

October 28, 2016

Mr. Michael Behrendt  
8 Newmarket Road  
Durham, NH 03824

RE: Mill Plaza | College Brook Buffer: clarity of terms in Colonial Durham Associates-  
Durham December 2015 settlement agreement

Greetings, Michael—

The content of this note is very similar to that I read at the public hearing for the proposed redevelopment of the Mill Plaza at Wednesday night's meeting of the Planning Board. Please do share this note with the Planning Board and post it online.

It is time to obtain a legal opinion regarding the terms of the Colonial Durham Associates-Durham December 2015 settlement agreement pertaining to the College Brook. It would be helpful to the Planning Board and to the community to obtain clarity about this matter, particularly as the Board evaluates a proposed conceptual site plan. The location of structures—buildings and pavement—may depend on the answer.

Specifically, the Agreement is vague. (See relevant excerpts on the following page.)

- What exactly does “increased natural buffer” mean?
- What does maintaining that buffer mean? (Does that mean removing invasives in perpetuity?)
- Who will monitor whether it is actually being maintained—Town staff?

My personal interpretations:

- “increased”—The extension should be meaningful in terms of the facilitation of stormwater management AND screening AND protection of the brook and its banks from “undesirable behavior” as well as any planned or inadvertent snow storage (also undesirable)
- “natural”—The area is not to become a manicured landscape area. Indeed, it should consist of native species and facilitate filtration of stormwater runoff.

I look forward to hearing the answers to these questions.

Regards,

—Robin

Robin Mower  
Durham, NH 03824

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For reference, the Settlement Agreement states that:

1. The Town and Town Administrator will forbear from application and enforcement of the Amendment with respect to the pending Design Review application of Colonial Durham Associates, and to redevelopment of Colonial Durham's Mill Plaza, provided that Colonial Durham submits revisions to the Design Review Application that substantially conforms to the following design considerations (the "Revised Application"), as also reflected on the attached non-binding conceptual plan set (Exhibit A):
  - d. The Revised Application will provide for proposed buildings and vehicular roads outside of the shoreland and wetlands buffers such that variances from town ordinances are not required and the buffers are maintained by the property owner.
  - f. The Revised Application will have increased natural buffer along the southern property line adjacent to the College Brook; such buffer to be maintained by the property owner in perpetuity.