



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, April 28, 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 it to a date in May, to be determined by the Board.

Please note the following:

- 1) Recap of previous meeting: On March 24, 2021, the Planning Board opened the continued public hearing on the revised Site Plan for the Mill Plaza redevelopment project. Project engineer Joe Persechino described the changes to the proposed site plan incorporated in the revised plan set dated March 10, 2021, and presented the proposed buffer restoration plan.

Public comment focused on the number of proposed parking spaces, landscaping within the parking lots, pedestrian connection to Main Street, wetland and shoreland buffer impacts, compliance with the 2014 settlement agreement, and College Brook water quality. Board members discussed possible approaches to reduce the number of parking spaces and expand the upland buffer, concerns about pedestrian safety, and potential inclusion of electric vehicle charging stations.

Following public comment and discussion by Board members, the Board voted to continue the hearing to April 28, 2021.

- 2) Energy Considerations Checklist: On April 15 Joe Persechino and I met with Nat Balch, chair of the Energy Committee, and Audrey Cline to discuss the Energy Considerations Checklist that has been submitted with the Mill Plaza applications. Because detailed architectural drawings have not yet been developed, the meeting focused primarily on items 5-7 of the checklist, which address site issues such as solar energy, parking, transportation and landscaping. The Town representatives provided

information and recommendations for the applicant's design team to consider when they move on to detailed building design.

3) Topics for April 28 meeting:

- Chris Granatini of Tighe & Bond will present the applicant's response to the peer review of the Traffic Impact Study. Erica Wygonik of RSG, our traffic peer reviewer, will also be in attendance to answer any questions from the Board.
- If time permits, the Board may want to begin discussion of the required findings for the requested conditional use permits, as well as any suggestions for further plan revisions.

4) Findings and conditions of approval: Attached again for your reference are the findings that the Board must make in order to grant a conditional use permit, and a list of the types of conditions that the Board may attach to a conditional use approval.

- Required findings for all conditional use permits are listed beginning on page 3. These apply to all four of the requested conditional use permits, i.e., mixed-use development, bank drive-through, uses in the WCOD, and uses in the SPOD.
- Additional required findings for the WCOD and SPOD conditional use permits are listed on page 5.
- A non-exclusive list of the types of conditions that might be incorporated into any of the requested conditional use approvals is presented on page 6.

5) Updated Schedule for Review and Action.

An updated timeline for Planning Board review of and action on the Mill Plaza applications is appended on page 7. As always, this schedule is subject to change based on actual progress at upcoming meetings.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
April 22, 2021

Attachments: Required Findings – All Conditional Use Permits
Required Findings – WCOD and SPOD Conditional Use Permits
Conditions of Approval – All Conditional Use Permits
Updated Timeline

REQUIRED FINDINGS – ALL CONDITIONAL USE PERMITS
Zoning Ordinance, 175-23C

A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

1. Site suitability: The site is suitable for the proposed use. This includes:
 - a. Adequate vehicular and pedestrian access for the intended use.
 - b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be 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, shall 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 proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building 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.
4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.
5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands,

floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

6. Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.
7. Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that 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 use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.

**REQUIRED FINDINGS – CONDITIONAL USE PERMITS FOR ACTIVITIES IN
THE WETLAND CONSERVATION OVERLAY DISTRICT (WCOD)
AND SHORELAND PROTECTION OVERLAY DISTRICT (SPOD)**

In order to grant the requested conditional use permits for uses in the WCOD and SPOD, the Planning Board must find that the application complies with the specific criteria for each overlay district. The criteria for both districts are essentially identical, and are as follows:

WCOD Zoning Ordinance, 175-61B	SPOD Zoning Ordinance, 175-72B
1. There is no alternative location on the parcel that is outside of the WCOD that is <u>reasonably practical</u> * for the proposed use;	1. There is no alternative location on the parcel that is outside of the SPOD that is <u>reasonable practical</u> * 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;	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 <u>minimize any detrimental impact on the wetland</u> and mitigation activities will be undertaken to counterbalance any adverse impacts; and	3. The location, design, construction, and maintenance of the facilities will <u>minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies</u> , 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.	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.

*The above criteria are the ones that are set forth in the current zoning ordinance. In the version of the ordinance that was in effect when the Mill Plaza application was vested, the first criterion in each case had a stricter provision, using the word “feasible” rather than the words “reasonably practical”. However, the applicant is entitled to consideration under the more current, more flexible standard.

CONDITIONS OF APPROVAL ALL CONDITIONAL USE PERMITS
Zoning Ordinance, 175-23D

Conditional Use Permit approvals shall be subject to appropriate conditions where such conditions are shown to be necessary to further the objectives of this ordinance and the Master Plan, or which would otherwise allow the general conditions of this article to be satisfied. Conditions of approval shall be stated in writing in the issuance of a permit. The conditions shall, if applicable, include, but are not limited to, the following:

1. Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.
2. Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.
3. Landscaping in excess of any minimum requirements of this 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 this Ordinance.
6. Footprint or lot coverage less than the allowed maximum of this 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 this Ordinance.
11. Other performance standards as appropriate.

MILL PLAZA REDEVELOPMENT
ESTIMATED TIMELINE FOR PLANNING BOARD REVIEW AND ACTION
Updated April 22, 2021

May 12, May 19 (special meeting) or June 9 – Planning Board

- Final presentations and discussion
- **Close public hearing**
- Review and act on waiver requests
- Findings and conditions of approval – conditional use permits
- Findings and conditions of approval – site plan review
- Direct planner to prepare draft Notice of Decision

June 16 or TBD – Colonial Durham Associates

- Submit final plan set and other required documents for approval

June 23 (or special meeting) – Planning Board

- Review draft Notice of Decision
- Final actions on 4 conditional use permits and application for site plan approval

July 14 or 28 (or special meeting) – Planning Board

- Review and approve final Notice of Decision