

June 14, 2017

Planning Board
8 Newmarket Road
Durham, NH 03824

RE: **Public Hearing Mill Plaza Redevelopment – 7 Mill Road. Design Review (cont'd)**

Greetings,

I understand that we are still in preliminary Design Review, not binding on either party. But it is important that what the community **expects to see in a redevelopment of the Plaza** be on the record. As several of us have noted, we have **a once-in-a-lifetime opportunity to redevelop this key parcel right**, in a way that benefits the community and the environment for future generations. Despite the applicant claiming to have listened to residents over the past nearly three years, no one could say that this revised plan meets that expectation.

General comments

- 1) To Planning Board members who missed previous public hearings: Residents have expended great effort and spent many hours conveying our concerns about previous iterations of this proposal. Many of our concerns remain relevant, but we may not repeat all of them at this particular meeting. So if you haven't done so already, before any future public hearings on this property, please read our comments and the official minutes of the hearings, or watch the DCAT on Demand recordings.
- 2) If you hear the same comments from many of us, it's because we share these concerns, are responding to **the same issues that have not been addressed over the past three years**, and believe it is important that those points be drummed in and on the record.
- 3) To be blunt, at the heart of this project are property rights and money, both of which create tension. **Colonial Durham Associates has property rights, but so do existing homeowners.** Colonial probably wants to please a group of outside investors, but at what cost to us? Residents want to see an improved Plaza, but they also want to protect their own investments and their quality of life. Isn't it possible that the applicant's financial target could be lowered to still make money, yet plans altered to deliver community benefits? **Even Planning Board members have suggested returning with a plan showing fewer than 330 beds. Hasn't happened.**
- 4) Resident Matt Komonchak walked the Planning Board through a comparison of features of a previous site plan to our existing conditions, step by step. **One doesn't have to repeat that exercise to conclude that what is proposed, once again, is "the same but worse."** What we would get is a sea of parking, a facelift to an existing derelict building, a small amount of incremental commercial space (the Hannaford occupies about 17,000 square feet, more than half of the only 26,800 square feet proposed incremental commercial space), loss of vegetated buffers, and a headache in the form of multiunit housing close to residential neighborhoods.

Current proposed site plan

Each time I look at a revised site plan for this redevelopment project, the famous line from Elizabeth Barrett Browning's sonnet comes to mind: "How can I count the ways?" As in, "How many things are wrong with this proposal?"

- 1) This plan does not meet the **Settlement Agreement** of December 2015. It does not "substantially conform" relative to the **wetland setback, increased natural buffer, and the need for variances**.

Regarding the wetland setback:

- a) On February 10, 2016, Lorne Parnell asked that when the applicant return, it provide a "very proactive plan to increase the buffer, fix up the brook as it is now, monitor it, and continue to maintain it over time. I think you should offer them, rather than we tell you what we want you to do." ...But we get this plan instead.
 - b) College Brook runs into the Oyster River, which runs into Great Bay. Durham taxpayers and UNH have together spent hundred of thousands of dollars to improve water quality in the Great Bay. Are we now to turn our back on the opportunity to redress one of the contributing factors to that degradation?
- 2) This plan, as others before it, also **flouts our most basic land use regulations**:
 - a) **Site plan regulation standards**, including Architectural Design (relative to building heights), Landscaping and Screening, and Natural Resources.
 - b) **Zoning ordinance**, including building height, location of commercial uses, wetland setbacks, and Conditional Use criteria, among them:
 2. External impacts
 5. Preservation of natural, cultural, historic, and scenic resources
 6. Impact on property values
 - 3) **\$64,000 question**: The first Conditional Use criterion listed addresses site suitability: "The site is suitable for the proposed use." So we ask: **Is the use appropriate to the site?**
 - a) Many uses are proposed for this site. One must look at each. Remember: None is guaranteed to the applicant, either by our regulations or by the Settlement Agreement.
 - b) This is the largest underdeveloped commercially-zoned parcel in our downtown. Redevelopment could provide currently needed and anticipated commercial space **if we pushed on our side of the Settlement Agreement terms**.
 - According to Mary Ellen Humphrey, Durham's Director of Economic Development, **demand for downtown commercial space has exceeded our current supply**, indicating an immediate, let alone future, need for more commercial space. This proves wrong the predictions of developers for Orion and Madbury Commons, projects where I believe we "caved" on commercial space requirements.
 - As resident Annmarie Harris has stated, **commercial development would be of benefit to the community and should take precedence over the housing component of this project**.
 - c) **But a pivotal use for the applicant is multiunit housing** which, if we are all honest, will no doubt be inhabited by students.

- d) The proposed multiunit housing is what might be called a “**threshold item**,” a term used by a previous Planning Board member. I’ll explain.
- If one includes Mill Road to the Oyster River, the Faculty Development has approximately 200 households.
 - If one allows for 3 members to a household—which is probably high, since there are many 1- and 2-person households—then **this proposal of 330 beds would add more than half the number of residents who live in the Faculty Development neighborhood.** (And that’s excluding likely overnight visitors and other guests.)
 - Unfortunately, the applicant **does not include a site plan that shows the abutters’ homes on Chesley Drive and Faculty Road**, thus narrowing, if not obscuring, this critical perspective for those reviewing the plan.
 - But I call your attention to comments made by Councilor Jim Lawson at the December 14, 2016 public hearing on this application. The minutes show:

Councilor Lawson said he was convinced that Mill Plaza could be redeveloped in a way that could be approved by the Planning Board and that could be supported by the neighborhood. He considered whether from a Zoning perspective, Chesley Drive, Brookside Commons and the Faculty development were abutters or the neighborhood. He said he thought they clearly met the criterion of a neighborhood, which meant that there were significantly more criteria that an application would have to meet, concerning how a development would impact the neighborhood. He said this was going to be very challenging with the current design, and he spoke further on this. He said even if variances were granted, the Planning Board would still have to look at the Conditional use criteria.
- e) Why would we want to add student housing to the neighborhood, when we have put Town resources toward limiting it?
- At the Planning Board’s February 10, 2016 public hearing, resident Matt Komonchak noted that the Town had said student housing was being built in order to extract students from family neighborhoods, so it seemed bizarre to pursue those projects and then place large dorms on the doorsteps of family neighborhoods.
 - We now know that neighborhood student rentals remain attractive to tenants and investors. So we will continue to have that fundamental incompatibility of lifestyles mentioned frequently by Police Chief Kurz.
 - The Faculty Development is already squeezed by UNH dorms to the west and numerous student-only rental properties along Garden Lane, Hoitt Drive, and Mill Road, as well as in the interior. And an aerial view of Durham would show an expanse of student housing to the north and west of the Faculty Development. This proposal brings potentially disruptive behavior closer and closer.
 - Many of us who live in Brookside Commons and the Faculty Development came to Durham for the quality of life. That has been sorely tested by the disruptive behavior of students in our downtown and in our neighborhood.
 - Student-only rentals act as magnets for party seekers. Adding potential party seekers in the form of nearby multiunit housing sounds the alarm for us.
 - We have said, time after time: **Student housing is a driver for revitalizing downtown. We should *get* something significant for allowing that use.**

4) Hannaford building and site

- a) Lorne Parnell also suggested at the February 10, 2016 Planning Board meeting that **Hannaford be moved temporarily and a 3- or 4-story building be built on its current site and move Hannaford back.** It is not clear that has seriously been on the table.
- b) If the Hannaford building is not renovated or replaced as part of the redevelopment, then when? It is likely to degrade, to the detriment of the entire project. And to the town. Until it was taken over by Hannaford, the supermarket provided a valuable service to the community and opportunity for social encounters. As numerous residents will attest, that is no longer the case. If the building degrades, even the students Hannaford now relies upon for its profits may go elsewhere. In addition, given history in this town, the property could be sold as soon as it's up and running, so the property owner would not have to pay the piper.
- c) It is possible that Hannaford would consider Mr. Parnell's suggestion **if the applicant were to sweeten the pot**, but we don't know exactly any details of the discussions between Colonial Durham and Hannaford. It is the applicant's right to maintain privacy on those discussions, but doing so does not help move this proposal forward.

5) What's right up against the residential areas?

a) Loading dock

- If you think a wall will block the noise, think again. Hard surfaces, including the expanse of asphalt, bounce noise, they do not deaden it. And there has to be an opening somewhere—wait, it's facing homeowners!
- Rite Aid deliveries are not infrequent, may occur at 5am, and include 18-wheelers.

b) Gathering and partying areas contiguous to the Orion student housing and to the neighborhoods

- We now experience large daytime partying in the backyards of student housing on the south side of Main Street in addition to late night and special event partying. Davis Court has become a magnet for outdoor partying, and both neighbors and our emergency service departments have been paying the price. Should we even contemplate including raised courtyards and contiguous gathering areas that will invite large groups of partyers and bring them closer to a residential neighborhood?
- Will property management, responsible for whatever happens outdoors on the entire 11-acre parcel, be on site 24/7 and have authority to "move people along" at 2:00 and 3:00 in the morning? What happens outdoors to date has NOT been subject to 24/7 residential property management, and a recent meeting about Davis Court does not lead me to believe other landlords will be amenable to taking responsibility for their tenants' behavior outdoors.
- The real question here is, "What makes anyone think we must provide gathering areas at downtown student housing properties in the first place?"

c) Drive-thru

- Drive-through pharmacies experience a large number of challenges, which include extend the wait time for customers beyond the time it would take to park and walk into the pharmacy
- Extended waiting time equals extended idling time. The Union of Concerned Scientists notes: **"idling for longer than 10 seconds consumes more fuel and**

produces more global warming pollution than stopping and restarting”

<<http://www.ucsusa.org/clean-vehicles/oil-solutions-work#.WTxmhTPMxE4>>

- A drive-thru would NOT be good for the community, which has supported sustainability and environmentally-friendly initiatives for years.
 - Safety of pedestrians in the vicinity may be compromised.
 - Consider a walk-up window instead with a couple of 15-minute parking spaces.
- 6) Miscellaneous challenges remain: Snow removal; multiple-truck delivery queues for Hannaford

Formal submission

Requirements for a formal submission are listed in the site plan regulations, Part III. However, the Planning Board may request additional documents from an applicant.

- 1) I urge the Board to request that the Town Attorney review the formal site plans and provide a **written legal opinion** that the plans meet the Settlement Agreement and that the Planning Board may proceed.
 - I refer the Board to a precedent. Commissioners Lorne Parnell and Bill McGowan no doubt will remember the Stonemark application for 99 Madbury Road. It was approved by the Planning Board, appealed to the Zoning Board, and then went to Superior Court, which overruled the Planning Board’s approval.
 - During this process, the Planning Board, Zoning Board, and members of the public spent months on this application, incurring legal costs for the residents as well as the applicant.
- 2) We will need a **scale model**, including human-size figures, that includes the UNH dorms along Mill Road, Brookside Commons, the buildings along the south side of Main Street, and the homes on Faculty Road.
- 3) The location plan **must show abutting homeowner properties on Chesley Drive and Faculty Road**. We’ve asked for this before but somehow never received it.
- 4) A related **aerial view** (Google Earth?) would complement the aforementioned.
- 5) We’ve also asked for but never received an **overlay of the proposed plan onto the existing site plan**; it, too, should show abutting homeowner properties on Chesley Drive and Faculty Road.
- 6) I’d like to see a plan with **realistic landscaping renditions**, not mature trees that none of us will see in our lifetimes.

Thank you for considering these points. Many of us hope they will all be addressed should the applicant decide to return with a formal submission.

Regards,

[Signed: Robin Mower, abutter]