

December 5, 2021

Dear Members of the Durham Planning Board,

I am writing to remind new members as well as longtime members that Conditional Use is a designation set by past Planning Boards and approved by the Town Council for uses that are *questionable*. These uses are not permitted “by right.” Those who preceded you in the Council Chambers determined that these are uses with potential negative impacts, thus they were made *conditional uses*. As Town Attorney Laura Spector-Morgan described to the Planning Board, *each and every criterion must be met* or the project must be turned down.

When the Town Council made Mixed Use Conditional Use in 2013 for the CBD, it was because: 1) in a college town, Mixed Use means student housing and 2) we had just finished a period of intensive student housing development downtown (under Mixed Use) and Board Members were not ready to give carte blanc to future Mixed Use developments (i.e. student housing in a college town). The hesitancy to allow more student housing downtown is also documented by excerpts from the Master Plan (noted below). Thus, the role of the 8 conditions, which must be *strictly* adhered to, is to ensure that this project will not have negative impacts on the adjacent neighborhood or the community as a whole. The PB has been given the legislative tools to protect our community from negative impacts. Please use them.

Conditional Use also allows the PB to put “conditions” on a Condition Use project in accordance with our *ZO and the Master Plan*. Contrary to a popular misconception that the Master Plan has no role in making determinations about various proposals before the Board, the Master Plan is invoked in the Conditional Use Article D:

D. ***Conditions of Approval.*** Conditional Use Permit approvals shall be subject to appropriate conditions where such conditions are shown to be necessary **to further the objectives of this ordinance and the Master Plan**, or which would otherwise allow the general conditions of this article to be satisfied. Conditions of approval shall be stated in writing in the issuance of a permit. The conditions shall, if applicable, include, but are not limited to, the following (bolded items of particular interest):

1. **Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.**
2. **Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.**
3. **Landscaping in excess of any minimum requirements of this Ordinance.**
4. Modification of the exterior features of buildings or other structures.
5. **Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.**
6. **Footprint or lot coverage less than the allowed maximum of this Ordinance.**
7. **Limitations on the number of occupants and methods and times of operation.**
8. Grading of the premises for proper drainage.
9. **Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.**
10. Off-street parking and loading spaces in excess of, or less than, the minimum requirements of this Ordinance.
11. Other performance standards as appropriate.

Below I excerpt quotes from the Master Plan that could help guide the CU process and conditions placed by Planning Board members. The Master Plan also affirms what we all know—that we already have more than enough student housing downtown. Taking the word “student” out of the documents will not change the reality of what the town will face in terms of local impacts as well as those across town and on the community if you approve this plan.
How is this project supported by our Master Plan?

Quotes from [Town of Durham, NH, 2015 Master Plan](#)

“Support mixed use developments that generate multi-generational interest.” (DH-35)

“Over the past few years, there have also been some dramatic changes in downtown Durham as well as beyond the downtown because of a significant amount of private student housing developments. The number of new buildings and the size of some of them have impacted the perception of Durham as a small town community, and residents have expressed concern about the large number of students living in these buildings....” [footnote: **“To address this concern Durham has amended their zoning to allow student housing as a conditional use only, setting the bar higher for developers....”**] (VCC-7)

“The town has traditionally been represented by...two very distinct population groups, students and permanent residents. **The inability to create affordable housing options for seniors and younger, non-student population in the future could have large implications on the future of the community.**” (DH-39)

“[T]o some residents, the strong surge in student housing threatens to disrupt the desired ‘balanced approach between economic development and preservation of the town’s historic New England rural character and natural resources.’... [T]here are concerns that the downtown area will become even more student-oriented, and that the larger buildings detract from the town’s traditional small-town feel. Because the town is reaching a saturation point of student housing, further student housing development could cease to be a strong economic engine for the town.... **Durham needs to carefully monitor housing projects to identify options that ensure the quality and attractiveness to broader markets beyond student housing....** [T]he focus for economic development should shift away from the dominance of student housing toward attracting a broader array of new businesses and professionals to the town...diversifying our economic base away from academia....” (ED-15)

“Closely monitor changes in the student rental market and act to prevent the over-development of student housing.” (ED-32)

I urge Planning Board members to fulfill their obligations: 1) to protect the health, safety, and welfare of the community, 2) to require that all projects meet our ZO, and 3) to use the broad powers granted to the Board within Conditional Use to make each project the best it can be by requiring additional conditions to mitigate negative impacts.

We are counting on you to protect our community and insure this project is “of benefit to the community.”

Sincerely,

Beth Olshansky

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