



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, May 19, 2021

- IV. ***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 (a) to close the hearing, or (b) to continue the hearing to June 23, 2021.

Please note the following:

- 1) Recap of previous meeting: On April 28, 2021, the Planning Board opened the continued public hearing on the revised Site Plan for the Mill Plaza redevelopment project. Chris Granatini, Tighe & Bond, reviewed the applicant's responses to the Traffic Impact Study. Erica Wygonik of RSG, the Board's traffic peer reviewer, responded to questions from the Board.

Public comment focused on pedestrian volumes and circulation, both on-site and off-site; development within the 75-foot wetland buffer; removal of vegetation on the side of Church Hill; and impacts on College Brook.

Following public comment and discussion by Board members, the Board voted to continue the hearing to May 19, 2021.

- 2) Recommended changes to Mill Road and Main Street crosswalks: At the April 28 meeting, two recommendations for changes to crosswalks were presented and discussed by the Board. The first recommendation is to move the southerly Mill Road crosswalk from the north side of the site driveway to the south side, in order to line up the crosswalk with the new site sidewalk and to reduce the number of lanes that pedestrians would have to cross. The second recommendation is to shift the Main Street crosswalk at the Madbury Road intersection (at the end of the walkway from Mill Plaza) a short distance to the west, in order to reduce the crossing distance and move pedestrians away from vehicle turning movements. The Traffic Safety Committee is scheduled to

meet on Friday, May 14, to review these two recommendations, and I anticipate that a report from the Committee will be presented at the May 19 meeting.

3) Topics for May 19 meeting:

- Discuss the recommended crosswalk changes, including the report from the Traffic Safety Committee. Determine if either or both changes should be incorporated as conditions of approval.
- Following public comment, decide whether to close the public hearing at this meeting or continue it to a future meeting (e.g., June 23).
- Discuss waivers requested by the applicant or required for site plan approval.
 - The Board has previously discussed, and indicated informal support for, waivers from three provisions of the site plan regulations: (1) the requirement for foundation planting strips along the fronts and sides of Buildings B and C that face parking lots or driveways; (2) the maximum number of parking spaces between landscaped median strips or islands; and (3) certain aspects of architectural design.
 - Other requested or required waivers (if any) should be identified at this time.
- Discuss conditions to be included in motions for approval of any of the four conditional use permits and the site plan. As set forth in Section 175-23D of the Zoning Ordinance, conditions of approval may include any of 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.

The conditional use permits for uses and activities in the WCOD and SPOD allow for additional conditions to address impacts to the wetland and shoreland resources that are protected by those overlay districts.

- Identify any and all revisions to be made to the site plans, and any additional documentation to be submitted, before final action on the applications.
 - Decide whether to move to deliberations at the June 23 meeting.
 - If so, the applicant will have to submit a complete set of updated or revised plans and documents by June 16.
- 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.
- Required findings for all conditional use permits are listed beginning on page 4. 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 6.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
May 13, 2021

Attachments: Required Findings – All Conditional Use Permits
Required Findings – WCOD and SPOD Conditional Use Permits

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.