



TOWN OF DURHAM
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NOTICE OF DECISION

Project Name: 18 Main Street Parking Lot
Action Taken: APPROVAL
Project Description: Site plan and conditional use for expansion of existing parking lot behind the building from 17 to 43 spaces, related site changes, and construction of drainage facilities on rear lot at 12 Cowell Drive.
Property Owner: Toomerfs, LLC c/o Peter Murphy
Engineer: Mike Sievert, MJS Engineering
Landscape Architect: Robbi Woodburn, Woodburn and Company
Map and Lot: Map 4, Lot 55 – parking lot; Map 4, Lot 38-5 drainage structures
Zoning: 18 Main Street - Church Hill; 12 Cowell Drive – Residence A
Date of approval: February 13, 2019

[Office use only. Date certified: _____; Use of site signed off _____;
As-builts received? _____; All surety returned: _____]

“Applicant,” herein refers to the applicant and his/her/their/its agents, successors and assigns.

CONDITIONS PRECEDENT

All of the conditions precedent below must be met by the applicant prior to the plans being certified by the Town Planner. Certification of the plans is required prior to performing any significant site work. Once these conditions precedent are met and the plans are certified the approval is considered final.

Please note. If all of the precedent conditions are not met within 6 calendar months to the day of the board’s approval - by August 13, 2019 - the Planning Board's approval will be considered to have lapsed. Extension(s) may be granted by the Planning Board for reasonable cause. It is the sole responsibility of the applicant (or his/her agent) to ensure that the precedent conditions are met by this deadline. See RSA 674:39 on vesting. No changes to the plans that were reviewed and approved by the Planning Board on February 13, 2019 may be made except for the specific required changes that follow.

Plan Modifications

- 1) Plan modifications. Make the following modifications to the plans/plan set that were reviewed and approved by the Planning Board:

- a) Path. Label gravel path to be 5 feet wide.
- b) Lighting. Submit revised lighting details to ensure the fixtures on the building are fully shielded.
- c) Signage. Show heights of new freestanding signs. Lower height of accessible parking sign.
- d) Details. Include details for all signs on the plan set.
- e) Dumpster. Show fencing on all four sides of dumpster. Modify the fence detail to show a cedar stockade fence with a flat board top.
- f) Pavers. Submit a cross section for the pavers to be placed in the driveways.
- g) Rear lighting and path. Add one or more pedestrian-oriented light structure at the rear of the parking lot to provide low level lighting along the rear foot path. The foot path may be relocated along the spillway within the drainage basin at the option of the applicant (Show revision if the location will be changed).
- h) Fencing. The 4 foot high cedar fencing along the side lot line is to have a flat board top.
- i) Tree protection. Submit a tree protection plan as discussed at the Planning Board meeting on February 13. The plan shall be overseen on site by the landscape architect.

Other Conditions Precedent

- 2) Historic District approval. This approval is subject to approval of the historic district application by the Durham Historic District Commission or by another body having jurisdiction on appeal (The Historic District Commission denied the application on February 7, 2019). If any terms of approval of the historic district application are in conflict with this approval and design herein the parties shall work to resolve those differences as appropriate.
- 3) Blasting. Determine if any blasting will be necessary. If so, provide a plan for blasting pursuant to Fire Department requirements, incorporating appropriate elements from the procedure established by the Planning Board (for the Orion project) to be approved by Town staff.
- 4) Driveway Permit. The Durham Driveway Permits must be obtained.

- 5) Recycling plan. Submit written recycling plan to be approved by the Director of Public Works. The Integrated Waste Management Advisory Committee may provide suggestions at its option.
- 6) Construction Guarantee. The applicant shall post an acceptable surety to be approved by the Town Engineer (and the Town Business Manager for form and type). The surety shall be in an amount sufficient to ensure the completion of the project or reclamation if needed.
- 7) Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town Planner: a) one large set of black line drawings (plus a second set if the applicant wants a signed set); b) one set of 11"x17" drawings; plus c) one electronic version by pdf. Each individual sheet in every set of drawings must be stamped and signed by the engineer responsible for the plans.
- 8) Signature. Signature by the applicant at the bottom acknowledging all terms and conditions of this approval herein.

CONDITIONS SUBSEQUENT AND GENERAL TERMS

All of the conditions below are also attached to this approval. All work shall be completed and all required conditions shall be met prior to use of the parking lot unless otherwise specified or a surety acceptable to the Town is posted.

Conditions to be met prior to commencing site work

- 9) Site work. No significant site work (including any significant clearing of the site) or ground disturbance may be undertaken until:
 - a) all of the conditions precedent are met;
 - b) the preconstruction meeting with Town staff has taken place (Contact Town Planner Michael Behrendt to arrange for the meeting);
 - c) limits of clearing have been established in the field and approved by the Public Works Department; and
 - d) all appropriate erosion and sedimentation control structures are in place.
- 10) Easement. Record an appropriate document at the registry of deeds ensuring that an easement will be in place if and when the two lots are conveyed separately to allow for the drainage structures on the rear lot.

Conditions to be met prior to use of the new parking lot

- 11) As-built drawings. One set of full size, one set of 11" x 17", and one electronic copy of as-built ("record") drawings of structures and other pertinent elements. The plans shall

be stamped and signed by the Engineer or Surveyor and include the following language or comparable: “This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning Department except for the following significant modifications:”. If no significant modifications were made simply state “none”.

- 12) Improvements. All on-site and off-site improvements included in this approval shall be completed unless an acceptable surety is posted.
- 13) Other applicable requirements. All other applicable requirements of this site plan, this Notice of Decision, and other terms and conditions must be satisfied.
- 14) Landscaping Guarantee. The applicant shall post an acceptable surety for the landscaping for a period of two years. If the landscaping fails or dies at any time, however, the applicant shall replace it.

Other terms and conditions

- 15) Start of construction. Substantial construction must commence within 12 months unless an extension is granted by the Planning Board (per Section 175-22 E of the Zoning Ordinance).
- 16) Recording. This notice of decision must be recorded at the Registry of Deeds within 14 days of certification of the plans.
- 17) Concrete pavers. This approval includes use of gray concrete pavers in the apron at the bottom of the access ways (A sample was presented to the HDC on February 7.)
- 18) Waivers. This approval includes two waivers from the Site Plan Regulations – Section 10.4.3 (c) of the aisle width of the lot to allow for 22 feet rather than 24 feet and Section 16.2.2 (a) Spacing of Driveways for the spacing of the new entrance – and one waiver from the Road Construction Regulations – Section 3.11 for the spacing of the new entrance.
- 19) Parking lot. The parking lot is intended to serve users beyond the on-site residents and is thus considered a principal rather than an accessory use. A parking lot as a principal use is allowed by conditional use in the Church Hill District. All 43 parking spaces must be leased on a minimum weekly basis (except for any spaces that may be used for electric charging).
- 20) Charging Station. The applicant is encouraged to convert one or more space to electric charging stations. If the applicant provides electric charging stations, no site review will be required provided any plan is approved by the Public Works Director.
- 21) Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting *documents*, and plans for the project; **B)** The Planning Board held a *preliminary review* on November 14 and accepted the application as *complete* on December 12, 2018; **C)** The Planning Board held a *site walk* on December 13 and *public hearings* on January 9 and February 13, 2019; **D)** The applicant revised and *updated the plans* on February 5, 2019 pursuant to comments from the Planning Board, staff, and public; **E)** The project was presented to the *Technical Review Group* on November 6 and December 4, 2018; **F)** The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application *meets all requirements* (except where waivers may have been granted); **G)** the Planning Board found that the eight criteria for *conditional uses* outlined in the Zoning Ordinance section 175-23 C. are adequately addressed in the applicant's application for a conditional use as a parking lot as a principal use in the Church Hill District; **H)** This project is not considered to be a *Development of Regional Impact*; and **I)** The Planning Board duly *approved the application* as stated herein, including the conditional use. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.

Signature(s). As the applicant, I/we accept and acknowledge all of the terms and conditions of this approval herein.

Signature of applicant

date

Printed name of applicant

Signature of Planning Board Chair

date

Printed name of Planning Board Chair