



**TOWN OF DURHAM**  
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***Town Planner's Recommendation***  
**Wednesday, January 15, 2014**

VIII. **Public Hearing** (continued) - **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 460 +/- residents, office/retail, and parking. **Golden Goose Properties**, Barrett Bilotta, Ken Rubin, and Eamonn Healey (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. **Recommended action**: Review of proposed conditions of approval and continuance to January 22.

➤ I recommend discussion and continuance to January 22, 2014.

Please note the following:

\*\*\* ***The board will need to determine the final maximum number of beds.***

- The board will need to include a vote to allow the project to exceed 30 feet to go up to 50 feet (per the Dimensional Table)
- The board will need to vote to find that this project is not a Development of Regional Impact
- The board will need to vote on the conditional use for the structures within the 25 foot Shoreland and 75 Wetland Overlay Zones. The DCC reviewed the application and did not have concerns but offered several recommendations.
- The board will need to approve the reduction in parking per Section 175-112 A.2. of the Zoning Ordinance
- Tighe and Bond will start its review this Monday, January 14. We hope to have comments back from them this week.
- I will get final comments from the Building, Fire, Police, and Public Works Departments
- The applicant will be submitting: a) one last set of revised plans; b) a property management plan; c) a parking analysis in coordination with Jim Lawson (as requested by the board); d) a pedestrian analysis; e) a fiscal analysis; f) final architectural renderings, including materials and colors; g) floor plans; h) a revised construction management plan.
- Is more information needed for the rehabilitation of the brook?
- Will solar panels definitely be installed? If not, should the applicant install the wiring to allow for future installation (as was done for the Peak clubhouse)?

- Per the email that I sent to the board with a discussion between Beth Olshansky and Robbi Woodburn the treatment of the plaza along Madbury Road should be adjusted since the frontage will be occupied by the IOL rather than a restaurant/café.
- I am including some landscaping conditions proposed by Beth Olshansky pursuant to Peter Wolfe’s request that she work on this. Beth walked the site and met with John Parry, Barrett Bilotta, Robby Woodburn, Fred Kell to discuss the landscaping plan.
- I will rearrange the order of some items for the next meeting.

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

**Project Name:** Madbury Commons  
**Project description:** Redevelopment of multifamily site known for mixed use project with student/multifamily housing for 460 +/- \*\*\*residents, office/retail, and parking.  
**Address:** 17-21 Madbury Road  
**Applicant:** Golden Goose Properties, c/o Barrett Bilotta, Ken Rubin, and Eamonn Healey  
**Engineer/Designer:** Michael Malynowski and Bob Clarke, Allen and Major  
**Map and Lot:** Tax Map 2, Lots 12-3 & 12-4  
**Zoning:** Central Business District  
**Date of approval:** January \*\*\*, 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.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board’s approval, i.e., - by \*\*\* (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) Interior Bike Spaces. Submit specific plans for interior bicycle spaces as discussed identifying the room/space, locations of the racks, and how the room will be accessed.
- b) 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.
- c) Fire connections. Show fire department connections to be approved by the Fire Department.
- d) Irrigation. Show information for irrigation or hose bibs.
- e) Granite Curbing. Clarify that all vertical curbing will be 6" except where otherwise shown.
- f) Transformer. Show screening in front of the transformer.
- g) Lighting. Submit lighting plan, including security lighting in pedestrian areas, to be approved by the Planning Board.
- h) Courtyard. Provide focal point (specimen tree, circular bench, etc.) for the courtyard to be approved by the Planning Board.
- i) Landscaping. Provide final landscaping plan to be approved by the Planning Board.
- j) Caliper. The two trees to be planted along Madbury Road shall be 6 - 8" in caliper.
- k) Madbury Road Plaza. Revised the landscaping plan along Madbury Road to reflect the removal of pavers except for the walkway to the building entrance, and widened sidewalk. A landscaping plan will include ample shrubs and lawn to reflect the current feel of Madbury Road.
- l) Street Furniture. Submit planned street furniture (such as benches) for approval by the Planning Board.
- m) Limits of Construction. Show limits of construction.
- n) Access to Basin. Provide access to the drainage basin acceptable to the Town Engineer. Include a plan and cross section of any driveway, as appropriate.
- o) 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.
- p) Pettee Brook Restoration. Modify the plan after deciding which trees to save along the brook and which to remove in coordination with an independent certified arborist (such as the current chair of the Conservation Commission, if available)

- q) Approval block. Add the approval block on each page of drawings to read: “Final Approval by Durham Planning Board. Certified by Michael Behrendt, Town Planner  
\_\_\_\_\_ Date \_\_\_\_\_”

**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.”
- 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) 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.
- g) 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.”
- h) Tree Protection. “All existing trees 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 During Construction. “Prior to construction: apply 3- 4 inches of bark mulch or wood chips to cover the root system that is enclosed within the temporary fencing. Maintain this mulch until construction is completed.”
- k) Tree Treatment After Construction: Upon completion, provide water and other tree care as appropriate during the first growing season (May through October).

- l) Pettee Brook Fencing. “Erect protective fencing outside of the brook bank to keep construction equipment from this area and protect root systems.”
- m) 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.”
- n) Sidewalk Replacement. “The applicant shall rebuild the sidewalk along Madbury Road in front of the project.”
- o) Fertilizer. “Only low phosphorus/slow release nitrogen fertilizers for landscaping materials may be used.”
- p) 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."
- q) 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.”
- r) 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”.
- s) Blasting. “Blasting and on-site chipping (of stone) is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday. 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).”
- t) 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.”
- u) Construction hours. “All outside construction activity related to the development of this site shall be restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and

9:00 a.m. to 6:00 p.m. Saturday. Truck loading and hauling will take place only between the hours of 7:00 a.m. (9:00 a.m. on Saturday) and 5:00 p.m. The use of rock drills or hammers will be limited to the hours of 9:00 a.m. to 4:00 p.m. on weekdays, with no drilling or hammering on weekends or holidays. See Blasting, below.)

- v) 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.
- w) Snow removal. “Snow shall be removed from the site, as needed, and shall not be pushed against trees or other vegetation.”
- x) Bedrooms. “There shall be only one tenant per bedroom.”

*[Is this appropriate to include for Madbury Commons?]*

- y) 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.”
- z) 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.”

### **Construction Management**

- 3) Construction Compliance Deposit. Submit a \$10,000 construction compliance deposit (See provision below).
- 4) Construction Management Plan. Modify the Construction Management Plan to include all of the following information/statements:
  - a) Laydown. Show the laydown and delivery area to be used.
  - b) Signs. Show where construction zone signs will be posted, if appropriate.
  - c) Hours. Modify the hours of construction to be consistent with the provision herein.
  - d) Construction Schedule. Include a detailed construction schedule. Alternatively, this may be provided with the building permit application to the Building Official.
  - e) Trucks. “Trucks accessing the site from outside of Durham shall be restricted to Route 108 (then to Main Street/Church Hill) and Route 4 (then to Main Street/Old Concord Turnpike) and then to Madbury Road, and vice versa.”
  - f) 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.”

- g) 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.”
- h) Construction Management Plan. “The applicant/contractor shall comply with the provisions contained in the Construction Management Plan.”
- i) Weekly meetings. “The applicant/contractor shall hold weekly meetings 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.”
- j) Road 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.”
- k) 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’.”
- l) 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.”
- m) Plans Review. “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 payable from the Construction Compliance Deposit. 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.”
- n) 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.
- o) 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.”

- p) 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.”
- q) Tree Planting. “The planting of trees shall be overseen by an independent certified arborist.” (The current chair of the Conservation Commission may be available to do this.)
- r) Occupancy. “There shall be no occupancy on the site of existing buildings while construction is ongoing unless approved by the Building Official.”
- s) Fencing. “The site is to be fenced in during the duration of project.”
- t) 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).”
- u) Arborist. “A qualified arborist shall be on site to oversee construction work around existing trees to be preserved. No such work shall be conducted in the absence of this arborist.”
- v) Tree Impact. “If feasible, conduct construction near existing trees during the winter or dormant season, when stress to trees will be less.”
- w) 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.)”
- x) 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.)
- y) 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.)”

**Other precedent conditions**

- 5) Pavers. Submit physical samples of final approved pavers to the Planning Department, as presented to the Planning Board.
- 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 \*\*\* upcoming 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. 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.

*[if applicable]*

- 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.
- 12) Geotechnical. Submit a geotechnical plan to the Planning Board, if appropriate. The plan shall include details on any ledge and how blasting, if needed, will be handled.
- 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 shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of all 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.
- 18) Maintenance Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type) to guarantee that all site work is installed in a correct and workmanlike manner. The surety shall be in an amount of two percent of the estimated site (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 surety may be used to complete/install the improvements. A cash deposit or letter of credit is an acceptable form.
- 19) Landscaping Guarantee. The applicant shall post an acceptable surety to be approved by the Tree Warden/Director of Public Works (and the Town Business Manager for form and type) to guarantee the success of the landscaping materials. The guarantee shall be 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 Tree Warden/Director 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 Tree Warden/Director of Public Works then the Town may use the guarantee to pay for and install the materials. This guarantee and/or those specified above may be combined at the discretion of the Business Manager. A cash deposit or letter of credit is an acceptable form.
- 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, 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;

- 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. The Town of Durham retains its right to take any appropriate measures to ensure such professional management of the site.”
  - 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). All of the building designs approved by the Historic District Commission, including colors and materials are part of this approval.
- 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/maintenance arrangements for the two bridges. The Town of Durham shall maintain (own?) the large bridge except for the handicap ramp which shall be maintained by the applicant (unless otherwise approved by the Town). The applicant shall maintain (own?) the small bridge in entirety (unless otherwise approved by the Town).
- 25) Interoperability Lab. Submit a copy of a fully executed lease with the UNH Interoperability Laboratory.
- 23) Signature. Signature by the applicant below acknowledging all terms and conditions of this approval herein.

\_\_\_\_\_  
Ken Rubin

\_\_\_\_\_  
Date

\_\_\_\_\_  
Eamonn Healey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Barrett Bilotta

\_\_\_\_\_  
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;
  - 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.
- 2) Preconstruction meeting. Contact Michael Behrendt, the Town Planner, at (603) 868-8064 to arrange for the preconstruction meeting.

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

- 3) 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.
- 4) Natural gas. If natural gas will be used, provide a letter of approval from Unitil.
- 5) Tenant leases. Draft tenant leases shall be submitted to the Town Planner. See waste material, inspection of units, and parking permits, below.
- 6) 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.
- 7) 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.
- 8) 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**

- 9) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 10) Dwelling units/beds. This project is approved with a maximum of \*\*\* beds. No additional dwelling units or beds may be established on this parcel without specific new approval from the Planning Board. This specification is made pursuant to the Planning Board's detailed review of the project and a determination that the number of units/beds approved is the maximum appropriate for the parcel.

*[The Planning Board needs to determine the maximum number of beds allowed]*

- 11) 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).

- 12) 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.
- 13) 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.
- 14) 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.
- 15) Waste material. The tenant leases shall reference the Durham Town Code Section 118:11 for Offensive Material (Waste Material).
- 16) 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.
- 17) 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).
- 18) Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- 19) Inspection of units. The tenant leases shall include notice that Durham Town Officials may randomly inspect any residential units annually. Five percent of the units, or as determined by the Town, shall be inspected annually. Inspections shall be randomly selected by the Durham Building Official/Health Officer (DHO) and may be scheduled with minimum notice as stated in the lease.
- 20) Amenity inspections. Any common amenities shall be inspected at least once a semester, or as determined, by the Durham Health Officer.

- 21) Sprinklers. All buildings within the development shall have sprinkler systems if so determined by the Durham Fire Department.
- 22) 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.
- 23) 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.
- 24) 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.
- 25) Fire Lane Enforcement. The property owner is responsible for maintaining and enforcing the fire lane requirements
- 26) Alarms. Final locations for the fire alarm control panels will be determined during the building & systems plan review process
- 27) 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.
- 28) Parking permits. The applicant shall not sell or otherwise provide parking permits for spaces located on this site to residential tenants nor to non-tenants of this site other than to employees or courtesy officers.
- 29) 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.
- 30) Commercial users. Any commercial/nonresidential uses that are allowed under the Zoning Ordinance may occupy nonresidential spaces without further site plan review.
- 31) 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
- 32) Minor changes. Minor changes to the approved plans 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.
- 33) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town as provided in this document (See Minor Changes provision herein).
- 34) 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.
- 35) 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 use for encroachment into the 2 foot Shoreland and 75 foot Wetland Overlay Districts were approved as shown on the plan.
- 37) Variances. The Zoning Board of Adjustment granted a variance to allow less than the entire first floor to be nonresidential provided at least 50% of the first floor (not including the rear parking area which is no longer part of the project) be nonresidential. This stipulation is met with the approved plans.
- 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. All units shall be limited to a maximum of 4 bedrooms, except for 10% of the units which may exceed 4 bedrooms.
- 42) Interoperability Lab. It is expected that the UNH Interoperability Laboratory 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. 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) 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; **B)** The Planning Board held numerous continuous public hearing(s) on the application; **C)** 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; **D)** 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); **E)** 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; **F)** The Planning Board reviewed the design in accordance with the Architectural Standards contained in the Site Plan Regulations; and **G)** This project is not considered to be a Development of Regional Impact; **H)** The Planning Board duly approved the application as stated herein, including the conditional uses; **I)** The Planning Board approved the reduction in parking under Section 175-112 A. 2. There are currently \*\*\* parking spaces on site. **J)** The applicant met with the Economic Development Committee on to discuss the project. **K)** 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. **L)** approval to exceed 30 feet in height \* **L)** The applicant prepared a precise architectural scale model of the site and neighboring buildings.