

# ADDITIONAL INFORMATION REGARDING THE TOWN COUNCIL INITIATED ZONING ORDINANCE MAKING MIXED USE RESIDENTIAL A NOT PERMITTED USE IN THE CENTRAL BUSINESS DISTRICT

March 6, 2017

## Unrelated Housing Supply and Demand – Impact on the General Financial Welfare of our Community

### Key Questions for Planning Board Review and Study

- Will new Unrelated Housing have a negative fiscal impact on Durham and taxpayers if the key assumptions of previous Fiscal Impact Analyses accepted by the Planning Board are no longer valid?
- Will Conditional Use applications fail 175-23:C “Criteria Required for Consideration of a Conditional Use Permit” unless the Planning Board waives the Fiscal Impact requirement?
- Will applicants incur significant and unrecoverable costs prior to a denial due to a negative fiscal impact analysis?

### Discussion and Information for the Planning Board’s Consideration

There is no doubt that the supply of Unrelated Housing in Durham now exceeds the demand based on antidotal evidence of apartment vacancies and, more importantly, analyses of Unrelated Housing supply and demand that have been publicly available for several years.<sup>1 2</sup> Supply and demand of housing is only relevant to the extent that it materially effects the public health, safety and general welfare of our community, and land use policy should encourage the wise use of land. The General Welfare of the community is diminished when the assessed value and property taxes of new Mixed Used developments are offset by the increased town cost for services, decreased valuations and property taxes of other properties and/or the increased enrollment costs in the Oyster River Cooperative School District.

Durham’s zoning specifies eight criteria that must be considered when evaluating a Conditional Use. The eighth criteria is *“The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board’s decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant’s expense, an independent analysis of the fiscal impact of the project on the town”*.<sup>3</sup> The Planning Board has commissioned independent fiscal

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<sup>1</sup> “Tally of Student Housing/Apartments in Durham”; Durham Planning Department, September 15, 2015

<sup>2</sup> Lawson, Jim; “Estimating Off-Campus Student Housing Supply and Demand”; Durham Planning Board; 2013; [https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning\\_board/page/12401/density\\_amendmnt\\_-\\_jim\\_lawsons\\_writeup1.pdf](https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_board/page/12401/density_amendmnt_-_jim_lawsons_writeup1.pdf)

<sup>3</sup> Town of Durham; Zoning 175-23:C-8

impact analyses as allowed by the zoning for three projects: The Cottages of Durham<sup>4</sup>, The Lodges on Mast Road<sup>5</sup> and Madbury Commons.

When reviewing these fiscal impact analyses, particularly the more detailed analyses performed by Applied Economic Research (AER) of Laconia, the analyses are clearly impacted by Unrelated Housing supply and demand at the time of the analysis. The analyses are careful to point out that sufficient demand for Unrelated Housing existed for the increased supply<sup>6</sup>, and thus negated the impacts of:

1. A decrease in assessments and property taxes for other properties due to vacancies created by the additional beds in the new development, and
2. Increased school cost for Durham residents resulting from increased school enrollment caused by the development and the ORCSD enrollment funding formula.

In 2017, however, the impact of these two factors are no longer negated due to the current supply and demand of Unrelated Housing, and should be considered.

Diminution of the Tax Base: As pointed out by AER, to “the extent vacancies arise; current Durham owners can adapt to market conditions by upgrading their units to render them more competitive or by converting them back to conventional non-student housing including **faculty** and graduate student **family housing**”.<sup>7</sup> The rental market for faculty and family housing does not generate nearly the revenue of student housing, and market rental rates will decrease significantly, likely from \$35-\$40<sup>8 9</sup> per s.f. to less than \$20 per s.f.<sup>10</sup> Durham assesses property at the market value, and reducing a property’s net income reduced its market value, as pointed out in the recent letter to the Planning Board from White Appraisals.<sup>11</sup> Unrelated Housing vacancies, even when repurposed into other housing, will decrease property values and their assessment.

Increase School Cost for Durham Residents: The AER fiscal impact analysis for the Lodges assumed the project would result in no more than 3 additional students in the Oyster River Cooperative School District.<sup>12</sup> If, however, new Unrelated Housing is built in a saturated market and causes other apartments to be repurposed into family housing then it should be expected the Durham enrollment in the ORCSD will increase. 50% of the ORCSD apportionment is based on enrollment, and the 2017 ORCSD enrollments, property tax revenue and apportionments are

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<sup>4</sup> Applied Economic Research; “Fiscal Impact Analysis – Cottages of Durham”; January 2011

<sup>5</sup> Applied Economic Research; “Fiscal Impact Analysis – Mast Road Student Apartments”; August 2012

<sup>6</sup> Ibid. Page 19

<sup>7</sup> Ibid. Page 20

<sup>8</sup> Notice of Decision – Madbury Commons; Durham Planning Board; “Conditions to be met prior to issuance of any certificate of occupancy” #47; “Habitable Area”; February 12, 2014

<sup>9</sup> CBRE National Student Housing Group; Madbury Commons; Page 5

<sup>10</sup> Lawson, Jim; “Estimating Off-Campus Student Housing Supply and Demand”; Durham Planning Board; 2013; [https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning\\_board/page/12401/density\\_amendment\\_-\\_jim\\_lawsons\\_writeup1.pdf](https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning_board/page/12401/density_amendment_-_jim_lawsons_writeup1.pdf)

<sup>11</sup> White, Brian; Letter to the Durham Planning Board; February 3, 2017; Page 2

<sup>12</sup> Applied Economic Research; “Fiscal Impact Analysis – Mast Road Student Apartments”; August 2012; Page 22

shown in Table 1.<sup>13 14</sup> The cost per additional Durham student is \$4,700, and this assumes that increases in enrollment do not result in additional ORCSD costs or staff. As an illustration, just twenty-seven new ORCSD students living in repurposed student housing would negate the positive fiscal impact of the Lodges as determined by AER.<sup>15</sup>

Table 1 – ORCSD Costs Based on Increased Enrollment

	<b>2017</b>	<b>2017 + 27 Additional Durham Students</b>
School Property Tax Revenue	\$36,234,896	\$36,234,896
Apportioned tax based on enrollment	\$18,117,448	\$18,117,448
Enrollment Durham	950	977
Enrollment Lee	681	681
Enrollment Madbury	<u>369</u>	<u>369</u>
Total	2,000	2,027
Apportion to Durham Base of Enrollment	47.50%	48.20%
Amount Apportioned to Durham	\$8,605,788	\$8,732,485
Additional Cost		\$126,697
Additional Cost Per Student		\$4,692

<sup>13</sup> Oyster River School District; "School Administrative Unit 5 Annual Report of the District"; February 2017

<sup>14</sup> Morris, James; "Oyster River Cooperative School District FY18 Public Budget Hearing"; Presentation; January 9, 2017

<sup>15</sup> Applied Economic Research; "Fiscal Impact Analysis – Mast Road Student Apartments"; August 2012; Page 24

**Unrelated Housing’s Demand on Police and Emergency Services – Impact on Public Health, Safety and the Welfare of the Community**

Key Question for the Planning Board Review and Study

- Does current and new Unrelated Housing place inordinate and disproportionate demands on Fire, Emergency Medical and Police services?
- Is increasing the unrelated student housing in the downtown consistent with the general health, safety and welfare of the community when an enhance multi-jurisdictional police presence is already required for the existing housing?

Discussion and Information for the Planning Board’s Consideration

4.69 acres of Central Business land is either: i) not redeveloped, ii) not currently in the planning process for redevelopment or iii) grandfathered multiunit housing and fraternities. These parcels have the potential to bring up to 440+/- apartment beds for unrelated occupants as part of Mixed Use redevelopments. Table 2 summarized the parcels of land, and their mixed use residential development potential.

Table 2. Development Potential of CD District Parcels

Address	Totals	72 Main	70 Main	60 Main	50-54 Main	48 Main	44 Main	39-41 Main	36 Main	32 Main	3 Madbury Road	13 Madbury Road	8 Mathes Ter & 15 Madbury	10 Pette Brook
Address Reference		Aroma Joes	Peoples Bank	Town & Campus	Durham Copy	Young's Rest	Hayden Sports	Kyreages	Durham Hse of Pizza	Campus Convenience	Wildcat Pizza	Next to 9-11 Madbury Road	Next to Madbury Commons	Thai Smile
Lot Size - Acres (1)	4.69	0.44	0.73	0.35	0.21	0.15	0.18	0.13	1.3	0.13	0.32	0.13	0.29	0.33
Lot Size - S.F.		19,166	31,799	15,246	9,148	6,534	7,841	5,663	56,628	5,663	13,939	5,663	12,632	14,375
Developable Percent of Lot (2)		95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%
Single Floor Area		18,208	30,209	14,484	8,690	6,207	7,449	5,380	53,797	5,380	13,242	5,380	12,001	13,656
Habitable Space Percentage (3)		70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%
Habitable Space S.F. per Floor		12,746	21,146	10,139	6,083	4,345	5,214	3,766	37,658	3,766	9,270	3,766	8,401	9,559
Space per Unrelated Occupant (3)		600	600	600	600	600	600	600	600	600	600	600	600	600
Unrelated Occupants per Floor		21	35	16	10	7	8	6	62	6	15	6	14	15
Maximum Residential Floors (3)		2	2	2	2	2	2	2	2	2	2	2	2	2
Total Unrelated Occupants	442	42	70	32	20	14	16	12	124	12	30	12	28	30
Existing Unrelated Occupants (4)	65			14		7		7	12		16	3	6	

- Notes: (1) Assessor’s VGSI On-Line Database  
 (2) The CBD has no setbacks and 100% of the parcel may be developed. 95% is used in these calculations to account for construction and building design  
 (3) Durham Zoning Chapter 175  
 (4) Town Planners Student Housing Tally

Durham’s Unrelated housing materially effects public health and safety of the community. The Central Business District and other areas with concentrations of Unrelated Housing require an increased police presence, particularly during weekend evenings and nights when UNH is in session.<sup>16</sup> Police staffing during these periods is increased as much as 300% compared to other evenings and nights when three

<sup>16</sup> Kurz, David; Presentation to the Durham Planning Board “Durham Police Department. Delivering Services within a University Community”; December 8, 2016

officers are on duty<sup>17 18</sup>. Additional resources are required from the Strafford County Sherriff for the transport of arrests,<sup>19</sup> and sheriff transport vans are often staged in the downtown.

Figure 1 shows Durham arrest data for the period between 2007 and 2016. Arrest data comes from the Annual Arrest reports of the Durham Police as distributed to town officials and the University every January.<sup>20</sup> Figure 2 show how the age distribution of arrested persons is concentrated between 18 and 22 years of age.<sup>21</sup>

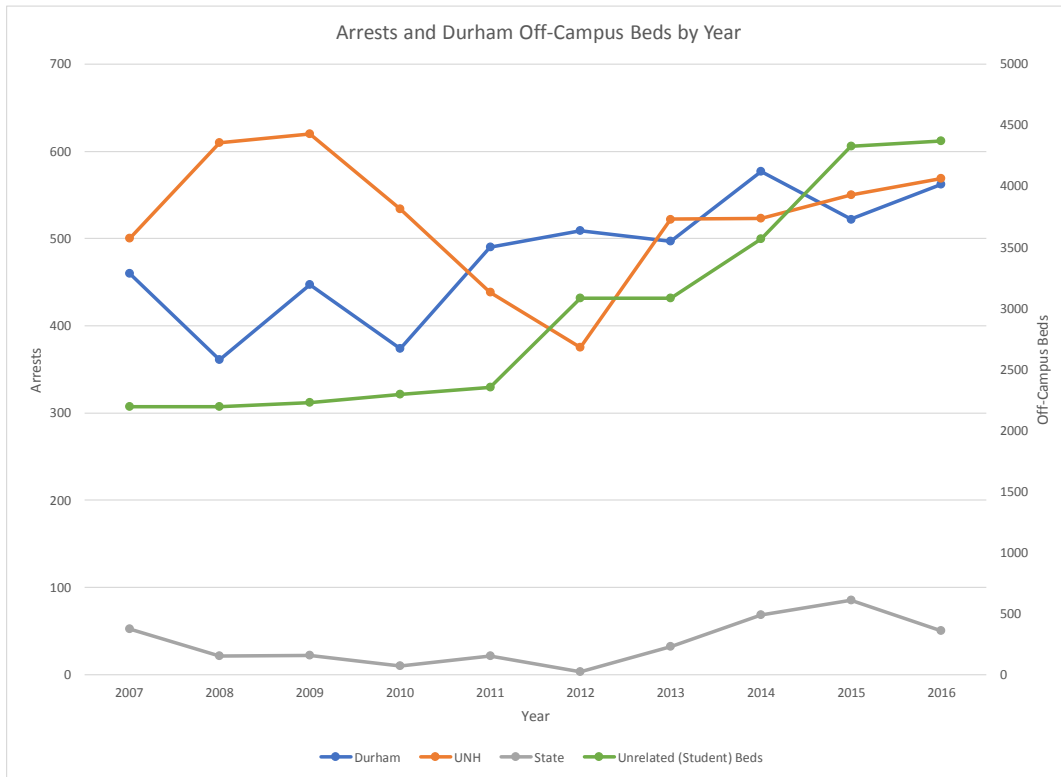


Figure 1 – Durham Arrests by Agency

<sup>17</sup> Ibid.

<sup>18</sup> Durham Police Department; “Policing in Durham In a University Environment”; 2008

<sup>19</sup> Kurz, David; Presentation to the Durham Planning Board “Durham Police Department. Delivering Services within a University Community”; December 8, 2017

<sup>20</sup> Durham Police Department; Memorandum “Weekly Arrest Repot” Year End; 2007 through 2016

<sup>21</sup> Durham Police Department; Memorandum “Age Distribution”; April 11, 2016

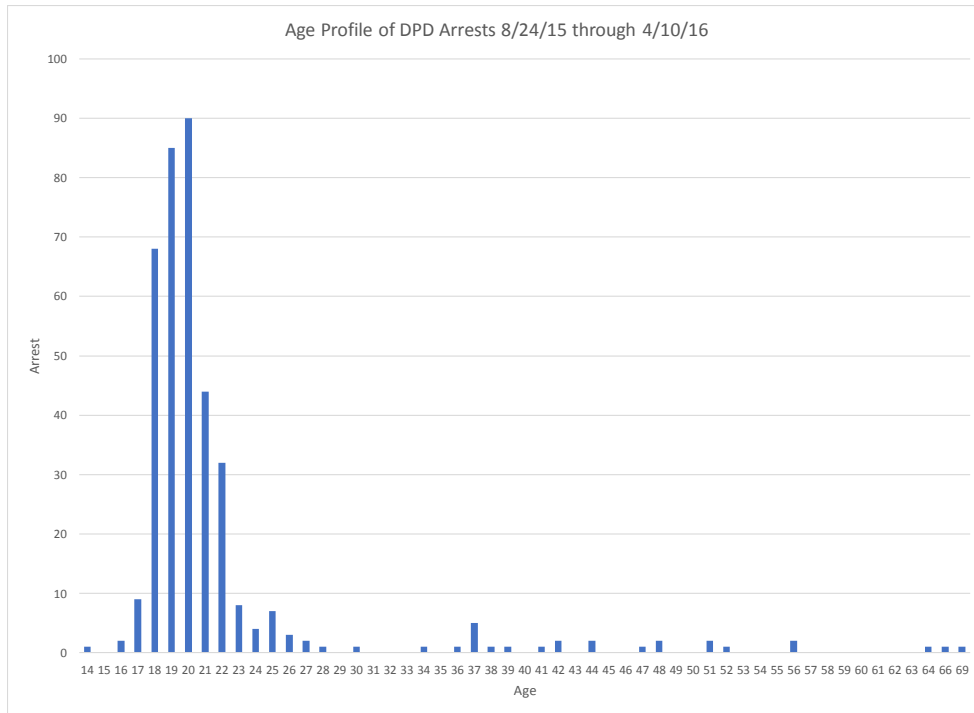


Figure 2– Age Distributions of Durham Police Arrests

The period of 2008 to 2016 was selected for further analysis for the following reasons:

1. UNH completed a major expansion of on-campus student housing by 2008, including SERC A, B and C.
2. 2008 was when zoning for Dwelling Unit density was changed making Mixed Use Residential redevelopment viable in the Central Business District.
3. It is the period of major Unrelated Housing expansion in the community.

The only strong correlation found with increasing arrests was the increasing number of unrelated beds as shown in Figure 3. The linear correlation is high with a correlation coefficient of .788 (1.0 is a perfect correlation)<sup>22</sup>. The correlation coefficient between Durham and UNH arrests is low with a correlation Coefficient of -.318. The permanent resident population of Durham was relatively flat during the period, and can't be correlated. UNH enrollment was relatively flat during the period increasing an average of only .85% annually<sup>23</sup>, and can't be correlated. The policing strategy used by Durham today is essentially the same as the police strategy used in 2008 with overlapping 10 hour shifts and overtime on the weekend. Based on the strong correlation, the linear approximation<sup>24</sup> of Unrelated Housing and arrests is

$$\text{Arrests} = [\text{Unrelated Beds}] \times .00670 + 276.8$$

<sup>22</sup> Microsoft Excel “CORREL” Function of two data Series

<sup>23</sup> UNH Office of Institutional Research; Enrollment Data for Fall 2008 and Fall 2016 (see <https://www.unh.edu/institutional-research/enrollment> )

<sup>24</sup> Microsoft Excel “SLOPE” and “INTERCEPT” Function for a single data series

showing 1 arrest annually for every 14 to 15 new unrelated beds in Durham.

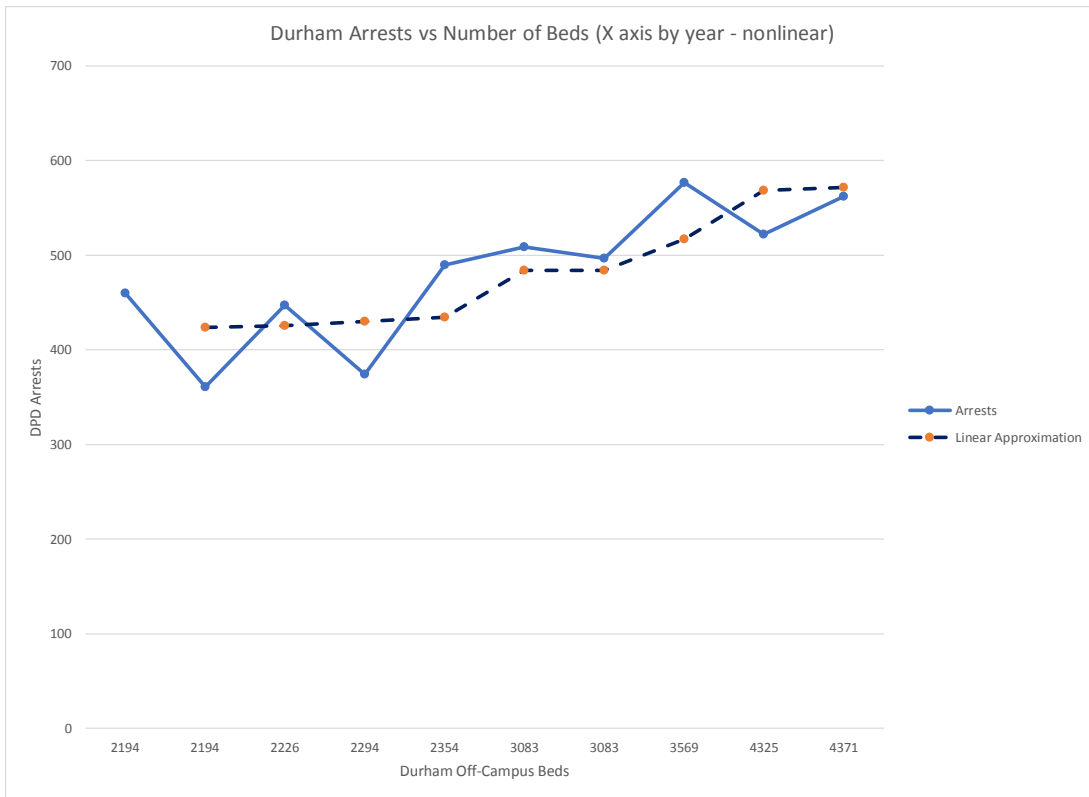


Figure 3 – Correlation Between arrest and Unrelated Housing

Figure 4 shows the dramatic increase in Durham Police calls for service to off campus student rental properties during 2016.<sup>25</sup> It is important to note that “drilling down into the calls revealed that almost 80% (218) of the increase of 280 calls for service were self-generated actions by the officers themselves. What this means is that officers assigned to patrol duties are observing parties gathering and are stopping and breaking up these events before an aggrieved party calls for a loud or boisterous event requiring police response.”<sup>26</sup>

<sup>25</sup> Kurz, David; Memorandum “Increase in call for service to off campus rentals”; February 9, 2017

<sup>26</sup> Ibid. Page 4

## Responses to Off Campus Student Rentals

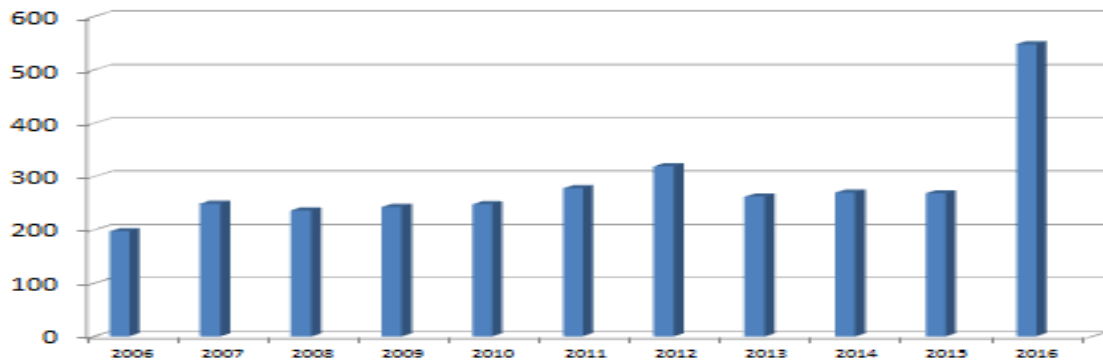


Figure 4 – Police Calls for Service to Off Campus Rentals

Figure 5 shown the number of Fire Department Emergency Calls in Durham (off the UNH campus) on the weekend (Thursday through Sunday)<sup>27</sup> during the 2015 Fall Semester. Responses are broken into categories of “Student Areas” and “Outside Student Areas” based on the address of the call. Student areas would be addresses such as for Madbury Commons or the Cottages of Durham while outside student areas would be addresses such as in the Faculty Neighborhood or on Durham Point Road. The data shows the peak demand for Emergency Fire Services is late weekend nights, and driven by emergency calls in the student areas. Emergency calls for the 2010 fall semester are provided for comparison.

<sup>27</sup> Durham Fire Department; Firehouse™ Call Data; Exported to Excel



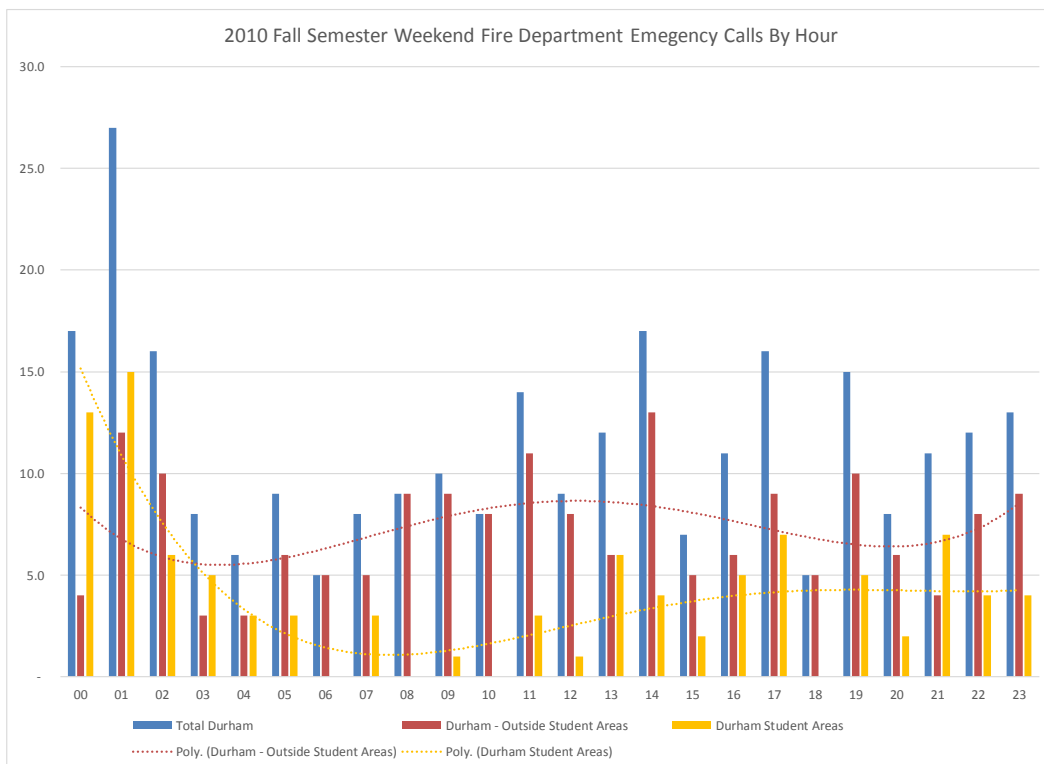
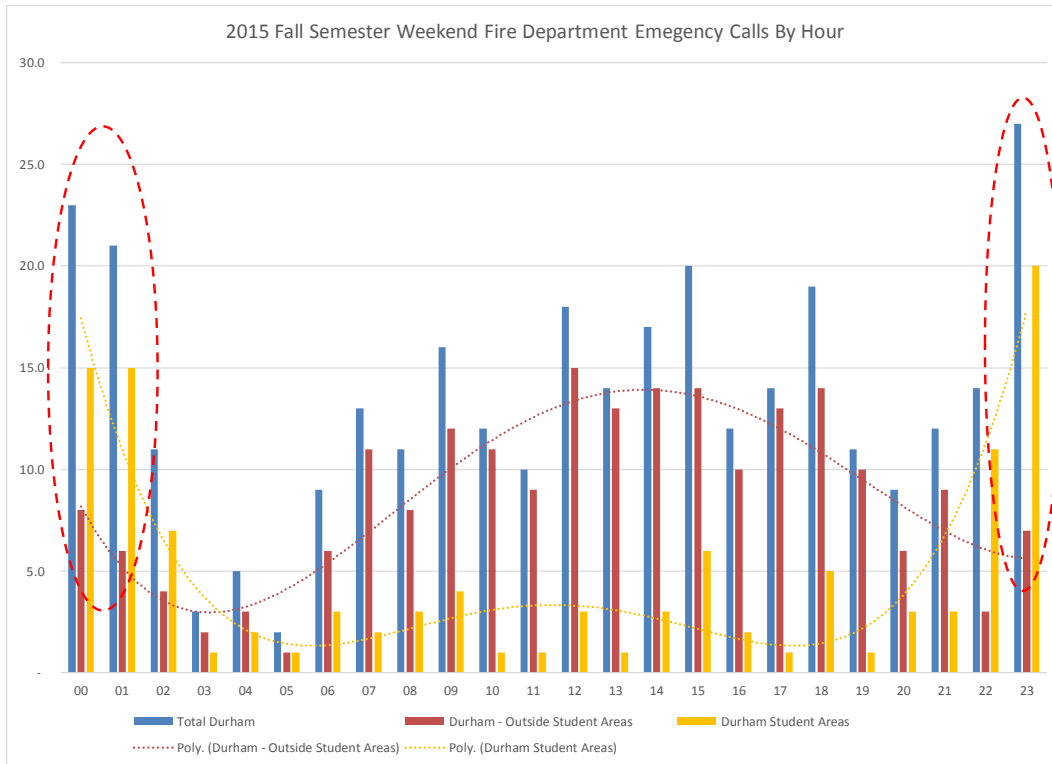


Figure 5 – Weekend Fire Department Emergency Calls In Durham off the UNH Campus

### **Speculated Diminution of Property Values Resulting from the Proposed Ordinance**

#### Key Questions for the Planning Board Review and Study

- Should a claim by property owners that a contemplated zoning change will diminish their property values take precedent over zoning that addresses the public health, safety and general welfare of the community, encourage the appropriate and wise use of land and is consistent with the new Master Plan?

#### Discussion and Information for the Planning Board's Consideration

Zoning changes, including the one proposed, have the potential to impact property values both positively and negatively. There is a rational basis for the proposed zoning, and there is ample evidence that the proposed zoning is intended for the public's interest because of its effect on public safety, health and the welfare of the community.