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Town Planner's Project Review
Wednesday, October 26, 2016

X. **2 Brook Way – Conversion to Sorority.** Conceptual Review (preliminary application) for conversion of an existing multi-unit dwelling with 24 beds to sorority with 32+ beds. Site plan for change of use and conditional use/adaptive reuse for sorority. Paul Berton, Fall Line Properties, LLC, property owner. Sandy Grossman, representative of Phi Sigma Sigma. Chris Wyskiel, attorney. Professional Office District. Map 2, Lot 9-4. **Recommended action:** Discuss and close conceptual review.

➤ I recommend that the board discuss the proposal and close the conceptual review.

Please note the following:

- 1) **Conceptual review.** A conceptual review is a very basic preliminary review. There are no notices sent and no public hearing. The purpose of the meeting with the board is to obtain comments from the board. The applicant could then submit a formal application later if desired. When a formal application is submitted, I think it would be helpful to look at the interior of the building as part of a site walk.
- 2) **Public comment.** If there are any members of the public at the meeting who wish to speak about this project, the board could allow them to speak at its option, either under Public Comments or when the project is presented. Or, citizens can send me letters or emails which I forward to the board.
- 3) **Performance area.** This is the same property for which a preliminary application was discussed recently to create a performance area. That preliminary application was closed by the Planning Board.
- 4) **Sorority.** A sorority is allowed in the Professional Office District by CUA – conditional use/adaptive reuse. Thus, the new use would need to be contained within the existing exterior walls of the building, but the applicant could change the exterior design if desired. Thus, the applicant would not be adding any square footage to the building. This application will also be reviewed as a site plan as it is a change of use from multi-unit dwelling to sorority. Paul Berton acquired the property in 2008 or so. It was a fraternity at that time. He converted it to a multi-unit dwelling. Though it was a fraternity in the past, a conditional use and site plan review are still needed to convert it to a sorority at this time.

- 5) Changes to building and site. The applicant said that there would be significant changes to the interior of the building. There would likely be minor changes to the site. The sorority would convert the existing 6 kitchens to bathrooms, and install a commercial kitchen and other common facilities on the first floor. The applicant said they have no plans now for the outdoor sand volleyball court; they might make it a picnic area.
- 6) Exterior building design. The applicant said they would be interested in refurbishing the exterior of the building also so that it looks like a classic New England property. We would strongly encourage them to do this and would welcome the opportunity to coordinate with them on the aesthetic alterations.
- 7) Occupants. There are 3 floors in the building. Presently, there are 2 dwelling units per floor for a total of 6 dwelling units, 4 bedrooms per dwelling unit, and 1 student per bedroom, for a total of 24 students/occupants.

Phi Sigma Sigma proposes for the students to live on the second and third floors, with 8 bedrooms per floor and 2 students per bedroom, for a total of 32 students/occupants. However, they said there could be between 32 and 38 occupants depending on the amount of habitable square footage they have under Durham's ordinance and the designs that the architect develops. As part of any prospective approval, a maximum number of occupants would need to be specified. *As a conditional use, the Planning Board can set any reasonable maximum figure in accordance with the conditional use standards.*

The applicant told me that they need 32 beds for the project to be viable. She said the average sorority has about 150 members but most do not live on site.

- 8) Habitable floor area. The Zoning Ordinance requires 150 square feet of habitable area per person for a sorority. Habitable area is defined below. For 32 students this would require 4,800 square feet. According to the Assessor's Card there are 8,516 gross square feet (based on 70% of gross; see definition). This would be more than sufficient, or allow for more than 32 occupants, but the figure needs to be confirmed. We will clarify whether or not the habitable square footage also applies to the live-in director.
- 9) Alcohol. The applicant said that all sororities are dry, it is national policy for Phi Sigma Sigma to be dry and this site would be.
- 10) Parking. The off-street parking requirement for a sorority is 1 space per resident. Parking is also required to cover the live-in director.
- 11) Utilities. At the TRG, the property owner said there were no concerns with the existing utilities. We would obtain confirmation from DPW for the additional

proposed number of occupants. We will need to look at the solid waste/recycling arrangement for the site.

- 12) Fire. John Powers, Deputy Fire Chief, said that some tweaks to the existing alarm and sprinkler systems might be needed. He said the Life Safety code sets a minimum of 200 square feet per person but that it is gross area (This should align with the amount of required habitable area).
- 13) UNH. I received this email from William Janelle, AVP for Facilities and Operations at UNH: “Thank you for the additional information. We were contacted by Sandy Grossman. Essentially we are supportive of this use for two main reasons, first it our understanding that the proposal is for a sorority that would be alcohol free, and secondly this use has existed in the past and is consistent with other uses in the area. We would appreciate any approvals being subject to the alcohol free condition. “
- 14) Technical Review Group. The project was presented to the TRG on October 18. I will send notes from the meeting on Friday.
- 15) Other items. There would be a live-in director. Students in a sorority are accountable to the national chapter. Mr. Berton said that he would either sell the property to the sorority or retain the property and lease it to the sorority with an option to buy, likely the latter.
- 16) Floor area, habitable. (This is the definition in the Durham Zoning Ordinance). Heated areas used daily for living, eating, cooking or sleeping, including bathrooms and bedroom closets; but excluding garages, circulation areas (stairways, hallways, corridors), storage areas, (including but not limited to attics, unfinished basements, and utility rooms). For the purposes of this chapter, "habitable floor area" is deemed to be seventy **(70) percent of the gross floor area** of a given building unless evidence sufficient to rebut that presumption in the form of complete floor plans drawn to a standard scale is submitted to the Durham Code Enforcement Officer. This presumption shall not apply in any instance where the owner or occupant(s) of the building allow inspection and measurement of such interior floor areas by the Code Enforcement Officer. It is recognized that, under this definition, it is possible for the "habitable floor area" to exceed 70% of the gross floor area.
- 17) Conceptual process – state law. Here is an excerpt from state law:

676:4 Board's Procedures on Plats

... II. A planning board may provide for preliminary review of applications and plats by specific regulations subject to the following:

(a) Preliminary conceptual consultation phase. The regulations shall define the limits of preliminary conceptual consultation which shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.

Such discussion may occur without the necessity of giving formal public notice as required under subparagraph I(d), but such discussions may occur only at formal meetings of the board.

18) Conceptual process – Durham regulations. Here is the pertinent excerpt from Durham’s Site Plan Regulations:

In accordance with RSA 676:4. II (a), an individual who anticipates submitting a formal application for Site Plan approval has the option of informally consulting with the Board prior to formal submission. There are two levels of Pre-Application Review: the Preliminary Conceptual Consultation and the Design Review. An applicant may elect to engage in or forgo either phase thereof.

Section 1.1 Preliminary Conceptual Consultation Phase

1.1.1 The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Such pre-application consultation shall be informal and directed toward:

- (a) reviewing the basic concepts of the proposal,
- (b) reviewing the proposal with regard to the Master Plan and Zoning Ordinance,
- (c) explaining the local regulations that may apply to the proposal, and,
- (d) guiding the applicant relative to state and local requirements.

1.1.2 Limits of the Review

- (a) The Board shall conduct the preliminary conceptual consultation at a regularly scheduled meeting of the Board. The applicant shall make a presentation defining the general scope and concept of the Site Plan.
- (b) Such consultation shall not bind either the applicant or the Board, and statements made by the Board members shall not be the basis for disqualifying those members or invalidating any action taken. The Board and the applicant may discuss proposals in conceptual form only and in general terms such as the desirability of types of development and proposals under the Town’s Master Plan.

1.1.3 Project Description. In order to facilitate discussion, the potential applicant is requested to prepare, and show as part of his presentation, a base map of the site to be developed. The map should be drawn to scale, and may be drawn in pencil. The proposed site should be drawn on the base map and show the relationship to surrounding structures and topography. Dimensions may be approximate. The data may be tentative, but all information should be sufficiently clear to illustrate conditions on the proposed site.