

Proposed Zoning Amendments
AMENDMENTS RELATED TO WORKFORCE HOUSING

Presented to the Planning Board – June 26, 2024

Very rough draft – for discussion only

****Please note.*** I would like to talk more with the board about some items the board discussed recently. It appears that there are two types of affordable housing projects:

- 1) a project consisting exclusively of affordable housing units; and
- 2) a conventional project built by conventional developers that provides a portion of affordable housing units through density incentives, typically including 10 to 20% affordable units.

The impetus for this ordinance was based on the first type of project. I am concerned that we are trying to accommodate both types of project and that the ordinance will be ineffective at best and create drastic unintended consequences at worst.

The first type of project can be developed by: a) the unusual private developer dedicated to creating affordable housing who has figured out how to make it work without subsidies, b) the private developer, nonprofit developer, or housing authority using the Low Income Housing Tax Credit, and c) the occasional nonprofit organization who is able to put together various resources at low cost – land, labor, materials, etc. – to effect a project (such as Service Credit Union who is seeking to create an affordable housing project now in Portsmouth).

This ordinance should be very specific in order to appeal to the type of developer for which it is contemplated, to allow for success, and to reduce potential major complications. The ordinance should:

- 1) include 100% affordable units;
- 2) include units exclusively for rent, not for sale;
- 3) not include any single family houses on their own lots;
- 4) provide for somewhat generous density but density that is carefully calibrated; and
- 5) be based upon the HUD Fair Market Rents.

For example, we discussed requiring a minimum of 65% affordable units, allowing a developer to include up to 35% market units. Say we have a large lot that can accommodate 200 units, meaning that means 70 units (or single family houses) could be built at market rates! A conventional developer would not believe what they are seeing. They would pay an exorbitant sum for the property and would certainly not be focused on providing affordable housing.

There remain many other details that are flexible and worthy of discussion and debate.

I tried to incorporate items discussed at the last meeting. For many items the board realized it needed to return to them. I suggest starting again at the beginning below.

1) **ARTICLE II - DEFINITIONS**

- ❖ Add the following new definition, in alphabetical order, in Article II. **DEFINITIONS.**

WORKFORCE HOUSING – Housing which is designed to provide a broad range of living options for both homeowners and renters that meets the needs of families and individuals that represent the majority of New Hampshire's diverse workforce. Workforce housing projects often include a variety of dwelling types suitable for households with different needs and income levels.

[From Heather google search as discussed June 12]

2) **ARTICLE XVIII – PERSONAL WIRELESS SERVICE FACILITIES OVERLAY DISTRICT**

- ❖ Make the following changes:
 - Change the title of Section 175-99 to Purpose and Applicability
 - Delete heading “175-100. Applicability.”
 - Identify the first paragraph, starting, “It is the express purpose...” as A.
 - Identify the new second paragraph in Section 175-99, starting, “The terms of this Article...” as B.
 - Renumber the remaining sections as 175-100 to 175-05.

3) **ARTICLE XVIII.1 - WORKFORCE HOUSING OVERLAY DISTRICT**

- ❖ Add the following new article.

ARTICLE XVIII.1 WORKFORCE HOUSING OVERLAY DISTRICT

175-106. Workforce Housing Overlay District

The following provisions apply to the Workforce Housing Overlay District.

- A. Purpose of the Workforce Housing Overlay District.** The Workforce Housing Overlay District (WHOD) is an overlay district intended to:
1. provide reasonable and realistic opportunity for the development of workforce and affordable housing;
 2. ensure the availability of a diverse supply of rental opportunities;
 3. provide an adequate supply of affordable housing in Durham as set forth in the Town’s 2015 and 2018 Master Plan (<https://www.ci.durham.nh.us/planning/master-plan-2015>), including the Demographics and Housing chapter, and the Town’s May 2024 Housing Needs Assessment (<https://www.ci.durham.nh.us/bc-housingtaskforce>); and
 4. address the regional need for workforce housing as documented in the Strafford Regional Planning Commission’s Housing Needs Assessment (https://strafford.org/uploads/documents/plans/rpc/rhna_2023.pdf) as updated.

- B. Authority.** The Town of Durham adopts this Workforce Housing Overlay District and related sections in this Zoning Ordinance under the authority of RSA 674:58-61 Workforce Housing and RSA 674:21, Innovative Land Use Controls.
- C. Applicability.** The provisions of the Workforce Housing Overlay District apply to the following areas of Durham:
1. The entirety of the land that is zoned Office and Research District – Route 108 (OR) that is situated on the easterly side of Dover Road/Route 108.
 2. All portions of the lot identified as Map 209, Lot 39 that are situated westerly of the ordinance high water mark on the westerly side of Johnson Creek.
 3. All of the land zoned Office Research Light Industry (ORLI) that is situated on the northerly side of Mast Road/Route 155A. This includes all of the land zoned Office Research Light Industry (ORLI) that is situated on the northerly/westerly side of Route 4.

The references are made as of the date in 2024 when this amendment is adopted. Should any of the pertinent land be rezoned in the future or changes to map and lot numbers be made the specific lands identified as being part of the overlay district included at the time of adoption of this overlay district shall not change unless a specific zoning amendment is made in the future to that effect.

The Workforce Housing Overlay District is depicted on the map identified as Workforce Housing Overlay District – Supplement to Official Zoning Map. In case of any conflict between the description above and the rendering on the map, the rendering on the map will prevail.

Any parcel of land located in the overlay district may be developed as a workforce housing project by right at the option of the landowner.

- D. Workforce Housing Option under Conservation Subdivisions.** Special provisions for workforce housing that is part of a conservation subdivision are given in Article XIX - Conservation Subdivisions. That provision is entirely separate from this overlay district. *[I need to get the language from DCAT that was discussed]*
- E. Housing Units.** At least 65% of the dwelling units included in any workforce housing development must be established as workforce housing units. The remaining units may be developed at the discretion of the applicant.

The project shall not include any dwelling units with four or more bedrooms.

No more than 35% of the total number of dwelling units may be made available for sale.

- F. Rent Levels.** A maximum rent is established for all workforce housing units as the HUD Fair Market Rent which is set based on the number of bedrooms in the unit. The rent levels are reset every year based upon the market. The fair market rent is the figure for which the unit is offered. It does not consider other costs to tenants.
- G. Housing for Workforce.** The units designated as workforce housing may be rented only to individuals or families where one or more members are employed in the workforce. Tenants must demonstrate to the property owner that they have sufficient income from employment to cover the rent. Tenants must be able to cover the rent from employment without use of a guarantor on the lease.
- Income requirement. Workforce housing that is available for rent is intended to be rented by members of the workforce. As part of any development approval for a rental project, the applicant shall provide a plan, subject to approval by the Planning Board, to ensure that the units will be made available exclusively for individuals or households where the residents can cover their rent (or a substantial portion of their rent) by income earned through employment or by other personal income.
- H. Income Qualification.** *[For the workforce housing units, does the board want to restrict these units to people whose income falls below the matching threshold or allow for the units to be rented to any party independent of income.]*
- I. Housing Types.** Residential units in a workforce housing development may/shall be developed as multifamily dwellings. Multifamily dwelling here means any type of dwelling unit except for a single family house on its own lot, including single dwelling units (on the same lot), duplexes, triplexes, townhouses, flats, multi-unit structures, cottage courts, tiny houses, etc. A mix of housing types and unit sizes arranged in different configurations is encouraged but not required.
- J. Allowed Uses.** The uses allowed in any project developed as a workforce housing development under this overlay district are the residential uses specified in this section plus all uses allowed in the underlying zoning district.
- K. Density and Dimensional Standards.** The dimensional standards specified for the Church Hill District shall apply to any project developed as a workforce housing development under this overlay district. However, the two provisions in the Table of Dimensions regarding building height do not apply. The maximum building height for any building is three stories.

The maximum impervious surface ratio would apply to any new lot created in a workforce housing development, not to the overall project (See open space requirement herein). The density standard is established for the overall site based upon lot area per dwelling unit. Wetlands and areas of open water do not count toward the density calculation. The maximum number of dwelling units for any

workforce housing development is 200 units. This maximum applies to any individual lot or tract proposed for a project, including any project to be developed in phases. However, the Planning Board may approve including more than 200 units in a project by conditional use.

There is no density bonus for senior residential units. Section 175-57 A. 1. Density for senior residential units does not apply to projects developed under this overlay district.

[I added this provision immediately above.]

- L. Other Zoning Parameters.** All other standards in the Zoning Ordinance shall apply to a project unless superseded by a specific provision in this overlay district. However, the limitation allowing for a maximum of three unrelated occupants in a dwelling unit does not apply to any project developed through this overlay district.

[We need to add language to ensure that the ordinance would accommodate a Low Income Housing Tax Credit Project.]

- M. Perpetuity.** All workforce housing units, including any condominiums offered for sale, must remain affordable as workforce units in perpetuity in accordance with HUD figures. As part of any project, appropriate provisions, such as deed restrictions or easements, shall be incorporated to carry out this requirement. The Planning Board may incorporate periodic reporting requirements at its option.
- N. Site Plan and Subdivision Regulations.** A workforce housing project developed under this overlay district is exempt from Article XIX – Conservation Subdivisions and from all sections under the Subdivision Regulations related to conservation subdivisions. Where there is no subdivision into separate lots of land a project is reviewed under the Site Plan Regulations. Where separate lots will be created the project is reviewed as a subdivision under pertinent elements of the Subdivision Regulations. The creation of any condominiums is reviewed as a subdivision in the standard manner.
- O. Topography and Open Space.** A full topographic survey shall be prepared and a minimum of 60% of the gross acreage of the parcel shall be set aside as permanent open space. All or most of the most sensitive environmental lands shall be included in the open space, as determined by the Planning Board. The applicant shall prepare an open space plan providing for the appropriate use, maintenance, and protection of the open space to be approved by the Planning Board. On sites where both Town water and sewer are not available the applicant shall prepare a HISS analysis of the entire site. A HISS analysis is not required when both Town water and sewer are available. Standards in the Conservation Subdivision shall serve as guidance for determining which land shall be set aside for open space.

- P. Buffers.** Depending on the nature of the proposed development, the surrounding properties, and the adjacent roads, the Planning Board may require that the developed area be set back or buffered substantially from surrounding property and the adjacent roads.
- Q. Design.** The Planning Board shall use its reasonable judgment in reviewing the proposed design, layout, and density of the project to ensure a harmonious living environment for the future residents. The project shall incorporate sidewalks, footpaths, and/or trails to promote walkability through the site.
- R. Transportation.** The applicant shall develop a transportation plan, including considerations for public transit, van pools, car share, and bicycle use, to try to reduce the number of single occupancy vehicle trips, especially during peak travel times. The Planning Board may adjust parking requirements specified in the Site Plan Regulations (through a waiver) as appropriate.
- S. Support Facilities and Other Uses.** Appropriate accessory and support facilities for a workforce housing development, such as a community building, recreation facilities and a day care center for residents may be included in the project.

Any use that is allowed in the Office Research – Route 108 (OR) District or the Office Research Light Industry (ORLI), either by right or by conditional use, may be allowed anywhere in this overlay district by conditional use. If the use is permitted by right in the underlying zone in that section of the overlay district then it remains permitted by right in that section of the overlay district.

- T. Infrastructure.** Roads, water and sewer infrastructure, and other infrastructure shall be owned and maintained by the developer or by the Town of Durham as reasonably determined by the Planning Board.

5) **ARTICLE XIX - CONSERVATION SUBDIVISIONS**

- ❖ Add the following new provision under **Section 175-107. Conservation Subdivisions** at the end of **C. Exempt Subdivisions**:

5. Any subdivision created under **Article XVIII.1 Workforce Housing Overlay District**.

- ❖ Under **Section 175-107.1 Workforce Housing Option**, change the title of the section and insert a new paragraph without a letter designation right below the title as follows:

175-107.1 Workforce Housing in a Conservation Subdivision

Applicants who seek to incorporate workforce housing into a conservation subdivision shall follow the procedures laid out in this section. Workforce housing developed under this section is entirely separate from workforce housing developed under the Workforce Housing Overlay District.

- ❖ Under **Section 175-107.1 Workforce Housing Option**, replace F. Density Incentive, in entirety with the following:

F. Density Incentive. In determining the maximum number of workforce housing dwelling units that are allowed in a conservation subdivision, these standards apply:

1. A dwelling unit containing one bedroom or a studio unit without a separate bedroom counts as 0.33 dwelling units for the purpose of the density calculation; and
2. A dwelling unit containing two or more bedrooms counts as 0.50 dwelling units for the purpose of the density calculation;

6. **ZONING MAP*****

- ❖ Rezone the lot on the Zoning Map as specified under Applicability above. The Draft Housing Needs Assessment for Durham, dated December 2023, identifies the subject lot and several neighboring lots as a Multi-Family Development Priority Area (page 7-10).