherwise regulated.

- (b) The fuel handling requirements shall include:
1. Except when in use, keep containers containing regulated substances closed and sealed.
  2. Place drip pans under spigots, valves, and pumps.
  3. Have spill control and containment equipment readily available in all work areas.
  4. Use funnels and drip pans when transferring regulated substances.
  5. Perform transfers of regulated substances over an impervious surface.
- (c) The training of on-site employees and the on-site posting of release response information describing what to do in the event of a spill of regulated substances.
- (d) Fueling and maintenance of excavation, earthmoving and other construction related equipment will comply with the regulations of the New Hampshire Department of Environmental Services [note these requirements are summarized in WD-DWGB-22-6 Best Management Practices for Fueling and Maintenance of Excavation and Earthmoving Equipment" or its successor document. (see <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/document/s/dwgb-22-6.pdf>)

**III. Pre-Blast Condition Survey:** a minimum of 30 days prior to conducting any blasting, the applicant shall prepare a Pre-Blast Condition Survey Plan (PBS Plan) and submit it to the Third-Party Consultant and the Durham Fire Department for review and approval. The approved PBS Plan shall be implemented accordingly. The PBS Plan shall include pre-blast structural condition inspections of all existing structures and conditions on the site, adjacent to the site or in the vicinity of the site. The approved PBS Plan shall extend to such structures or conditions as may be affected by the applicant's construction operations and the inspections shall be performed on all structures, including homes, foundations, driveways, roadbeds, swimming pools, wells and mobile homes, within a radius of 250' of the subject lot. The blasting contractor and the owner of the property being inspected shall sign all such inspections once completed. If an owner refuses to allow for the conducting of a pre-blast conditions inspection or sign a pre-blast conditions inspection form for whatever reasons the applicant shall note this on the form. The blasting contractor shall make at least three attempts to notify the owner of the need for such inspections,

the last such attempt shall include a written notification by certified mail and individual to contact.

6. The pre-blast structural condition inspection shall be performed in the presence of the property owner or an owner's representative and shall consist of photographs and a written description of the interior and exterior condition of each of the structures examined. Descriptions shall locate any existing cracks, damage, or other defects, and shall include such information so as to make it possible to determine the effect, if any, of the construction operations on the defect. A good quality videotape survey with appropriate audio description of locations, conditions, and defects can be used in lieu of a written form. Copies of all inspection forms and photographs shall be submitted to the Durham Fire Department and kept for a minimum of seven (7) years on file with the Durham Fire Department. The Third-Party Consultant shall review the data collected as part of the PBS Plan to ensure completeness and compliance with the PBS Plan.
7. The individual person conducting the inspections shall give written notice, not less than 10 days in advance, to the owner of the property concerned and tenants of the property. The notice shall state the dates on which inspections are to be made. Copies of all notices shall be provided to the Durham Fire Chief.
8. A Blasting Permit shall only be issued after all pre-blast structural condition inspections have been performed.
9. Upon completion of all earth/rock excavation and blasting work, the applicant shall conduct a post-blast condition inspection of any properties, structures and conditions for which complaints of damage have been received or damage claims have been filed. Notice shall be given to all interested parties so they may be present during the final inspection. Records of the final inspection shall be distributed in the same manner as the original pre-blast structural condition inspection.
10. The Third-Party Consultant shall verify and assess the monitoring equipment utilized and calibration records.
11. The applicant shall hold a neighborhood meeting prior to any blasting to educate the neighborhood about the proposed blasting. The applicant shall send a letter in the mail, in advance, to all property owners within 250 feet of the subject lot notifying them about the neighborhood meeting.

**Other precedent conditions**

- 5) Pavers. Submit physical samples of final approved pavers to the Planning Department, as presented to the Planning Board. Submit pattern and final colors (if more than 1 color is to be used) of pavers to the Planning Board for approval.
- 6) Signage. Submit a sign master plan to the Planning Board for approval.
- 7) Utility Connection Permit. The applicant shall submit a complete Utility Connection Permit Application for connection to the Town's water, stormwater, and wastewater systems to the Department of Public Works for review and approval in accordance with the

Durham Water and Wastewater ordinances. The applicant shall provide all necessary information and documentation for a public hearing (if required) to be held in support of the proposed sewer extension and wastewater connection as required by Chapter 106 of the Durham Town Code. Representatives of the applicant shall be present at the Public Hearing to describe the project and answer questions.

- 8) Tighe & Bond. The applicant shall address all substantive comments included in the design review letter prepared by Tighe & Bond to the satisfaction of the Department of Public Works. All subsequent Plan revisions shall be incorporated into the project Construction Plans and Specifications and provided for review and approval by the Department of Public Works.
- 9) Stormwater Plan. The applicant shall submit for review and approval an updated Stormwater Management Plan in accordance with the Durham Site Plan Review Regulations Section 9.03 to the Department of Public Works. The Stormwater Management Plan shall include an operations and maintenance plan with a description of how all components of the stormwater management system shall be accessed for maintenance. No point discharges are to be directed toward abutting properties and provisions are to be made to prevent short circuiting between infiltration structures and foundation drains. Any discharge to the Town's stormwater management system shall not increase the discharge rate or volume above what is discharging from the site, nor violate any aspect of the Town's MS4 Permit.
- 10) Utility Easements. Where applicable, the applicant shall grant utility easements of adequate width for the purpose of access and maintenance to all underground service connections and public water and wastewater infrastructure (piping, valves, manholes, etc.) located on the premises.
- 11) Fire Access. NFPA 1, 2009 Edition requires access to the buildings. Since it has been indicated that the buildings will have sprinkler systems, then all exterior doors must be accessible within 450 feet from a fire department access road, fire lane, etc. Also, one exterior door from each building must be accessible within 50 feet. Obtain confirmation from the Fire Department that this condition is met.
- 13) 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.
- 14) Addressing. Develop a numbering system for the buildings to be approved by the Fire and Police Departments.
- 15) Lot combination. The two lots shall be combined (merged) in conformance with RSA 679:39a and Town policy (providing for administrative review).
- 16) 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).

17) Construction Guarantee. The applicant will provide completion assurance that is satisfactory to the Town. Such assurances will be provided either through the General Contractor, the lending Bank or Golden Goose Capital in the form of a surety, performance bond, letter of credit or cash deposit to be approved by the Department of Public Works (and the Town Business Manager for form and type). The assurance shall be in an amount sufficient to ensure the completion of all driveways, 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.”

*\*[This language proposed by the applicant should be fine. Gail Jablonski and Mike Lynch thought it was fine. I changed references to Department of Public Works from Tree Warden and Town Engineer]*

18) Maintenance Guarantee. The applicant agrees that all site maintenance work will be installed in a correct and workmanlike manner. To satisfy the Town that the applicant meets this obligation, the applicant agrees to create a General Maintenance Reserve bank account from operating cash flow sufficient to fund necessary maintenance work during the first two years of operations. The General Maintenance Reserve Fund shall be in an amount of two percent of the estimated site (not building) 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 General Maintenance Reserve Fund may be used to complete/install the improvements. Applicant will deposit cash into a designated account at Citizens Bank which will be in the control of the Town of Durham. Unused funds will be returned to the applicant upon the expiration of two years.”

*\*[This language proposed by the applicant should be fine. Gail Jablonski and Mike Lynch thought it was fine. I changed references to Department of Public Works from Tree Warden and Town Engineer]*

19) “Landscaping Guarantee. The applicant agrees that all site maintenance work will be installed in a correct and workmanlike manner. To satisfy the Town that the applicant meets this obligation, the applicant agrees to create a Landscape Maintenance Reserve Fund account from operating cash flow to guarantee the success of the landscaping materials. The Landscape Maintenance Reserve Fund account shall be funded 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 within this two-year period, as reasonably determined by the Department of Public Works, 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 Department of Public Works then the Town may use the Landscape Maintenance Reserve Fund account to pay for and install the materials. Applicant will deposit cash into a designated account at Citizens Bank which will be in the control of the Town of Durham. Unused funds will be returned to the applicant upon the expiration of two years. This guarantee and/or those specified above may be combined at the discretion of the Business Manager.”

*\*[This language proposed by the applicant should be fine. Gail Jablonski and Mike Lynch*



*thought it was fine. I changed references to Department of Public Works from Tree Warden and Town Engineer]*

- 20) Property and Security Management Plan. The property management plan shall be modified to incorporate the following elements, if these are not already included in the plan. The plan may be modified by the applicant in the future with the approval of the Town Planner in consultation with the Police, Fire, Public Works, and Building Departments, as appropriate (pertinent and substantive elements of the plan as determined by the Town Planner).
- 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, with timely notification to the property owner, then: i) the property owner shall provide full time security 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; or ii) an alternative corrective measure, as approved by the Police Chief, may be implemented until the problems are rectified, as reasonably determined by the Police Chief;
  - d) contact information for a primary agent with authority to resolve security and other issues and who can be reached 24 hours a day/7 days a week;
  - e) contact information for a secondary agent, who can address the concerns, above, if the primary agent 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, or that there be somebody on site, or immediately available to the site, overseeing the operation, 24 hours a day, 7 days a week.
  - j) The following statement: “It is understood that professional management of the site is critical and the Town of Durham expects that the ownership/management will be highly diligent in overseeing and suppressing any activity on the part of residential tenants or their visitors or any other parties on site which would be unreasonably disturbing to any of the neighbors of the project, including loud parties, especially late at night, and other unruly and disturbing behavior. Owner/Manager agrees to cooperate with the Town of Durham to ensure all appropriate measures are being followed to suppress unruly or noisy behavior.”

- k) Clarify the discrepancy between the plan which refers to 2 outside bike storage areas and the drawings which show 3 outside areas.
- 21) Architectural plans. Submit two final sets of 11x17 paper copies in color of the approved architectural elevations in color (one for the Building Official).
- 22) 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 (licensed in the State of New Hampshire) 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 January 2, 2014.)
- 23) Alteration of Terrain. Obtain an Alteration of Terrain permit. If significant changes are stipulated by NHDES the changes will be reviewed by the Planning Board.
- 24) Bridge Maintenance. Finalize ownership/contractual arrangements for the two bridges, as appropriate, to implement maintenance responsibilities, as follows: a) The Town of Durham shall maintain the entire large bridge and appurtenant structures (including the steps and handicap ramp) including snow removal on the bridge itself; however the applicant shall be responsible for removal of snow on the steps and handicap ramp; and b) The applicant maintain the small bridge and appurtenant structures.

*\*[This was modified as discussed by the Planning Board]*

- 25) Interoperability Lab. The applicant must certify that it has a fully executed lease with the UNH Interoperability Laboratory.
- 26) Beer Kegs. At the Police Chief's request modify property management plan to add under "Community Rules" that there is a no beer keg policy.
- 27) Bridge Designs. Final engineered plans for the two bridges, with elevations, plans, and cross section(s) and samples of materials shall be presented to the Planning Board for approval. The final designs will be based upon the drawings shown to the Planning Board on January 29, 2014. (Note that the design of the spanning arch should appear to be support the arch, through use of voussoirs or other appropriate methods.) It should be verified that all components are outside the 100 year flood plain.
- 29) Fire Department Requirements. Confirm with the Fire Department that the following requirements will be met:
- a) Access. NFPA 1, 2009 Edition requires access to the buildings. Since it has been indicated that the buildings will have sprinkler systems, then all exterior doors must be accessible within 450 feet from a fire department access road, fire lane, etc. One exterior door from each building must be accessible within 50 feet. The plans appear to meet these requirements but this must be confirmed with the Fire Department.

- b) Yard Hydrant. The fire department has no objection to having the hydrant set back towards the sidewalk to accommodate a tree or other vegetation provided that the hydrant is still installed per NFPA 1 specifications and is angled in a manner that will allow unobstructed access to each outlet now and when the vegetation matures.
- 30) Work on Town Property. Complete a Memorandum of Understanding (MOU) or similar agreement between the Town and the developer for any work within the Madbury Road right of way including the reconstruction of the sidewalk, bridges, sewer main, Pettee Brook rehabilitation and any other work on Town owned land.
- 31) Tighe and Bond Review. All conditions stipulated in the Tighe and Bond Engineering Report shall be incorporated into the plans, as stipulated by the Town Engineer and/or Town Planner, as appropriate.

*\*[I added this provision. Mike Sievert is modifying the plans now in accordance with the Tighe and Bond review, but this condition will ensure that all conditions are met.]*

- 31) Easements. Obtain easements, if needed, for: a) the drainage rip rap proposed on the Town property adjacent to Pettee Brook; b) on Tax Map 2, Lot 12 2 for the construction and maintenance of the Stormwater swale at the northeast of the site.
- 32) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

Golden Goose Capital, LLC

\_\_\_\_\_

Ken Rubin, President

\_\_\_\_\_

Date

\_\_\_\_\_

Eamonn Healy, Chief Financial Officer

\_\_\_\_\_

Date

\_\_\_\_\_

Barrett Bilotta, Chief Operating Officer

\_\_\_\_\_

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 or relieved by the Town

- 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.
- e) All Utility Connection fees are be paid and approvals of Town of Durham Utility Connection and Driveway Permits are obtained.
- f) A copy of the SWPPP is provided to the Town Engineer (See above).

*[I added this at Dave Cedarholm's request. This is nonsubstantive as the SWPPP must be prepared per above condition]*

- 2) Preconstruction meeting. Contact Michael Behrendt, the Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting.
- 3) Pettee Brook Restoration. A preconstruction conference, as called out in the Brook Restoration Notes #1 and #5 on sheet L1 of the plan set, which calls for flagging trees and shrubs to remain, shall be held with the Landscape Architect, contractor, Durham Tee Warden, and, if available, Chair of Conservation Commission.

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

- 4) Parking fee. The applicant shall pay the parking impact fee under Section 175-112 A. 1. of the zoning ordinance. The applicant may propose an alternative arrangement that guarantees full payment. The Town Administrator may approve such alternative arrangement.
- 5) Natural gas. If natural gas will be used, provide a letter of approval from Unitil.
- 6) Tenant leases. Draft tenant leases shall be submitted to the Town Planner **and include provisions stipulated below**. See waste material, inspection of units, and parking permits, below.

*\*[I recommend adding this phrase above. The standard lease is included in the submitted property management plan but there is no reference in the lease to the issues of waste material, inspection of units, nor parking permits, below. Should the standard lease be amended to include the language in the provisions below?]*

- 7) 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.

- 8) 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.
- 9) 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**

- 10) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 11) 525 Residents. This project is approved with a maximum of 126 dwelling units per Zoning Ordinance and 525 residential tenants. No additional residential tenants may be accommodated on this parcel without specific new approval from the Planning Board.
- 12) Draft Lease. Provide a draft lease to the Police Chief to give him an opportunity to make recommendations (not required to incorporate except as otherwise provided herein).
- 13) 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.
- 14) 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.
- 15) 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.

- 16) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 17) Start of construction. The Building Official recommends starting the project during the school year, if practical (subject to his approval of proper fencing and other appropriate measures), to facilitate desired completion of the project by August 2015.
- 18) Building Plans. Expecting the review of the building plans during the normal work schedule is not recommended. It is strongly recommended that an expedited plan review by an outside agency retained by the Building Official be conducted (as stated in Construction Management Plan, above).
- 19) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 20) Solar Panels. Solar panels are shown on the roof. The applicant is strongly encouraged to install solar panels but installation shall depend upon financial feasibility as determine by the applicant.

*\*[Will panels be installed? Should they be required? Should conduit be installed for potential future installation? The applicant will address this issue on February 12.]*

- 21) 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 is** "notice that is adequate under the circumstances" as stated in the lease.

*\*[Jim Lawson recommends this language based on his research of the pertinent RSA's]*

- 22) Amenity inspections. Any common amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.
- 23) Sprinklers. All structures within the development will have sprinkler systems installed in accordance with applicable code or as specified by the Durham Fire Department.
- 24) Security Recommendations. 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.
- 25) 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 on Friday, Saturday, and Sunday mornings, and as otherwise needed.
- 26) Building Egress. The means of egress from the buildings terminate at a public way. The egress paths on the outside of the buildings shall be maintained, including during the winter

months. Egress doors to the sides and rears of buildings not commonly used are often forgotten during snow removal or are difficult to maintain because of the walking surface. If these conditions exist, the developer or owner may want to consider installing some sort of maintainable walkway or surface that can be shoveled or cleared during the winter months.

- 27) Fire Lane Enforcement. The property owner is responsible for maintaining and enforcing the fire lane requirements
- 28) Alarms. Final locations for the fire alarm control panels will be determined during the building & systems plan review process
- 29) 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.
- 30) Parking permits. The applicant will not sell, lease, convey or otherwise provide parking permits for the parking spaces located on this site except to the property's commercial non-residential tenants, security officers and building management.

*\*[At the PB meeting on Feb 5 Jim Lawson said that he would send suggested language for this provision to replace the other language we had. I replaced the other language with Jim's language above, which seems appropriate.]*

- 31) Parking and Leases. The apartment leases shall state that for apartment tenants there is no overnight parking on site, and no overnight parking on any adjacent streets nor on Town property.
- 32) Commercial users. Any commercial/nonresidential uses that are allowed under the Zoning Ordinance may occupy nonresidential spaces without further site plan review.
- 33) 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

- 34) Minor changes. Minor changes to the approved plans and the provisions of this document 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.
- 35) Execution. The project shall 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).
- 36) 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.
- 37) 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.
- 36) Conditional uses. The conditional uses for encroachment into the 25-foot Shoreland Protection Overlay District and into the 75-foot Wetland Protection Overlay District upland buffer were approved as shown on the plan.
- 37) Variances. The Zoning Board of Adjustment granted five variances with some conditions (See findings of fact, below). The project complies with the variances, as granted.
- 38) 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.
- 39) School impact fee. The appropriate fee(s) shall be paid for any grade school students who live at the development for whom the Town must provide educational services.
- 40) Sustainability Issues. It is understood that the applicant plans to install end-use monitoring systems, controls on the range of heat allowed in each apartment and a system of charge backs for heavy energy users. The applicant is strongly encouraged (but not required) to incorporate these items.
- 41) 4 Bedroom Units. 109 units shall be limited to a maximum of 4 bedrooms, except for 17 units which may have 5 or 6 bedrooms.
- 42) Interoperability Lab. It is expected that the UNH Interoperability Laboratory (IOL) will execute a lease for the site. In the event that the laboratory does not occupy the site, the applicant shall return to the Planning Board to amend this site plan approval (This



requirement is made due to the numerous changes that have been made in the site plan to specifically accommodate the IOL). In that event, the Planning Board may stipulate reasonable modifications to the site (possibly to include changes in landscaping, signage, and minor building adjustments, for example, but not substantial changes such as changes in the building footprint) in order that it better accommodate retail usage.

- 43) Fire Lanes. A fire lane will be provided at the southern-most driveway to accommodate the first-due fire apparatus. This lane will provide proper access to the fire department connections that will be installed in the same area on both buildings. It will also provide safer operations as this apparatus will not have to park in the middle of Madbury Road. (The exact locations of the FDC's will be determined during the building & systems plan reviews.) A second fire lane will be provided at the northern-most driveway that leads to the loading dock. This will provide the FD secondary access to the building and its northern areas while providing an opportunity to stage apparatus off of Madbury Road. The property owner is responsible for maintaining and enforcing the fire lane requirements, including but not limited to installing signs to discourage any parking in these locations.
- 44) Fire Department Connections. Fire Department Sprinkler Connection and control panel locations will be determined during the building and systems plan review. It is the intent to have them installed in close proximity of the fire lane and near the yard hydrant between the northern and southern buildings.
- 45) Building Egress. The means of egress from the buildings terminate at a public way. The egress paths on the outside of the buildings must be maintained, including during the winter months. Often, egress doors to the sides and rear of buildings not commonly used are forgotten during snow removal or are difficult to maintain because of the walking surface. If these conditions exist, it is recommended that a maintainable walkway or surface that can be shoveled or cleared during the winter months be installed.
- 46) Bicycles. There shall be parking/storage for a minimum of 60 bicycles outside and a minimum of 75 bicycles inside the building.

*[This was agreed to at the February 5 PB meeting. 3 or 4 racks are shown outside and an indoor storage space]*

- 47) Habitable Area. At least 75 dwelling units shall have at least 230 square feet of habitable floor area per resident (as defined in the Zoning Ordinance).

*[I changed this as discussed by the Planning Board and moved it here]*

- 48) Windows. All bedrooms will have at least one window (opening to the outside or a sky/light shaft).

*\*[I added this from information provided by the applicant earlier. I trust this is acceptable.]*

- 49) Knox Box – Permanent. For buildings that will have a fire alarm or sprinkler system or if otherwise required by the Fire Department, the building shall include a Knox Box, Knox Lock, or Town lock to allow the Fire Department to enter in emergency situations.**

*\*[I added this per my earlier email]*

50) 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 two site walks; **C)** The Planning Board held numerous continuous public hearing(s) on the application; **D)** 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; **E)** 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); **F)** 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; **G)** The Planning Board reviewed the design in accordance with the Architectural Standards contained in the Site Plan Regulations; and **I)** This project is not considered to be a Development of Regional Impact; **J)** The Planning Board duly approved the application as stated herein, including the conditional uses; **K)** This approval includes an approval by the Planning Board of a reduction in parking spaces under Section 175-112 A. 2. **L)** This approval includes an approval for the building to exceed 30 feet per the Dimensional Table for Maximum Permitted Building Height with Planning Board approval. **M)** The applicant met with the Economic Development Committee on to discuss the project. **N)** The Zoning Board of Adjustment granted 5 variances on August 13, 2013 for 1) locating the building beyond the front 15 foot line, 2) building height, 3) nonresidential uses, 4) buffers in the Wetland Conservation Overlay District, and 5) setbacks in the Shoreland Protection Overlay District **O)** After due deliberation and consideration of RSA 36:54, the Planning Board determined on January 22, 2014 that this project is not a Development of Regional Impact. **P)** The applicant prepared a precise architectural scale model of the site and neighboring buildings. **Q)** All pertinent Town departments provided final comments about the project (Fire, Police, Building, Public Works) and all such comments were incorporated into the final plans/conditions, as appropriate. **R)** Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project would be prepared as needed.