



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, September 23, 2020

- X. ***Public Hearing - Mill Plaza Redevelopment***, 7 Mill Road. Continued review of application for site plan and conditional use for mixed use redevelopment project and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Emily Innes and Sharon Ames, Harriman, project designer. Ari Pollack, attorney. (Rick Taintor is serving as the Town's Contract Planner.) Central Business District. Map 5, Lot 1-1.
- I recommend that the Board reopen the public hearing and vote to continue it to October 14 or November 18, 2020.

Please note the following:

- 1) On August 26, 2020, the Planning Board opened the continued public hearing on the revised Site Plan for the Mill Plaza redevelopment project. Colonial Durham Associates' design team presented the proposed architectural design and heard comments from residents. The Board voted to continue the hearing to the September 23 meeting.
- 2) On Saturday, September 12, the CDA's design team held a second forum (via Zoom) to provide interested residents with an opportunity to further review and comment on the architectural design, with a particular focus on exterior colors. Like the previous forum, this one was not part of the Planning Board's site plan review process but was intended as a way for the applicant's design team to get additional public input in an informal setting. The design team will likely report on what they heard at the forum and what design changes, if any, will result.
- 3) On August 31 the applicant submitted a revised Traffic Impact and Access Study prepared by Tighe & Bond responding to concerns that I had raised about the original study. My concerns about the original traffic report included the following:
 - The report did not recognize any traffic impact from the residential component of the proposed development.
 - The report did not include traffic counts or analyses for the weekday morning and Saturday midday peak hours.

- The report did not assess the impacts of future traffic volumes on pedestrian safety and convenience, or consider the potential for improved accommodation for pedestrian crossings on Mill Road and Main Street.

The revised traffic study responds to these concerns as follows:

- Estimated traffic from the residential component has been added, with all residential trips shown as generated on the site and using the Mill Road site entrance. While it is not the applicant's intent to provide on-site parking for the residential use, this approach arguably presents a worst-case scenario for the Mill Road entrance. (If the residential parking is ultimately proposed to be provided on the Toomerfs parcel, a separate study should be carried out to identify impacts on Main Street traffic.)
- The revised report adds traffic counts, estimates and operation analyses for the Saturday midday peak hour.
- The revised report adds a paragraph describing two potential measures that might be undertaken by the Town to improve pedestrian safety but does not propose implementing either one as project mitigation measures.

On September 10 the Town's consultant, RSG, submitted a proposed scope and budget to conduct a peer review of the revised traffic study and to model the project's traffic using the Town's traffic model. I have requested Colonial Durham Associates to provide the funds to pay for RSG's work but at this point they are questioning RSG's cost proposal. I will not be able to issue a notice to proceed for the peer review until the cost and payment questions are resolved.

- 4) An ongoing issue relating to the application review and approval process is the question as to whether Colonial Durham Associates will be able to implement the proposed redevelopment project given the restrictions imposed by its lease with Hannaford. On August 10 Hannaford's Director of Real Estate wrote to the Board stating that Hannaford has "the right ... to approve or veto any proposed changes to the plaza" and that the proposed redevelopment project "will not have adequate parking ... unless at least 157 parking spaces from the Adjacent Parking Lot Project are dedicated to the Mill Plaza Project." [The "Adjacent Parking Lot Project" refers to the conceptual plan for a surface parking lot on the parcel at 19-21 Main Street, owned by Toomerfs, LLC, which was proposed to have vehicular access from Main Street but only pedestrian connections to Mill Plaza.] The letter also outlines other requirements for Hannaford's approval of the redevelopment project, relating to Colonial Durham Associates' management of the parking lot. As a result of this letter (following a previous letter dated November 4, 2019) several residents have again questioned whether the Board should continue to proceed with review of the project or should instead defer consideration until the two proposed projects can be reviewed and acted upon together.

As has been discussed previously, Colonial Durham's applications for conditional use permits and site plan approval for the proposed redevelopment of Mill Plaza address the

project's parking requirements within the context of the Town's land use regulations as well as the 2015 Settlement Agreement. The Zoning Ordinance allows an owner or developer to pay a parking impact fee for any parking spaces that are required by the Ordinance but not provided in the site plan; and the Settlement Agreement requires the project to increase the number of on-site parking spaces "to a number acceptable to the planning board based on the zoning ordinance and site plan regulations." As a result, the current applications do not depend on the availability of off-site parking as long as the Planning Board is satisfied that the parking requirements of the redevelopment project are being met appropriately and any required fees are paid to the Town.

Consequently, even though the Planning Board is on notice that the project will not be built unless Colonial Durham can eventually work out this ongoing issue with Hannaford, the Board can proceed with review and approval of these applications. However, several residents have repeatedly raised concerns as to whether it is an appropriate use of the Board's and residents' time to proceed according to the applicant's desired schedule.

When Hannaford submitted a letter raising similar objections in November 2018 the applicant requested that the matter be postponed, and the Planning Board voted "to continue the Public Hearing to a date following an agreement being reached between Colonial Durham and Hannaford." Hannaford's second letter in November 2019 stated that Hannaford "conceptually approves" of Colonial Durham's revised plan, with the proviso that its final approval would be contingent (in part) on the adjacent parking area being "controlled and made a part of [Mill Plaza] ... with ongoing full access to the proposed residential building." Hannaford's August 2020 letter is even more explicit, requiring "evidence that the Adjacent Parking Lot Project will be constructed in conjunction with the Mill Plaza Project ... and will include at least 157 parking spaces dedicated to the proposed Mill Plaza Project residential building."

Given these uncertainties, it does seem to be an appropriate time for the Planning Board and Colonial Durham Associates to revisit the status of the project and discuss whether another pause is advisable to enable CDA to resolve the parking issue with Hannaford. It would also be helpful to understand the current plans for the adjacent parcel and the likely application and review process.

- 5) The following items still remain to be addressed. I have updated some possible meeting dates for these topics based on continuing the process of meeting once per month on this project (and assuming that the Board continues its review of the applications without pausing for resolution of the parking issues).
 - Presentation and review of CDA's traffic study 10/14 or 11/18
 - Presentation and review of the independent peer review of the traffic study..... 11/18 or 12/09
 - College Brook buffer management / stream improvement plan 12/09 or 1/13/21?

- [Conservation Commission re: wetland and shoreland conditional use permit 10/26, 11/23, 12/28]
- Wetland and shoreland conditional use permit criteria 12/09 or 1/13/21?
- Presentation and review of complete revised plan set..... 1/13 or 1/27/21?
- Findings, waivers, and conditions of approval – site plan review 1/13 or 1/27/21?
- Findings and conditions of approval – conditional use permits 1/13 or 1/27/21?

This rough timeline is subject to change depending on when the applicant's materials are available, how much time is required for any independent reviews, and the Board's workload. Note that this timeline assumes that the Board will not decide to engage an independent design professional to review the architectural design, as had been suggested previously.

Also, please note that the above is only my rough estimate of when these items might be addressed, in order to give the Board a sense of the timeline going forward. I have asked Colonial Durham Associates to provide a schedule of their anticipated presentations, and they have indicated that they will present this schedule at the 9/23 meeting.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
September 17, 2020