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Town Planner's Recommendation
Wednesday, October 14, 2015

- XI. ***Public Hearing - Harmony Homes - Eldercare Facility***. Durham Business Park off Route 4. Site plan and conditional use for an eldercare (assisted-living) facility with 3 single-story buildings with parking and associated improvements. The conditional use is for activity within the Wetland and Shoreland Overlay Districts and for an elderly single family on site. John Randolph, Harmony Homes, applicant; Eric Chinburg, Grant Development, LLC, property owner; Mike Sievert, MJS Engineering, Engineer; Steve McHenry, Brandon Holben, and Mary Brake, McHenry Architecture, Architects. Tax Map 11, Lot 27-1 through 27-7. Durham Business Park Zone. ***Recommended action:*** Set special meeting for November 4 and continue to then.
- I recommend the board hold the public hearing, discuss the project, set a special meeting for November 4, and continue the project to then. It would be best to also continue the public hearing as there may be some changes in the plans.

Please note the following:

Process

- 1) **Special meeting**. On September 23 the board decided tentatively to hold a special meeting on November 4 to discuss this project in detail. I recommend the meeting be set. I would recommend it be used to discuss only this project unless the Planning Board chair consents to place any other items on the agenda for good reason.
- 2) **Acceptance**. The project was accepted as complete on September 23 with a waiver and to submit additional items later.
- 3) **Additional items**. We will need some additional information – a lighting plan, final architectural renderings of the main buildings, a design for the single family house (for the Design Committee), final designs of the Pump Station/Horse barn, a plan showing erosion and sedimentation control structures, a written construction management plan, an entrance sign design, details for the retaining walls, a design of the dock, the fence for the paddocks, the gazebo if one is to be included, test pit information (in part to clarify whether permeable pavement is practical; Mike Sievert says that it is not), the traffic study for NHDOT when it is prepared.
- 4) **Next iteration of plans**. This information immediately above can be submitted with the next iteration of plans as there are other adjustments to be made, based on comments made at the public hearing, Planning Board comments, and a list of adjustments and my own comments (many minor) that I will forward to the applicant shortly. Some

additional information on the next set of plans will be helpful for the review, including a color rendering of the site and more legibility of the various buffer/setback lines.

- 5) Site Plan Regulations. This project is subject to those portions of the draft Site Plan Regulations for which a public hearing was held in late 2014 and which remained in the final adopted regulations. I prepared this special document for review by the applicant and the staff. It is actually not substantially different from the adopted site plan regulations. I will email this to the Planning Board for your interest, since this is what we will use for the review.
- 6) Other information. ****Is there other information, studies, or analyses that would be useful for the Planning Board to have when reviewing this project.*
- 7) Schedule. The applicant is now hoping for approval in December, and to break ground shortly afterward (no doubt, an ambitious schedule). If we meet on November 4, a tentative schedule would be as follows:
 - November 4 – review
 - November 18 – draft conditions of approval
 - December 9 – final action

*After the October 14 meeting I will prepare a list of suggested changes to the plans. The applicant should then submit another iteration of the plans either in advance of the November 4 meeting or well in advance of the November 18 meeting.
- 8) Site walk. A site walk was held on July 17.
- 9) Conditional Use. A conditional use will be needed for activity within the Wetland Conservation and Shoreland Protection Overlay Districts. I believe that the applicant met with the Conservation Commission on October 8. The conditional use will be for various structures
- 10) Technical Review Group. The applicant met with the TRG on September 15 to discuss the new, formal application. General comments were incorporated into the prior writeup. Mike Sievert is coordinating directly with April Talon. Once we have 1 more iteration of the plans we probably will have one more TRG meeting.
- 11) Design Committee. We will need final architectural renderings and other details so probably one more meeting of the committee will be needed.

Particular issues

I think it would be worthwhile to discuss these items on October 14.

- 1) General concerns/questions. ****What questions and concerns do members of the Planning Board have at this point?*
- 2) Phasing. Are there any concerns about the phasing as it has been discussed so far?

- 3) Public access. The applicant is receptive to allowing public access to the footpaths and the riverfront but would want to restrict hours for the public. The purchase and sales agreement from the Town contained this language but it was not included in the deed. We would like to establish an appropriate easement to allow for public access as reasonable. I will check with the Police Department for input.
- 4) Old Piscataqua Road. It would be desirable to connect with Old Piscataqua Road if practical. This walking and bicycle path might run within the Route 4 right of way or across intervening properties if easements can be obtained. The TRG discussed this earlier, being perhaps 7 feet wide +/- . The surface would need to be determined – gravel, crushed stone, or asphalt. There are plans for a potential sewer force main running to Piscataqua Road, along which a path could more readily be constructed, but those plans are a few years off.
- 5) The applicant does not believe that such a path would serve his residents since this is an assisted living facility and the residents will leave only with staff people (except in the case of couples living together where one partner is independent; or visitors?) Generally, a Planning Board can require the property owner to develop an off-site improvement only if it serves the users of the site. Thus, the best approach is to try to work with the applicant in partnership to try to get a path built. The applicant suggested that this be worked on as part of Phase 3.
- 6) Footpath through wooded area. One path to the dock goes through a wooded section. This is a concern. Can the path be redirected?
- 7) Existing trees. It appears that none of the existing trees/tree cover will be removed, except for the proposed path immediately above. Is this correct?
- 8) Permeable pavement. Mike Sievert does not believe this is practical due to clay soils within 4 feet of the surface. It would be helpful for him to provide some test pit information to the board.
- 9) Solar panels. The applicant said that he would explore this. Are there other energy efficiencies that can be incorporated?
- 10) PILOT. There was a provision about a payment in lieu of taxes for the development in the purchase and sales agreement that did not make it into the deeds. We would like to address this as part of the project (Also see item at the bottom).
- 11) Deed Real Estate Taxes: PILOT Public Access. *Seller will deliver to Buyer at Closing a warranty deed acceptable to the Buyer in its sole discretion. The deed will contain a restriction that if any buyer or owner of the Property or a portion of the Property is a tax exempt organization, such buyer or owner shall be obligated to make a payment in lieu of taxes (a "PILOT") equal to the amount of state, county, municipal and school district taxes that otherwise would be payable as real estate taxes, or an amount that is less than said taxes due if the Town Council deems it in the best interest of the Town of Durham.*

12) WWTP notification and PILOT. See the information below. The applicant seemed receptive to this at the September PB meeting.

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

At the April 20, 2015 Town Council meeting, the Council approved a motion requesting the Planning Board to integrate the language below into any conditions of approval for a future development at the Durham Business Park. Please convey this information along to the Planning Board for its information and consideration when an application is ultimately submitted for the parcel.

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

Hi Todd,

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

The motion as proposed and passed was:

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

1) there will be payments in lieu of taxes required if there is a non profit entity that operates/owns the business on this site; and,

2) any owner or operator of this site will at a minimum inform any buyer or leasee-tenant (of units) that they are buying or renting property adjoining a waste water plant, and that the town has the flexibility to operate the waste water plant (in different ways) as conditions change in the future."

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

a) The Town Council would like the Planning Board to explore any possible indemnifications that the site owner could provide to the town. If that is not possible, then the minimum requirement for notification is as mentioned above.

b) It should be clear that the town has no obligation to run the waste water plant in the future as it runs it now, and if technology or other conditions change the town may run the plant differently as it so chooses

c) These conditions should ride with the property even if it is sold by the current developer

d) Encourage the Planning Board to incorporate the above items as requirements within the conditions of approval or some other recorded mechanisms.