



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, December 8, 2021

- IX. **Public Hearing - Mill Plaza Redevelopment**, 7 Mill Road. Continued review of application for site plan and conditional use for mixed use redevelopment project, drive-through facility for bank, 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 the hearing to January 12 or 26, 2022.

Please note the following:

- 1) Recap of previous meeting: On October 27, 2021, the Planning Board opened the continued public hearing on the revised Site Plan for the Mill Plaza redevelopment project. The applicant presented the revised site plan for which an overview was given at the Board's August 25 meeting.

Public comment addressed continuing concerns about impacts on the brook and the wetland buffer, impacts of concentrated student housing on the adjacent residential neighborhood (particularly noise), questions about license plate readers and parking management, and parking lot landscaping. Board members discussed concerns about site management (particularly potential noise and litter problems), number of parking spaces, trees and landscaping, construction management plan, among other issues.

An issue that was outstanding at the time of the meeting was the need for a peer review of the updated stormwater management plan. Because there would not be enough time for the applicant to respond to the peer review before the Board's November 10 meeting, the Board voted to continue the hearing to December 8, 2021.

- 2) On December 1 the applicant submitted the following items:
- Letter re: Response to Comments
 - Revised plan set
 - Preliminary Construction Management Plan
 - Letter response to stormwater peer review
 - Proposed Property Management Plan (updated)

- 3) Also on December 1, the applicant submitted a listing of those items which they intend to be binding as part of any project approval. I had requested this list in order to understand which documents should be referenced in the Planning Board's decisions on the conditional use and site plan applications. This listing is attached to this report and will be posted on the project web page.
- 4) On October 27 the Horsley Witten Group submitted their peer review of the applicant's stormwater management plan for the revised site plan. The package of materials submitted yesterday (December 1) includes the applicant's responses to the peer review. It is my understanding that Janet Bernardo of Horsley Witten will be in attendance at the December 8 meeting to answer any questions from the Board concerning the peer review.

A resident has contacted Ms. Bernardo independently to request that she address issues that have been raised by residents during the public hearing process relating to (a) the pre-2002 conditions on the site and (b) the proposed parking lot development of the adjacent Church Hill property. Analysis of these issues was not required by the Planning Board nor included in the scope of the peer review, and therefore the peer review must rely on current existing site conditions as the baseline condition in the analysis of stormwater impacts.

- 5) On November 10 I submitted a detailed list of comments and questions to the applicant. On November 18 I met with Joe Persechino and Eric Doremus of Tighe & Bond, Director of Public Works Richard Reine and Town Engineer April Talon to go over these issues as well as others raised by Town staff. The package submitted by the applicant yesterday includes a memo responding to my comments and questions and indicating where plan changes have been made to address these.
- 6) I recommend that the Board use the December 8 meeting to review changes in the site plan and stormwater management plan, and to review the proposed construction management plan and property management plan, so that any outstanding questions can be answered before moving on to consideration of the criteria for granting the four requested conditional use permits.
- 7) Before voting on the application for site plan approval, the Planning Board must evaluate the project against the criteria for the four conditional use permits being requested. I have again attached a proposed template for going through each criterion for each conditional use permit.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
December 2, 2021

Subject: Mill Plaza - Site Plan Application Documents
Date: Wednesday, December 1, 2021 at 12:29:25 PM Eastern Standard Time
From: Joseph M. Persechino
To: Rick Taintor
CC: Ari B. Pollack (pollack@gcglaw.com), sean@mralp.com
Attachments: image001.png, image002.png, image003.png, image004.png, image005.png

Hi Rick,

As requested, we have pulled together a list of the documents from the numerous submissions related to the Mill Plaza project to help determine which filings are “active” and intended to be binding. These include the document that are being submitted today. Please see the list below:

1. Site Plan Application, prepared by Tighe and Bond for CDA, January 2, 2020.
2. “Mill Plaza Redevelopment, Durham, New Hampshire, Site Plans”, prepared by Tighe and Bond for CDA, dated May 23, 2018, last revised December 1st, 2021.
3. Conditional Use Application for Mixed-Use Development, submitted by CDA, dated January 2, 2020.
4. Conditional Use Narrative for Mixed-Use Development, Letter from Ari B. Pollack, Esq., dated May 21, 2018, revised January 2, 2020 (and as further supplemented by the Site Plan Set).
5. Conditional Use Application for Drive-Thru, prepared by CDA, dated January 2, 2020.
6. Conditional Use Narrative for Drive-Thru, Letter from Ari B. Pollack, Esq., dated January 2, 2020 (and as further supplemented by the Site Plan Set).
7. Conditional Use Application for Development Within the Wetlands Conservation Overlay District, submitted by CDA, dated January 2, 2020.
8. Conditional Use Application for Development Within the Shoreland Conservation Overlay District, submitted by CDA dated January 2, 2020.
9. Conditional Use Narrative for Shoreland and Wetlands Buffer Impacts, Letter from Ari B. Pollack, Esq., dated May 21, 2018, revised January 2, 2020 (and as further supplemented by Sheets C-701 and C-702 of the Site Plan Set).
10. Traffic Impact and Access Study, Tighe and Bond, prepared by dated March 19, 2021, last revised April 19, 2021.
11. Applicant’s Response to Traffic Peer Review, prepared by Tighe and Bond, dated April 19, 2021.
12. Stormwater Management Report, prepared by Tighe and Bond, dated January 2, 2020, last revised October 8, 2021.
13. Proposed Mill Plaza Property Management Plan, including Section 7 entitled “Onsite Parking Management”, prepared by McCauley Realty Advisors, updated December 2021.
14. Letter Report of White Appraisal, prepared by Brian W. White, MAI, SRA, dated June 17, 2020.
15. Fiscal Impact Analysis – Colonial Durham, prepared by Fougere Planning and Development, dated April 2, 2020.
16. Energy Considerations Checklist, prepared by Tighe and Bond, dated January 2, 2020.
17. Mill Road Plaza Pedestrian Crossing Analysis, prepared by Tighe and Bond, dated November 19, 2020.
18. **Conceptual** Building Floor Plans, prepared by Tighe and Bond, dated January 2, 2020 (conceptual submission only – non-binding as to layout or bedroom composition).
19. Preliminary Construction Management Plan, prepared by Tighe and Bond, dated December 1, 2021.
20. Proposed Conditions of Approval, drafted by Ari B. Pollack, Esq., dated February 3, 2021.
21. 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 (the, “Settlement Agreement”).

Please let us know if you have any questions.

Thanks,

Joe

Joseph Persechino, PE

Vice President

Tighe&Bond

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PLANNING BOARD FINDINGS FOR CONDITIONAL USE PERMIT

A. WETLANDS CONSERVATION OVERLAY DISTRICT (WCOD)

The proposed Mill Plaza Redevelopment project involves uses and activities within a Wetland Conservation Overlay District (WCOD), specifically the 75-foot upland buffer strip adjacent to a wetland associated with College Brook. These uses and activities include the following:

- Modifications to the site entrance from Mill Road;
- Modifications to the primary internal access way along the southwesterly edge of the property, including areas of excavation and fill to recontour the access way and accommodate stormwater flow;
- Construction of a curbed, raised pedestrian walkway between Mill Road and the rear of the site, and a multiuse path continuing to Chesley Drive;
- Installation of underground conduit for electrical services;
- Construction of stormwater facilities including catch basins, manholes, pipes, an underground detention facility, a gravel wetland, and a new outfall into College Brook;
- Construction of a retaining wall between the parking area and the gravel wetland.

The Planning Board finds that each of the above uses and activities require conditional use approval under Section 175-61 of the Zoning Ordinance that was in effect on September 26, 2014.

WCOD SPECIFIC CRITERIA

For each of the above uses of land within the WCOD, the Planning Board finds that all of the following standards [**have / have not**] been met:

1. There [**is no / is an**] alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;

Comments/Rationale:

2. The amount of soil disturbance [**will / will not**] be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;

Comments/Rationale:

3. The location, design, construction, and maintenance of the facilities **[will / will not]** minimize any detrimental impact on the wetland and mitigation activities **[will / will not]** be undertaken to counterbalance any adverse impacts; and

Comments/Rationale:

4. Restoration activities **[will / will not]** leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.

Comments/Rationale:

WCOD PERFORMANCE STANDARDS

The Planning Board finds that all buildings and structures **[will / will not]** be erected, altered, enlarged or moved and all land within the WCO District **[will / will not]** be used in accordance with the performance standards set forth in Section 175-65 of the Zoning Ordinance, including providing a naturally vegetated buffer strip (175-65(A)) and using best management practices for sedimentation and erosion control (175-65(B)).

Comments/Rationale:

GENERAL STANDARDS FOR CONDITIONAL USES

The Planning Board finds that the application to allow each of the proposed structures and uses of land within the WCOD **[conforms / does not conform]** to all of the conditional use permit criteria listed in section 175-23(C) of the Zoning ordinance, as follows:

1. Site suitability: The site **[is / is not]** suitable for the proposed uses of land within the WCOD. This includes:
 - a. **[Adequate / inadequate]** vehicular and pedestrian access for the intended uses.

Comments/Rationale:

- b. The **[availability / lack]** of adequate public services to serve the intended uses including emergency services, pedestrian facilities, schools, and other municipal services.

Comments/Rationale:

- c. The **[absence / presence]** of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.

Comments/Rationale:

- d. The **[availability / lack]** of appropriate utilities to serve the intended uses including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

Comments/Rationale:

2. External impacts: The external impacts on abutting properties and the neighborhood of the proposed structures and uses of land within the WCOD – including but not limited to traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare – **[will be no greater / will be greater]** than the impacts of adjacent existing uses or other uses permitted in the zone.

Comments/Rationale:

In addition, the location, nature, design, and height of the structures and appurtenances, their scale with reference to their surroundings, and the nature and intensity of the proposed uses, **[will not / will]** have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

Comments/Rationale:

3. Character of the site development: The layout and design of the proposed structures and uses of land within the WCOD **[will / will not]** be compatible with the established character of the neighborhood and **[will / will not]** mitigate any external impacts of the use on the neighborhood.

This includes, but is not limited to, the amount, location, and screening of off-street parking; the treatment of yards and setbacks; the buffering of adjacent properties; and provisions for vehicular and pedestrian access to and within the site.

Comments/Rationale:

4. Character of the structures: The design of new structures within the WCOD **[will / will not]** be compatible with the established character of the neighborhood. This includes, but is not limited to, the scale, height, and massing of the structures; and the materials and colors proposed to be used.

Comments/Rationale:

5. Preservation of natural, cultural, historic, and scenic resources: The proposed uses of land within the WCOD **[will / will not]** preserve identified natural, cultural, historic, and scenic resources on the site and **[will not / will]** degrade such identified resources on abutting properties. These resources include, but are not limited to, identified wetlands, floodplains, significant wildlife habitat, stone walls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

Comments/Rationale:

6. Impact on property values: The proposed uses of land within the WCOD **[will not / will]** cause or contribute to a significant decline in property values of adjacent properties.

Comments/Rationale:

7. Availability of public services and facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public and private services, **[are / are not]** approved or assured, to the end that the use **[will / will not]** be capable of proper operation. In addition, these services **[will not / will]** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

Comments/Rationale:

8. Fiscal impacts: The proposed uses of land within the WCOD [**will not** / **will**] have a negative fiscal impact on the Town.

Comments/Rationale:

CONDITIONS OF APPROVAL

The Planning Board finds that the following conditions are necessary to further the objectives of the Zoning Ordinance and the Master Plan, or would otherwise allow the above specific and general approval criteria to be satisfied:

- 1.
- 2.
- 3.
- 4.
- 5.

[Examples of potential conditions of approval, as listed in Section 175-23(D) of the Zoning Ordinance, are presented on page 17 below.]

PLANNING BOARD FINDINGS FOR CONDITIONAL USE PERMIT

B. SHORELAND PROTECTION OVERLAY DISTRICT (SPOD)

The Planning Board finds that the proposed project involves uses and activities within a Shoreland Protection Overlay District (SPOD), specifically the land on the site within 75 feet of College Brook (per section 175-70 of the Zoning Ordinance), including the following:

- Modifications to the site entrance from Mill Road;
- Modifications to the primary internal access way along the southwesterly edge of the property, including areas of excavation and fill to recontour the access way and accommodate stormwater flow;
- Construction of a curbed, raised pedestrian walkway between Mill Road and the rear of the site, and a multiuse path continuing to Chesley Drive;
- Installation of underground conduit for electrical services;
- Construction of stormwater facilities including catch basins, manholes, pipes, an underground detention facility, a gravel wetland, and a new outfall into College Brook;
- Construction of a retaining wall between the parking area and the gravel wetland.

The Planning Board finds that each of the above uses and activities require conditional use approval under Section 175-72 of the Zoning Ordinance that was in effect on September 26, 2014.

In addition, the Planning Board finds that the project involves uses and activities within the 25-foot shoreland setback from College Brook (per section 175-74(A)(3)), including the following:

- Modifications to the site entrance from Mill Road;
- Modifications to an existing stormwater outfall at the westerly corner of the site, adjacent to the culvert carrying College Brook under Mill Road;
- Construction of a new stormwater outlet at the easterly corner of the site;
- Construction of a small section of retaining wall;
- Bank stabilization and buffer restoration activities.

The Board finds that these uses within the shoreland setback **[are / are not]** set back the maximum practical distance from the reference line of College Brook and therefore **[are / are not]** permissible.

Comments/Rationale:

SPOD SPECIFIC CRITERIA

For each of the above uses of land within the SPOD, the Planning Board finds that all of the following standards **[have / have not]** been met:

1. There **[is no / is an]** alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;

Comments/Rationale:

2. The amount of soil disturbance **[will / will not]** be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;

Comments/Rationale:

3. The location, design, construction, and maintenance of the facilities **[will / will not]** minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities **[will / will not]** be undertaken to counterbalance any adverse impacts; and

Comments/Rationale:

4. Restoration activities **[will / will not]** leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.

Comments/Rationale:

SPOD PERFORMANCE STANDARDS

The Planning Board finds that all buildings and structures **[will / will not]** be erected, altered, enlarged or moved and all land within the SPO District **[will / will not]** be used in accordance with the performance standards set forth in Section 175-75.1 of the Zoning Ordinance, including providing a natural woodland or naturally vegetated buffer strip (175-75.1(A)) and using best management practices for sedimentation and erosion control (175-75.1(D)).

Comments/Rationale:

GENERAL STANDARDS FOR CONDITIONAL USES

The Planning Board finds that the application to allow each of the proposed structures and uses of land within the SPOD **[conforms / does not conform]** to all of the approval criteria listed in section 175-23(C) of the Zoning Ordinance (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application), as follows:

1. Site suitability: The site **[is / is not]** suitable for the proposed uses of land within the SPOD. This includes:
 - a. **[Adequate / inadequate]** vehicular and pedestrian access for the intended uses.
 - b. The **[availability / lack]** of adequate public services to serve the intended uses including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The **[absence / presence]** of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The **[availability / lack]** of appropriate utilities to serve the intended uses including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

Comments/Rationale:

2. External impacts: The external impacts on abutting properties and the neighborhood of the proposed structures and uses of land within the SPOD – including but not limited to traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare – **[will be no greater / will be greater]** than the impacts of adjacent existing uses or other uses permitted in the zone.

Comments/Rationale:

In addition, the location, nature, design, and height of the structures and appurtenances, their scale with reference to their surroundings, and the nature and intensity of the proposed uses, **[will not / will]** have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

Comments/Rationale:

3. Character of the site development: The layout and design of the proposed structures and uses of land within the SPOD **[will / will not]** be compatible with the established character of the neighborhood and **[will / will not]** mitigate any external impacts on the neighborhood. This includes, but is not limited to, the amount, location, and screening of off-street parking; the treatment of yards and setbacks; the buffering of adjacent properties; and provisions for vehicular and pedestrian access to and within the site.

Comments/Rationale:

4. Character of the structures: The design of new structures within the SPOD **[will / will not]** be compatible with the established character of the neighborhood. This includes, but is not limited to, the scale, height, and massing of the structures; and the materials and colors proposed to be used.

Comments/Rationale:

5. Preservation of natural, cultural, historic, and scenic resources: The proposed uses of land within the SPOD **[will / will not]** preserve identified natural, cultural, historic, and scenic resources on the site and **[will not / will]** degrade such identified resources on abutting properties. Such resources include, but are not limited to, identified wetlands, floodplains, significant wildlife habitat, stone walls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

Comments/Rationale:

6. Impact on property values: The proposed uses of land within the SPOD **[will not / will]** cause or contribute to a significant decline in property values of adjacent properties.

Comments/Rationale:

7. Availability of public services and facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public and private services, **[are / are not]** approved or assured, to the end that the use **[will / will not]** be capable of proper operation. In addition, these services **[will not / will]** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

Comments/Rationale:

8. Fiscal impacts: The proposed uses of land within the SPOD **[will not / will]** have a negative fiscal impact on the Town.

Comments/Rationale:

CONDITIONS OF APPROVAL

The Planning Board finds that the following conditions are necessary to further the objectives of the Zoning Ordinance and the Master Plan, or would otherwise allow the above specific and general approval criteria to be satisfied:

- 1.
- 2.
- 3.
- 4.
- 5.

[Examples of potential conditions of approval, as listed in Section 175-23(D) of the Zoning Ordinance, are presented on page 17 below.]

PLANNING BOARD FINDINGS FOR CONDITIONAL USE PERMIT

C. MIXED USE WITH RESIDENTIAL AND PARKING

The proposed Mill Plaza Redevelopment project includes the construction of a mixed-use building with retail and office uses on the first two floors and multiunit residences on the third and fourth floors, and a second mixed-use building with retail, office and parking uses on the first floor and multiunit residents on the second and third floor.

APPLICABLE ZONING PROVISIONS

The Zoning Ordinance that was in effect on September 26, 2014, allowed three types of “Mixed Use” development in the Central Business (CB) district by conditional use permit:

- Mixed Use with residential (office/retail down, multiunit residential up)
- Mixed Use with parking (parking and office/retail)
- Mixed Use with parking (parking and office)

The Planning Board finds that the proposed four-story building containing two floors of retail/office and two floors of multiunit residential is “Mixed Use with residential” according to the Ordinance; and that the proposed three-story building with parking and nonresidential on the ground floor and multiunit residential on the upper floors blends the “Mixed Use with residential” use with the two “Mixed Use with parking” uses; and therefore that both buildings are Mixed Use buildings which the Board may allow by conditional use permit if it finds that the proposal conforms to all required conditional use permit criteria.

GENERAL STANDARDS FOR CONDITIONAL USES

The Planning Board finds that the application to allow two Mixed Use buildings as part of the Mill Plaza Redevelopment project **[conforms / does not conform]** to all of the conditional use permit approval criteria listed in section 175-23(C) of the Zoning Ordinance (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application), as follows:

1. Site suitability: The site **[is / is not]** suitable for the proposed use. This includes:
 - a. **[Adequate / inadequate]** vehicular and pedestrian access for the intended use.
 - b. The **[availability / lack]** of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The **[absence / presence]** of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The **[availability / lack]** of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

Comments/Rationale:

2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood **[will be no greater / will be greater]** than the impacts of adjacent existing uses or other uses permitted in the zone. These impacts include but are not limited to traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.

Comments/Rationale:

In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, **[will not / will]** have an adverse effect on the surrounding environment and **[will not / will]** discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

Comments/Rationale:

3. Character of the site development: The proposed layout and design of the site **[will / will not]** be compatible with the established character of the neighborhood and **[will / will not]** mitigate any external impacts of the use on the neighborhood. This includes, but is not limited to, the relationship of the buildings to the street; the amount, location, and screening of off-street parking; the treatment of yards and setbacks; the buffering of adjacent properties; and provisions for vehicular and pedestrian access to and within the site.

Comments/Rationale:

4. Character of the buildings and structures: The design of the new buildings and structures and the modification of the existing building on the site **[will / will not]** be compatible with the established character of the neighborhood. This includes, but is not limited to, the scale, height, and massing of the buildings and structures; the roof lines; the architectural treatments of the front elevations; the locations of the principal entrances, and the materials and colors proposed to be used.

Comments/Rationale:

5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, **[will / will not]** preserve identified natural, cultural,

historic, and scenic resources on the site and **[will not / will]** degrade such identified resources on abutting properties. These resources include, but are not limited to, identified wetlands, floodplains, significant wildlife habitat, stone walls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

Comments/Rationale:

6. Impact on property values: The proposed use **[will not / will]** cause or contribute to a significant decline in property values of adjacent properties.

Comments/Rationale:

7. Availability of public services and facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public and private services, **[are / are not]** approved or assured, to the end that the use **[will / will not]** be capable of proper operation. In addition, these services **[will not / will]** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

Comments/Rationale:

8. Fiscal impacts: The proposed use **[will not / will]** have a negative fiscal impact on the Town.

Comments/Rationale:

CONDITIONS OF APPROVAL

The Planning Board finds that the following conditions are necessary to further the objectives of the Zoning Ordinance and the Master Plan, or will otherwise allow the required approval criteria to be satisfied:

- 1.
- 2.
- 3.

PLANNING BOARD FINDINGS FOR CONDITIONAL USE PERMIT

D. DRIVE-THROUGH FACILITY ACCESSORY TO A FINANCIAL INSTITUTION

The proposed Mill Plaza Redevelopment project includes a drive-through facility to serve a bank use, comprising both a drive-up window and an automated teller machine (ATM).

APPLICABLE ZONING PROVISION

The Zoning Ordinance that was in effect on September 26, 2014, allowed “Drive through facility accessory to a financial institution” in the Central Business (CB) district by conditional use permit. The Ordinance defined “drive through facility” as “A service facility [...] that is intended to enable the customer to transact business with a person located within a structure or a machine without exiting the motor vehicle.”

The Planning Board finds that the proposed drive through facility, including both a window and an ATM, may be allowed by conditional use permit if the Board finds that the proposal conforms to all required conditional use permit criteria.

GENERAL STANDARDS FOR CONDITIONAL USES

The Planning Board finds that the application to allow an accessory drive-through facility within the Mill Plaza Redevelopment **[conforms / does not conform]** to all of the conditional use permit criteria listed in section 175-23(C) of the Zoning Ordinance (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application), as follows::

1. Site suitability: The site **[is / is not]** suitable for the proposed use. This includes:
 - a. **[Adequate / inadequate]** vehicular and pedestrian access for the intended use.
 - b. The **[availability / lack]** of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The **[absence / presence]** of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The **[availability / lack]** of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

Comments/Rationale:

2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood **[will be no greater / will be greater]** than the impacts of adjacent existing uses or other uses permitted in the zone. These impacts include but are not limited to traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.

In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, **[will not / will]**

have an adverse effect on the surrounding environment and **[will not / will]** discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

Comments/Rationale:

3. Character of the site development: The proposed layout and design of the site **[will / will not]** be compatible with the established character of the neighborhood and **[will / will not]** mitigate any external impacts of the use on the neighborhood. This includes, but is not limited to, the relationship of the buildings to the street; the amount, location, and screening of off-street parking; the treatment of yards and setbacks; the buffering of adjacent properties; and provisions for vehicular and pedestrian access to and within the site.

Comments/Rationale:

4. Character of the buildings and structures: The design of the new buildings and structures and the modification of the existing building on the site **[will / will not]** be compatible with the established character of the neighborhood. This includes, but is not limited to, the scale, height, and massing of the buildings and structures; the roof lines; the architectural treatments of the front elevations; the locations of the principal entrances, and the materials and colors proposed to be used.

Comments/Rationale:

5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, **[will / will not]** preserve identified natural, cultural, historic, and scenic resources on the site and **[will not / will]** degrade such identified resources on abutting properties. These resources include, but are not limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

Comments/Rationale:

6. Impact on property values: The proposed use **[will not / will]** cause or contribute to a significant decline in property values of adjacent properties.

Comments/Rationale:

7. Availability of public services and facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public and private services, **[are / are not]** approved or assured, to the end that the use **[will / will not]** be capable of proper operation. In addition, these services **[will not / will]** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

Comments/Rationale:

8. Fiscal impacts: The proposed use **[will not / will]** have a negative fiscal impact on the Town.

Comments/Rationale:

CONDITIONS OF APPROVAL

The Planning Board finds that the following conditions are necessary to further the objectives of the Zoning Ordinance and the Master Plan, or would otherwise allow the above criteria to be satisfied:

- 1.
- 2.
- 3.
- 4.
- 5.

[Examples of potential conditions of approval, as listed in Section 175-23(D) of the Zoning Ordinance, are presented on page 17 below.]

EXAMPLES OF CONDITIONS OF APPROVAL

(From Section 175-23(D) of the Zoning Ordinance)

1. Front, side, and rear setbacks in excess of the minimum requirements of the Ordinance.
2. Screening of the premises from the street or adjacent property in excess of any minimum requirements of the Ordinance.
3. Landscaping in excess of any minimum requirements of the Ordinance.
4. Modification of the exterior features of buildings or other structures.
5. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of the Ordinance.
6. Footprint or lot coverage less than the allowed maximum of the Ordinance.
7. Limitations on the number of occupants and methods and times of operation.
8. Grading of the premises for proper drainage.
9. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
10. Off-street parking and loading spaces in excess of, or less than, the minimum requirements of the Ordinance.
11. Other performance standards as appropriate.