

Tracey Cutler

From: Michael Behrendt
Sent: Friday, July 19, 2024 9:13 AM
Subject: FW: Tom DeCapo-s thoughts

To the Planning Board,
Please see the email from Tom DeCapo below. Sorry for the delay in sending this out.

Michael Behrendt
Durham Town Planner
8 Newmarket Road
Durham, NH 03824
(603) 868-8064

From: paul rasmussen <pnrasmus@gmail.com>
Sent: Monday, July 15, 2024 5:39 PM
To: Michael Behrendt <mbehrendt@ci.durham.nh.us>
Subject: Fwd: Tom DeCapo-s thoughts

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Michael,
Tom has an interesting approach detailed below. Please send this to the entire Board for thought so we can have a good discussion at the next meeting.
Thank you,
Paul

----- Forwarded message -----
From: Tom DeCapo <tdc.decapo@gmail.com>
Date: Mon, Jul 15, 2024, 5:33 PM
Subject: Re:
To: paul rasmussen <pnrasmus@gmail.com>

Hi Paul,

One approach I see is that some % of the units (wherever we come out such as 65%, 70% 80%) -but not specific designated units-must be occupied on a rolling basis by residents who meet a workforce housing qualification standard ("Qualifying Units"). That standard ("Workforce Qualification Standard ") would require that at least one person in the unit be in the workforce in a meaningful way, (eg, evidence of full time employment or of part time employment that earns them some-multiple of the rent) or provides evidence to the property manager that they are trying to enter the workforce (eg application for

unemployment or copies of job applications). The Workforce Qualification Standard would also require that household income not exceed some % (such as 60% or 80%) of ami.

For the development as a whole (including the units that are not counted toward the required % of Qualifying Units), the average household income could not exceed some percent of ami, such as 100% or 110%. The property manager will be collecting income information anyway for credit verification purposes, so monitoring these household income thresholds should not be problematic. This is where the averaging element would come in. It gives the developer the ability to rent units to higher income people, and thus presumably, for higher rents, with a balancing offset that allows them to rent to people who have household income even below the maximum threshold required under the wWorkforce Qualification Standard.

If a Qualifying Unit's residents repeatedly fail to meet the Workforce Qualification Standard in future rental periods (say two or three years in a row), that unit would no longer count as a Qualifying Unit and the property manager would need to decide whether to refuse to rent to that person going forward or to allow them to stay, but ensure that some other unit is rented to someone who meets the Workforce Qualification Standard. The extended period for failing to qualify, mitigates any hardship of being forced to find new housing because the resident will have knowledge for at least a full year that the relocation risk is present if they continue to fail the qualification standard. In addition, the landlord has the flexibility to allow them to stay and simply shift the qualification requirements to a different unit that comes up for rent over the period question.

The property owner would certify annually that it was meeting the ordinance requirements. The town would have audit rights which it could exercise as frequently or infrequently as it wished. I would recommend building in a requirement that the project owner fund an outside audit review once every 5 years. This would work into their operating budget. In the event that it was determined that there was a material failure by the property manager to follow these requirements, the penalty could be an increase in the percentage of units required to be Qualifying Units for some period of time in the future, such as five years.

Finally, in the event that legal has any concerns about the work requirement, I believe this could be addressed by changing from a prohibition on renting to a preference requirement. In other words in order for a unit to be treated as a Qualifying Unit it would not necessarily have to actually be rented to someone meeting the Workforce Qualification Standard, but rather it would have to be offered on a preference basis to people meeting the that standard. In the event that after a period of time of offer for rent (3 months for example), the unit is not taken up by someone meeting the standard, it could then be rented to other applicants who do not meet the standard and the unit would still count as a Qualifying Unit for some extended period of time such as 3 years. as inside I have asked Michael to include me in any dialogue with the town attorney on legal concerns about resident requirements. I haven't heard anything from him on this topic and so I do not know where that stands.

You will note that nowhere do I mention any limit on the actual rent amount. What I have proposed removes the town from regulating rents at all, and instead focuses on ensuring that the ordinance achieves its goal, not of providing low rent housing, but of providing housing to people in the workforce. It allows the developer and property manager to be the ones to set rents at levels that will enable them to fill the units with the demographic that we are seeking to advance. In other words, this proposal does not substitute an arbitrary rent cap for market rents, but rather defines the market as the community of people that the ordinance is designed to benefit.

Please give this approach serious consideration. If anyone has concerns about feasibility i would strongly suggest that a sub group of the board have a feasibility discussion with the potential developer rather than substituting our judgement for theirs. I would be happy to be a part of any such subgroup.

i am happy to discuss or answer any questions. I am out of town through July 30 but would do my best to make myself available during that time

Best regards, Tom

On Thu, Jul 11, 2024 at 6:29 AM paul rasmussen <pnrasmus@gmail.com> wrote:

Hi Tom,

How high of a cap? If we are allowing rent averaging then the cup needs to be high enough to allow above average rents.

This is the point I have been struggling with on this topic.

Paul

On Wed, Jul 10, 2024, 12:20 PM Tom DeCapo <tdc.decapo@gmail.com> wrote:

Paul, as I will not be able to attend tonight's meeting, I want to reiterate my view that it is important to have both a work requirement and an income cap for the workforce housing as I believe that, without one, over the course of a few years a large portion of the units that we are allowing here will end up being occupied by people who do not further the purpose of the exceptional amendment that we are proposing. Thank you.

On Tue, Jul 9, 2024 at 10:51 PM paul rasmussen <pnrasmus@gmail.com> wrote:

Thank you.

On Tue, Jul 9, 2024, 10:12 PM Tom DeCapo <tdc.decapo@gmail.com> wrote:

Dear Paul,

i am following up on the input i received from members of the Agricultural Commission on the question of the use of fertilizer for non-agricultural purposes.

It was pointed out that there are state regulations concerning the use of granular (as opposed to liquid) fertilizers and that these should be observed at all times.

It was also pointed out that there are additional existing provisions that apply when in proximity to wetlands.

Some members questioned whether it is appropriate for the Agricultural Commission to express a view with respect to practices that do not involve agriculture or land being used for agricultural purposes. These members expressed a view that a more precise and defined question, including identification of the particular lot or lots at issue, was required in order for Ag Com to determine whether the topic was within its purview and, if so, in order to formulate a position.

Broadly speaking, I believe that there was a consensus that at least one guiding principle in considering fertilizer use should be the long term preservation of soil quality. This in turn may depend on the type of permitted fertilizer (eg, organic v chemical).

Ag Com will be happy to consider the issue, including whether it is appropriate for Ag Com to express an opinion, in more detail if it is presented with more specific potential zoning change proposals.

i have copied Theresa Walker to keep her in the loop and in case she wishes to add to or clarify what I have summarized above.

Sincerely,

Tom