

January 14, 2015

Mr. Peter Wolfe, Chair  
Durham Planning Board  
15 Newmarket Road  
Durham, NH 03824

*RE: Public Hearing – Mill Plaza Redevelopment. Design Review (preliminary application) for significant redevelopment of Mill Plaza Shopping Center site including 89,400 square feet of commercial space (existing and new), an addition to the existing Durham Marketplace building, five new buildings, 185,750 square feet of residential space, 442 beds, greenspaces and plazas, and 168 parking spaces (there are 345 existing spaces). Colonial Durham Associates, LP, c/o John Pinto, owner. Sean McCauley, representative. Joseph Persechino, Tighe & Bond, Design Engineer. Adam Wagner, DeStefano Architects, Architect. Tax Map 5, Lot 1-1. Central Business Zoning District. Recommended action: Discussion and continuation of design review and public hearing.*

Dear Chair Wolfe and Members of the Planning Board:

Two years ago (on March 27, 2013) I read a letter to the Planning Board about a once-in-a-lifetime opportunity presented by the proposed redevelopment of the Greens, now known as Madbury Commons, to make significant improvements that benefit the Town as a whole. Today we again find ourselves at the threshold of such an opportunity.

Today, as then, a property owner proposes to redevelop a large parcel of land that has in many ways been a drag on the community. Many, if not most, residents would welcome improvements. That said, I would argue that key among the actions that the Board can make is to urge, and require where possible, that owner of the Mill Plaza take steps to improve water quality in the College Brook.

Water quality depends a great deal on the functioning of buffers that provide a free, natural function of filtering pollutants, yet the College Brook has become seriously impaired through sedimentation and pollutants associated with development.

Redevelopment according to our stormwater regulations would make a huge difference in the water quality of Pettee and College brooks. However, stormwater management is only part of the picture. It will help reduce and retard runoff, but *it does not address the issue of nutrient loading.*

David Cedarholm, our previous Town Engineer, wrote in a Council Communication dated June 6, 2011, "An overabundance of nutrients, principally nitrogen, has been identified as adversely impacting the water quality and natural habitat of the Great Bay Estuary to the point at which NHDES has listed the Great Bay as an impaired water body." It is this overabundance of nutrients that put the Town, along with other Seacoast communities, under the eye of the federal Environmental Protection Agency.

The College Brook leads to the Oyster River, which then mingles with the Great Bay. The Town is still on the hook for this nutrient pollution, and that means all of us are as well. Durham and other Seacoast communities must comply with strict EPA discharge permit requirements that might yet cost the Town millions of dollars if the EPA requires us to improve the wastewater treatment facility. Various proactive efforts to date have positioned the Town of Durham

extremely well in the eyes of NHDES and EPA. Those efforts have cost hundreds of thousands of dollars.

Questions I raised two years ago remain germane:

1) How do we help buffers function as they are meant to?

Stretches of College Brook no longer retain their buffers or are buried under parking lots and buildings: they cannot offer the benefits of an intact stream. Between Mill Road and the Mill Pond, however, they could, if we allow them to. As the Connecticut River Joint Commission's brochure titled "Urban Buffers" notes in arguing for wide and vegetated buffers, "the longer runoff is detained in the buffer before entering the stream, the better."

2) Who is going to foot the bill for continued degradation?

We have before us a chance to require that those who contribute to water quality impairment share the cost with the Town by taking the responsible step of protecting the riparian buffers that provide free water treatment. Durham should ask Colonial Durham Associates, whose Mill Plaza has had a huge negative impact on our brook for decades, to plan any redevelopment sufficiently far back from our brook and allow it to function.

The Town's Wetland Conservation Overlay District ordinance was adopted to protect the wetlands by setting limits on what can occur within its buffers. The purpose of the ordinance is multifold, but in shorthand, it is to protect water quality, preserve flood storage capacity, protect habitats and vegetation, maintain stream flow, and to conserve natural beauty and scenic quality. Note that except for the last, these are functional values, not aesthetic. These functions translate to economic value to the community. They should not be given away.

It appears that the revised site plan ("First Floor Plan") does not respect the wetland setback. By visual calculation, it appears that approximately one-half of each of the two buildings parallel and adjacent to the Brook are situated within the wetland setback. This is not a minor encroachment.

Disregarding the required wetland buffers would deprive the community of their benefits for years to come. Therefore, I ask that the Board require the applicant to respect the setback and buffers of the College Brook. Specifically, I ask that the applicant:

- 1) Amend the site plans to show the 25-foot shoreland setback for College Brook;
- 2) Move the two buildings away from the wetland setback (mislabeled "buffer" on the site plan); and
- 3) Calculate the square foot encroachment into the 75-foot wetland buffer so that we know what impact is planned.

Sincerely yours,

[signed]

Robin Mower