



TOWN OF DURHAM
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Town Planner's Review
Wednesday, January 11, 2017

- XI. **Public Hearing - Zoning Amendments – Elderly and Multi-Unit.** Consideration of Town Council-initiated zoning amendments.
- A. **Mixed Use with Residential.** Change Mixed Use with Residential (office/retail down, multiunit residential up) from conditional use to not permitted in the Central Business District.
- B. **Mixed Use with Elderly Housing.** Add a new definition for Mixed Use with Elderly Housing (office/retail down, elderly housing up), allow as a conditional use in the Central Business District, and add references to this use in Section 175-41 Central Business District and Section 175-53 B. General Use Regulations.
- I recommend the Planning Board hold the public hearing and formulate its recommendation (including confirmation to retain the definition and line item for *mixed use with residential* in the table of uses) or continue discussion if more time or information is needed.

Please note the following:

- 1) **Town Council.** The Town Council initiated these two amendments at its meeting on October 17. The following were included in a prior packet: a) a letter from Town Administrator Todd Selig; b) a council communication explaining the proposed amendments; and c) the proposed ordinance. After the Planning Board makes its recommendation the proposal will return to the Town Council for a public hearing and prospective adoption.
- 2) **Issues.** I will send an email to the board tomorrow (which we will also post to the website) pointing out some of the issues regarding the mixed use with residential component which has invoked some strong comments both in favor of and in opposition to the proposal.

- 3) Timeframe. The Planning Board has until the **February 8** meeting to make its recommendation pursuant to the extension granted by the Town Council. The amendment was first presented to the Planning Board on October 26 and the first public hearing was held on November 9.
- 4) Amendment - Residential. The amendment for Mixed Use with Residential simply changes the CU to X for the Central Business District in the Table of Uses.
- 5) Amendments – Elderly Housing. The amendment for elderly housing includes the following changes:

- Add this definition in Article II – Definitions:

MIXED USE WITH ELDERLY HOUSING (OFFICE/RETAIL DOWN, MULTIUNIT ELDERLY HOUSING UP) – A building in which the first floor is used for office or retail or similar non-residential uses and the upper floor(s) is used, in whole or in part, for multiunit Elderly Housing.

- Insert this language in Article XII – Zone Requirements:

175-41. Central Business District (CB)

...F. Development Standards in the Central Business District

...7. Maximum Height of Mixed-Use Buildings – The height of a new or redeveloped mixed use building that provides both residential and nonresidential space shall be a maximum of three (3) stories notwithstanding other height limitations. The first floor shall be nonresidential. However, if the building contains nonresidential uses on the first floor and one additional story of nonresidential, the maximum permitted height shall be four (4) stories. If the proposal is for a four (4) story building, the first floor shall be nonresidential and the remaining three floors shall consist of two residential or Elderly Housing and one nonresidential. However, see Sections 8 and 9 below for limitations to this provision.

- Add this use to the Table of Uses, as a conditional use in the Central Business District and as not permitted in the other zones.
- Insert this language in Article XII – Zone Requirements:

175-53. Use Standards

...B. *General use regulations* - The following additional standards apply to the specific uses listed below:

...7. Number of bedrooms. The maximum number of bedrooms in any dwelling unit in any “Residence, multi-unit”, ~~or~~ “Mixed Use with residential (office/retail down, multi-unit residential up)” or “Mixed Use with Elderly Housing (office/retail down, multi-unit Elderly Housing up)” shall be four.

...8. Basement units. No new basement dwelling unit shall be permitted in any “Residence, multi-unit”, ~~or~~ “mixed Use with residential (office/retail down, multi-unit residential up)” or “mixed Use with Elderly Housing (office/retail down, multi-unit Elderly Housing up)” building.

- 6) Multi-unit dwellings. With this proposed change multi-unit dwellings (not including elderly housing and special facilities like nursing homes and fraternities) will be allowed only as *residence, multi-unit* as a conditional use/adaptive reuse in the Professional Office District.
- 7) Table of Uses line item. With this change Mixed Use with residential (office/retail down, multiunit residential down) will not be allowed in any districts. The question thus arises whether or not it should still be included in the table and the definitions article. I would recommend retaining it for reference and in the event the Town wishes to add it back in sometime in the future. Note that there is only one use now included in the table of uses which is not allowed anywhere in town – *residence, duplex*.
- 6) Notices to property owners. Per state law we sent notices to all property owners in the Central Business District alerting them to the proposed change and the public hearing date.