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May 21, 2018

Paul Rasmussen, Chair  
Durham Planning Board  
8 Newmarket Road  
Durham, NH 03824-2898

Re: **Application for Conditional Use Permit – Mill Plaza**

Dear Chairman Rasmussen:

This firm represents Colonial Durham Associates, LP ("Applicant") regarding its proposed redevelopment of the Mill Plaza. As part of the proposed redevelopment, Applicant has filed herewith a Conditional Use Application seeking a conditional use permit from Article XII.1, Section 175-53, VII of the Durham Zoning Ordinance to pursue "Mixed Use with Residential". The proposed redevelopment would significantly upgrade an improved, but substantially underperforming, commercial property to be consistent with, and an extension of, the existing downtown.

The criterion set forth in Article VII, Section 175-23, C, specifically criterion C.1 through C.8, are addressed below.

1. Site suitability. The ten (10) acre subject site is suitable for the proposed redevelopment in that it is uniquely large and is a developed site that presently accommodates an existing commercial shopping plaza. The site currently offers vehicular and pedestrian circulation, parking, utilities and other infrastructure consistent with other commercial sites in the Central Business District (CBD).

Under the proposed redevelopment, the access road, internal travel ways, and pedestrian connections would all be upgraded to modern specifications, including safety lighting, signage and landscaping. Stormwater management engineering will also improve existing surface flow conditions and better protect College Brook from unmanaged and untreated runoff. See Application for Site Plan Review, filed herewith by Colonial Durham Associates, LP, of even date.

In addition, the central location of the site within the CBD is convenient for the continued provision of municipal emergency and life/safety services.

Lastly, the site offers existing municipal water and sewer connections, which have sufficient capacity to manage the proposed mixture of residential and non-residential uses and densities.

2. External impacts. The proposed redevelopment uses, and the density and intensity of those uses, is the subject of a settlement agreement entitled "Agreement to File Joint Motion to Stay Proceedings in Colonial Durham Associates, LP v. Town of Durham, Docket Nos. 219-2015-CV-00016 and 219-2015-CV-00173", dated Dec. 14, 2015 (the "Settlement Agreement"). Specifically, the Settlement Agreement specifies that the proposed redevelopment shall include and respect the following elements/restrictions:
  - a. The Revised Application will propose construction of not more than 330 residential beds for the entirety of the Mill Plaza site, with a density of not less than 300 SF per occupant.
  - b. To the extent reasonably practicable, and subject to planning review, the Revised Application shall locate the residential beds upon the Mill Plaza Site with the goal of placing as many beds as possible in the buildings proposed to be located in the northern half of the property;
  - c. The Revised Application will provide for a total development of existing and new non-residential commercial space, exclusive of parking, totaling at least 80,000 to 90,000 sq. ft.
  - 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.
  - e. Proposed on-site parking shall be increased from the existing 345 spaces to a number acceptable to the planning board based on the zoning ordinance and site plan regulations.
  - 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.
  - g. The proposed center building shall provide for a ground level connector to encourage pedestrian connectivity through the site towards Main Street.

- h. The proposed development will have dedicated on-site professionally staffed management offices and security 24 hours a day, 7 days a week, 365 days a year.

The external impacts of the proposed redevelopment upon abutting properties, and the adjacent residential neighborhood, will have no greater impact than other adjacent existing commercial and mixed-use project approved in the CBD. Whether compared to the mixed-use developments along a heavily-commercialized Main Street corridor, University properties across Mill Road, other approved mixed-use developments in the CBD, or the existing conditions of the Mill Plaza, the proposed redevelopment will impose reasonable impacts that are well mitigated on the site plan proposal and otherwise consistent with other nearby Main Street and CBD users.

Moreover, impacts such as traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare compare similarly or even favorably in the redevelopment scenario versus the existing condition. The proposed site plan offers enhanced landscaping and protection for conservation buffers, as well as landscaped screening for headlight glare. Further, Applicant remains willing to discuss additional screening/ plantings on adjoining properties with the permission and future cooperation of abutting owners.

Lastly, the height of proposed buildings is in keeping with surrounding projects along Main Street. In terms of overall elevation, the proposed buildings will be lower than those constructed on Main Street, and all proposed buildings are within the Town's permitted building heights. See Building Height Cross-Sections at Application for Site Plan Review. Also, the substantial distance of the planned improvements from the Chesley Drive and Faculty Road neighborhoods mitigates the massing of the proposed structures and reduces any perceived canyon effect.

- 3. Character of the site development. As an existing commercial shopping center in the CBD, the Mill Plaza has the potential to perform as an extension of the current mixture of uses along Main Street. The proposed redevelopment allows for an orderly expansion of the downtown, creating a live-study-shop-eat environment for residents of the Mill Plaza and its Durham neighbors. In addition, providing second-floor office spaces provides new opportunities for businesses searching for a downtown presence.

An enhanced buffer and additional pedestrian amenities along Mill Road will help create a tasteful transition from the mixed-use downtown to the residential areas of Brookside Commons and Faculty Road, while a true sidewalk and planned landscaping will enhance the pedestrian corridor from Mill Road to Chesley Drive.

Similarly, the discussed joint venture between the Applicant, the University, and the Town offers the opportunity to further enhance and protect College Brook and is another means of enhancing the amenities of the development site while buffering surrounding neighborhoods. Residents of the surrounding neighborhoods will have a safer, more attractive pathway to access retail and restaurant opportunities than the existing conditions afford.

4. Character of the buildings and structures. The design of the new buildings on the site is consistent with other recent mixed-use projects proximate to Main Street and within the CBD. Three and four story buildings are not unusual for Main Street and CBD, and the re-facing of the existing (and remaining) “Durham Marketplace” will further incorporate the style and appearance of the building into the entirety and themes of the redevelopment. Further, the proposed heights of the buildings conforms with the Zoning Ordinance. See Section 175-54, “Maximum Permitted Building Height with Planning Board Approval Under RSA 674:16.”

Factors such as roof line, architectural treatments and material and color selections all offer a comprehensive and unified project template, and are each subject to review as part of the Site Plan Submission. The design elements, however, are drawn from traditional New England town centers and gathering spaces, including elements that emulate Durham’s existing Main Street corridor.

5. Preservation of natural, cultural, historic, and scenic resources. The existing commercial plaza offers little, if anything, in terms of natural, cultural, historic, and scenic resources. Instead, the existing condition includes older and tired facades, untreated surface stormwater, few and uninviting gathering spaces and a mass of uninterrupted pavement.

By comparison, the redevelopment scenario improves upon the treatment of natural, cultural, historic, and scenic resources by offering enhanced preservation and protection of College Brook, modern stormwater treatment, parking islands with pervious infiltration areas, along with well-identified pedestrian routes and

connectivity – all with architectural elements consistent with New England themes and traditional town centers.

6. Impact on property values. Applicant will offer the testimony of a licensed appraiser to demonstrate the proposed redevelopment of the Mill Plaza will NOT “cause or contribute to a significant decline in property values of adjacent properties.” See Section 175-23, C, 6 (emphasis added). Main Street properties will be complimented by the expansion and enhancement of additional mixed-use opportunities, while nearby residential properties are either sufficiently screened or too distant to suffer significant impacts.
7. Availability of Public Services & Facilities. The site is served by municipal drinking water and sewer, both of which have sufficient capacity to service the proposed uses and densities. See Application for Site Plan Review.

Drainage will be installed pursuant to the approved site plan, as well as an Alteration of Terrain permit to be issued by the NHDES (to be filed).

Solid waste disposal will be privately contracted.

8. Fiscal impacts. The proposed use will NOT have a negative impact upon the Town’s financial resources. See Section 175-23, C, 8. To the contrary, Applicant has commissioned a fiscal impact study which will demonstrate that redevelopment of the Mill Plaza will have an overall positive fiscal impact upon the Town’s financial resources.

Very truly yours,



Ari B. Pollack

ABP/mla

cc: Rick Taintor, Project Planner  
Colonial Durham Associates, LP