



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, January 27, 2021

- X. ***Public Hearing - Mill Plaza Redevelopment***, 7 Mill Road. Continued review of application for site plan and conditional use for mixed use redevelopment project and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Emily Innes and Sharon Ames, Harriman, project designer. Ari Pollack, attorney. (Rick Taintor is serving as the Town's Contract Planner.) Central Business District. Map 5, Lot 1-1.
- I recommend that the Board reopen the public hearing and vote to continue it to a date in February determined by the Board.

Please note the following:

- 1) On December 16, 2020, the Planning Board opened the continued public hearing on the revised Site Plan for the Mill Plaza redevelopment project. The applicant's engineers presented a potential upgrade of the existing Mill Road crosswalk next to Hannaford and the potential conversion of the plaza's Mill Road entrance to three-way stop control. The Board discussed these options and received public comment on traffic issues. Board members also continued their discussion of whether to require an independent fiscal impact analysis.
- 2) The following items should be discussed at the January 27 meeting:
 - Architectural design: Finalize brick selection
 - Wetlands impacts:
 - Review Conservation Commission recommendations on WCOD/SPOD conditional use permits
 - Discuss wetland and shoreland conditional use permit criteria
 - College Brook:
 - Presentation by Thomas Ballestero regarding recommendations for stream improvements (May 2020 report)
 - Discuss specific commitments by CDA regarding implementation of College Brook buffer management / stream improvement plan
 - Determine whether to require an independent evaluation of wetland/brook impacts and recommendations for mitigation or enhancement

- Traffic impacts: Reaffirm, amend or rescind June 2018 and June 2020 votes to require (a) peer review of applicant's traffic impact analysis and (b) run of traffic model
- Fiscal impacts: Determine whether to require peer review of applicant's fiscal impact analysis

Some of these items are discussed in more detail below.

3) Proposed Schedule for Review and Action.

On January 8, 2021, Attorney Ari Pollack sent the Board a letter outlining a proposed schedule of meetings and topics, with the goal of completing review of the application on April 28, 2021. On the same date I sent Attorney Pollack a letter in response stating what I believe would be necessary to achieve his proposed timeline. This includes the need for revised and additional materials that CDA will need to submit, and staff will need to review, in order to give the Board the necessary information on which to make its decisions. These were followed by a response letter from Attorney Pollack on January 19 and another response from me on January 20.

In my January 8 letter I laid out the following schedule of documentation and meetings after the January 27 meeting:

February 3 – CDA submits additional documentation

- Responses to Planning Board's questions from 1/27 meeting
- Proposed conditions of approval
- Property and Security Management Plan
- Construction Management Plan

February 24 (or special meeting) – Planning Board

- Presentation and review of independent peer reviews (if requested by the Board at 1/27 meeting)
 - Traffic
 - Fiscal Impact
 - College Brook Impacts and Restoration
- Conditional use permit criteria
- Review additional information required and timeline for submission

March 3 – CDA submits revised and additional documentation

- Complete revised plan set
- Signage plan – locations; types; dimensions; elevation drawings with colors & materials; illumination
- Final waiver requests
- Proposed guarantee amounts
 - Performance Guarantee(s) – site improvements, buffer work, Mill Road work
 - Maintenance Guarantee

- Landscaping Guarantee

March 3-17 – Staff Reviews

- **Consulting Planner review** of all revised and new documentation
- **Technical Review Committee** review of revised plans
- **DPW review** of proposed amounts of performance and maintenance guarantees

March 24 (or special meeting) – Planning Board

- Presentation and review of complete revised plan set
- **Close public hearing**
- Review and act on waiver requests
- Findings and conditions of approval – site plan review
- Findings and conditions of approval – conditional use permits

April 28 (or special meeting) – Planning Board

- Final action

This schedule will have to be revised and possibly extended if the Board does not complete all the items listed in section 2 of this report at the January 27 meeting.

Based on how much time the Board has been able to devote to the project at its regular meetings, this schedule only seems feasible if the Board is able to devote complete meetings to the Mill Plaza application rather than continuing to review the Mill Plaza proposal in the same meetings as other applications. Therefore, Board members are being asked to consider scheduling additional meetings in February and March to allow at least one meeting each month to focus exclusively on this project.

As I noted in my January 19 letter to Attorney Pollack, the above schedule while feasible is extremely tight. Meeting the target dates will hinge on timely submission of documentation at each stage and will require clear resolution of outstanding issues at the meetings at which they are discussed, rather than deferring open issues to the end of the process.

Perhaps most crucially, the above schedule assumes that the site plan will not be revised significantly, including revision to reduce wetland buffer impacts in response to the Conservation Commission's recommendation.

I welcome Board members' thoughts about the timeline and the applicant's target date for final action.

4) WCOD/SPOD Conditional Use Permits.

The Zoning Ordinance provides that "The Planning Board shall approve a Conditional Use Permit for a use in the [WCO/SPO] District only if it finds, with the advice of the Conservation Commission, that all of the [four listed] standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use."

The Conservation Commission discussed the project in meetings on October 26, November 20 (site walk), November 23, December 9 and 28, 2020, and January 4,

2021. At the January 4 meeting the Commission voted to recommend against granting the wetland and shoreland conditional use permits for the project as currently planned, because members could not make the first finding required to grant each CUP, i.e., “There is no alternative location on the parcel that is outside of the WCOD/SPOD that is feasible for the proposed use.” Instead, the Commission’s recommendation states that “The Mill Plaza parcel, with few exceptions ... may accommodate the project without construction in the wetland buffer.”

The Planning Board can accept or reject the Conservation Commission’s recommendations regarding the granting of the requested conditional use permits, but a decision to approve the project must be based on finding that the proposed project meets all four standards required for each conditional use permit, including finding that it is not feasible to develop the proposed uses outside the regulatory buffers.

The Board should not take any formal vote on this until the close of the public hearing, but it would be important to give guidance to the applicant at this point rather than waiting until the hearing has closed. For that reason, I recommend that Board members give this some consideration and share their thoughts at the January 27 meeting.

5) College Brook Impacts and Restoration.

In October and November Colonial Durham Associates submitted two reports relating to College Brook: “Mill Plaza Redevelopment and Relationship to College Brook” (June 21, 2018) and “Recommendations for Stream Improvements to College Brook (May 25, 2020). There has been some discussion about having an independent review of these issues but no action has been taken.

I learned earlier this week that Thomas Ballesterro will attend the January 27 meeting to address the Conservation Commission’s recommendations and to present his May 2020 report. I recommend that the Board hear his presentation and comments before discussing whether to commission its own study of the impacts on the brook.

The “Recommendations” report does not identify what entities might be responsible for implementing any of the recommendations. In my January 20 letter to the applicant’s attorney I recommended that it would be helpful for CDA to present the specific measures that it proposes to undertake, including an implementation timeline. These commitments would then be incorporated into the conditions for the conditional use permits and site plan approval.

6) Traffic Impacts.

The Planning Board has voted twice to require independent analyses of the traffic impacts:

- On June 13, 2018, the Board voted “to order a run of the traffic model for this project.”
- On June 17, 2020, the Board voted to “approve the hiring of a third-party consultant to review the traffic report and traffic model, and related materials the applicant submits.”

The applicant submitted an initial Traffic Impact Study in July 2020 and a revised Study in August 2020. I solicited a proposal from RSG, the consultant that manages the

Town's traffic model, and transmitted the proposal to the Board and the applicant on September 14, 2020. CDA subsequently raised concerns about the proposed costs for these two reviews.

The Board discussed whether to continue to require a peer review and traffic model run at its September 23 and October 14 meetings, but no action was taken at either meeting. The Board has not yet voted to amend or rescind its 2018 and 2020 votes. In order to put this matter to rest, I recommend that the Board take this matter up at the January 27 meeting and either confirm, amend or rescind its previous votes.

7) Fiscal Impacts.

In April 2020 the applicant submitted a Fiscal Impact Analysis prepared by Fougere Planning & Development and the Board discussed this report at its meeting on May 13. At that meeting a motion to commission an independent review of the fiscal impacts failed to pass, but members indicated that they would revisit this matter after reviewing a separate report on property value impacts which was expected to be submitted later.

In June 2020 the applicant submitted a letter report evaluating the impacts of the proposed redevelopment projects on the values of adjacent properties. The Board discussed this report at its meetings on June 24 and July 22.

At the July 22 meeting Board members appeared to agree that they would not require a peer review of the property values study; however, the question regarding the fiscal impact analysis remains unresolved.

At the December 16 meeting I offered to provide a brief report about the Town's requirements for fiscal impact analyses and the issues that have been raised concerning the fiscal impact analysis submitted by the applicant. I have not yet completed that task, so I will forward my report to the Board separately.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
January 21, 2021