



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, April 13, 2022

VIII. ***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 continue deliberations on the applications, beginning with the requested conditional use permits for the mixed-use development and the drive-through facility, and then continue the matter to a future meeting.

Please note the following:

- 1) Recap of previous meeting: On March 9, 2022, the Planning Board began deliberations on the application. The Board voted to grant the conditional use permits for the WCOD and SPOD districts and directed me to present draft decisions at the next meeting. The Board continued its deliberations on the remaining applications to its April 13, 2022, meeting.
- 2) Attached to this report are my drafts of the decisions on the WCOD and SPOD conditional use permits. You will note that the decisions follow the same format as the templates that I provided, with the addition of bulleted "considerations" that the Board took into account in making its decisions. I drafted these points based on my notes from the March 9 meeting. Please review them carefully and be prepared to suggest any wording changes or additions.

The draft decisions also include four proposed conditions of approval, which are identical between the two decisions. In each case, the first two conditions (traffic safety improvements and a water quality analysis program) were discussed at the March 9 meeting. The other two proposed conditions (tying the conditional use permit to the December 1 site plan and to the current property owner) are meant to ensure that no significant plan changes will be made without the Board's review and approval.

- 3) The next items to be addressed at the April 13 meeting are the requested conditional use permits related to the uses on the site. These are for the principal use of "Mixed Use with

residential (office/retail down, multiunit residential up)” and for the accessory use of “Drive through facility accessory to a financial institution.” I have again attached the templates for discussing the zoning ordinance’s criteria for granting these two conditional use permits. You will likely find that the general criteria for all conditional use permits make more sense for these two applications than they did for the WCOD and SPOD permits.

Please keep in mind that for each requested conditional use permit the Board must deliberate on each of the standards for that permit but take only vote to approve or deny the permit. That is, the Board will not vote on each standard separately, but instead will vote as to whether or not the proposed use complies with all of the standards for that particular conditional use permit. As the Town’s attorney has advised the Board, there is no “balancing” of standards involved: the fact that a proposal may strongly meet most of the standards would not override the failure to meet just one of them.

- 4) Section 175-23.D of the zoning ordinance provides that the Board shall attach conditions to its approval of a conditional use permit where it determines that such conditions are “necessary to further the objectives of this ordinance and the Master Plan, or ... would otherwise allow the general conditions of this article to be satisfied.” The kinds of conditions which the Board is authorized to attach to an approval include, but are not limited to, the following:
 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.

Any conditions of approval must be stated in the issuance of a conditional use permit. Therefore, it would be important at the time of voting to approve a requested permit to state any conditions that Board members find necessary to support the decision.

- 5) If the Board completes its deliberations and votes to approve the remaining two applications for conditional use permits at this meeting, the next step would be to move on to consideration of the application for site plan approval. I anticipate that this would

entail a significant amount of time because this is the opportunity for the Board to look at the details of the site plan and the entire site (i.e., not limited to the portions of the site within the environmental overlay districts), and to consider specific changes and conditions that were not pertinent to the WCOD/SPOD applications. I do not expect that the Board will be able complete the site plan review and decision on April 13, but it might be possible to begin the discussion before continuing the matter to a future meeting.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
April 7, 2022

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 lighting fixtures and underground conduit for electrical services; and
- Construction of stormwater facilities including catch basins, manholes, pipes, an underground detention facility, a gravel wetland, and a new outfall into College Brook.

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** been met:

1. There **is no** alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;
2. The amount of soil disturbance **will** be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
3. The location, design, construction, and maintenance of the facilities **will** minimize any detrimental impact on the wetland and mitigation activities **will** be undertaken to counterbalance any adverse impacts; and
4. Restoration activities **will** leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.

In making these findings, the Board takes the following considerations into account:

- The proposed scale of the shopping center and other components of the mixed-use redevelopment of the site requires a certain area to be used for vehicular circulation and parking, as well as facilities for stormwater management; and such accommodations require that development of the site extend into the upland buffer.
- The site driveway entrance should not be moved because the existing location is the safest in terms of sight lines and distance from Main Street.

- The access drive along the southerly side of the parking area should not curve away from the wetland for reasons of safety and efficiency. Electrical and stormwater infrastructure should follow the location of the access way.
- Soil disturbance is necessary in order to reduce the amount of paved area and expand the amount of vegetated area within the buffer, and to regrade portions of the stream bank to control erosion.
- In its existing condition, the upland buffer strip is severely degraded. The proposed site plan will expand the vegetated area within the buffer, and the proposed restoration activities in the upland buffer strip (including some regrading) will improve the condition of the buffer over its existing condition. Thus, while the restoration activities will not literally leave the site “in its existing condition and grade,” these activities will meet the intent of the ordinance by improving upon the existing conditions.

WCOD PERFORMANCE STANDARDS

The Planning Board finds that all buildings and structures **will** be erected, altered, enlarged or moved and all land within the WCO District **will** 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)).

In making this finding, the Board takes the following considerations into account:

- The proposed project includes buffer restoration activities within 50 feet of the wetland edge. These activities, while violating the letter of the prohibition in Section 175-65(A) against any soil disturbance within 50 feet of the wetland, will be environmentally beneficial and clearly meet the spirit of the ordinance.
- The proposed project also includes soil disturbances within the 50-foot no-disturbance area for alterations of the driveway entrance and for construction of a vehicular access way, sidewalk, walkway and stormwater management facilities. However, these activities will all take place within existing developed areas of the site and do not create new disturbances of natural areas. Therefore, the Board finds that they do not violate the intent of Section 175-65(A).
- The project’s provision for sedimentation and erosion control will be reviewed as part of the State’s Alteration of Terrain Permit process, providing further oversight and protection of the wetland.

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** 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** suitable for the proposed uses of land within the WCOD. This includes:

- a. **Adequate** vehicular and pedestrian access for the intended uses.
 - The Board noted a continuing concern about pedestrian safety at the site driveway on Mill Road and suggests that it may be appropriate to install a raised crosswalk across the driveway.
 - b. The **availability** of adequate public services to serve the intended uses including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The **presence** of environmental constraints (floodplain, steep slope, etc.) and development of a plan to substantially mitigate the impacts of those constraints.
 - The buffer restoration plan included in the proposed site plan will substantially mitigate the impacts of constraints including a steep bank from the development site down to the College Brook floodplain.
 - The stormwater management and treatment components of the proposed site plan will reduce existing impacts on the brook and wetlands.
 - d. The **availability** of appropriate utilities to serve the intended uses including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
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** than the impacts of adjacent existing uses or other uses permitted in the zone.
 - The major potential impact from structures and uses of land within the WCOD would be light from traffic on the access drive, which the Board believes will be adequately controlled by conditions on the site plan relating to buffering.

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** have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

3. Character of the site development: The layout and design of the proposed structures and uses of land within the WCOD **will** be compatible with the established character of the neighborhood and **will** 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.
4. Character of the structures: The design of new structures within the WCOD **will** 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.
5. Preservation of natural, cultural, historic, and scenic resources: The proposed uses of land within the WCOD **will** preserve **and restore** identified natural, cultural, historic, and scenic resources on the site and **will not** 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.

- The areas of the site within the WCOD consist primarily of pavement and impaired stream buffer. There are no identified cultural, historic or scenic resources within the WCOD portion of the site. The proposed activities will enhance the natural resource (College Brook and the buffer) by removing pavement, adding vegetation to the buffer and treating stormwater runoff before it is discharged into the brook.
6. Impact on property values: The proposed uses of land within the WCOD **will not** cause or contribute to a significant decline in property values of adjacent properties.
 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** approved or assured, to the end that the use **will** be capable of proper operation. In addition, these services **will not** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.
 8. Fiscal impacts: The proposed uses of land within the WCOD **will not** have a negative fiscal impact on the Town.

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. The Board refers the proposed redevelopment project to the Traffic Safety Committee for identification of additional safety improvements at the driveway entrance, which should be implemented prior to occupancy of the proposed new buildings.
2. A water quality sampling and analysis plan shall be developed and implemented by the property owner. The plan shall include collection and analysis of water samples at three locations: (1) the outflow from the Mill Road culvert, including the contributions from the Town's system; (2) the outflow from the project's stormwater system at the southeast corner of the site; and (3) the southeast property line where College Brook leaves the property. Dates and times of sampling shall be coordinated with the Town Engineer.
3. This approval applies to the specific site plan as revised on December 1, 2021. Any change in the plan that is determined by the Town Planner to be significant in respect to activities within the 75-foot upland buffer shall require a new hearing and approval by the Planning Board.
4. This conditional use permit is granted solely to the applicant, Colonial Durham Associates, and may not be transferred to another entity without the express approval of the Durham Planning Board.

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 lighting facilities and underground conduit for electrical services; and
- Construction of stormwater facilities including catch basins, manholes, pipes, an underground detention facility, a gravel wetland, and a new outfall into College Brook.

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;
- Installation of lighting facilities and underground conduit for electrical services;
- Construction of a new stormwater outlet at the easterly corner of the site; and
- Bank stabilization and buffer restoration activities.

The Board finds that these uses within the shoreland setback **are** set back the maximum practical distance from the reference line of College Brook and therefore **are** permissible. In making this finding, the Board takes the following considerations into account:

- The Board determined that the existing driveway is in the most practical location because relocation away from the brook would require more extensive site work within the buffer zone and would also result in reduction of parking spaces, with adverse impacts to the development program.
- Relocating the stormwater outlet out of the 25-foot shoreland setback would not eliminate site modifications within the setback because of the need to create a longer channel between the outlet and the brook.

- The stream bank and the steep slope from the development site down to the brook are largely within the 25-foot setback and therefore bank stabilization and buffer restoration activities must take place within the setback.

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** been met:

1. There **is no** alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;
2. The amount of soil disturbance **will** be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;
3. The location, design, construction, and maintenance of the facilities **will** minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities **will** be undertaken to counterbalance any adverse impacts; and
4. Restoration activities **will** leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.

In making these findings, the Board takes the following considerations into account:

- The proposed scale of the shopping center and other components of the mixed-use redevelopment of the site requires a certain area to be used for vehicular circulation and parking, as well as facilities for stormwater management; and such accommodations require that development of the site extend into the Shoreland Protection Overlay District (SPO).
- Soil disturbance is necessary in order to reduce the amount of paved area and expand the amount of vegetated area within the SPO, and to regrade portions of the stream bank to control erosion.
- In its existing condition, the SPO is severely degraded, consisting of pavement and impaired vegetated buffer. The proposed activities within the SPO include removal of pavement, plantings, bank stabilization and restoration of the vegetated buffer. The proposed site plan will expand the vegetated area within the SPO, and the proposed restoration activities in the SPO (including some regrading) will improve the condition of the SPO over its existing condition. Thus, while the restoration activities will not literally leave the site “in its existing condition and grade,” these activities will meet the intent of the ordinance by improving upon the existing conditions.

SPOD PERFORMANCE STANDARDS

The Planning Board finds that all buildings and structures **will** be erected, altered, enlarged or moved and all land within the SPO District **will** 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)).

In making this finding, the Board takes the following considerations into account:

- The proposed project includes buffer restoration activities within 50 feet of the reference line of College Brook. These activities, while violating the letter of the prohibition in Section 175-75.1(A) against any soil disturbance within 50 feet of the Brook, will be environmentally beneficial and clearly meet the spirit of the ordinance.
- The proposed project also includes soil disturbances within the 50-foot no-disturbance area for alterations of the driveway entrance and for construction of a vehicular access way, sidewalk, walkway and stormwater management facilities. However, these activities will all take place within existing developed areas of the site and do not create new disturbances of natural areas. Therefore, the Board finds that they do not violate the intent of Section 175-75.1(A).

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** 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** suitable for the proposed uses of land within the SPOD. This includes:
 - a. **Adequate** vehicular and pedestrian access for the intended uses.
 - The Board noted a continuing concern about pedestrian safety at the site driveway on Mill Road and suggests that it may be appropriate to install a raised crosswalk across the driveway.
 - b. The **availability** of adequate public services to serve the intended uses including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The **presence** of environmental constraints (floodplain, steep slope, etc.) and development of a plan to substantially mitigate the impacts of those constraints.
 - The buffer restoration plan included in the proposed site plan will substantially mitigate the impacts of constraints including a steep bank from the development site down to the College Brook floodplain.
 - d. The **availability** of appropriate utilities to serve the intended uses including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
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** than the impacts of adjacent existing uses or other uses permitted in the zone.

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** have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

3. Character of the site development: The layout and design of the proposed structures and uses of land within the SPOD **will** be compatible with the established character of the neighborhood and **will** 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.
4. Character of the structures: The design of new structures within the SPOD **will** 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.
5. Preservation of natural, cultural, historic, and scenic resources: The proposed uses of land within the SPOD **will** preserve identified natural, cultural, historic, and scenic resources on the site and **will not** 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.
 - The areas of the site within the SPO District consist primarily of pavement and impaired stream buffer. There are no identified cultural, historic or scenic resources within the SPO portion of the site. The proposed activities will enhance the natural resource (College Brook and the buffer) by removing pavement, adding vegetation to the buffer and treating stormwater runoff before it is discharged into the brook.
6. Impact on property values: The proposed uses of land within the SPOD **will not** cause or contribute to a significant decline in property values of adjacent properties.
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** approved or assured, to the end that the use **will** be capable of proper operation. In addition, these services **will not** cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.
8. Fiscal impacts: The proposed uses of land within the SPOD **will not** have a negative fiscal impact on the Town.
 - The proposed uses of land within the SPOD include removal of pavement, adding plantings, bank stabilization, stormwater treatment, and buffer restoration, all of which should be beneficial to the Town.

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. The Board refers the proposed redevelopment project to the Traffic Safety Committee for identification of additional safety improvements at the driveway entrance, which should be implemented prior to occupancy of the proposed new buildings.
2. A water quality sampling and analysis plan shall be developed and implemented by the property owner. The plan shall include collection and analysis of water samples at three locations: (1) the

outflow from the Mill Road culvert, including the contributions from the Town's system; (2) the outflow from the project's stormwater system at the southeast corner of the site; and (3) the southeast property line where College Brook leaves the property, Dates and times of sampling shall be coordinated with the Town Engineer.

3. This approval applies to the specific site plan as revised on December 1, 2021. Any change in the plan that is determined by the Town Planner to be significant in respect to activities within the 75-foot SPO District or the 25-foot shoreland setback shall require a new hearing and approval by the Planning Board.
4. This conditional use permit is granted solely to the applicant, Colonial Durham Associates, and may not be transferred to another entity without the express approval of the Durham Planning Board.

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, 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 will otherwise allow the required approval criteria to be satisfied:

- 1.
- 2.

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.