

# Colonial Durham Associates

*Destroying* 17,400+ sf of pervious land  
& *Deceptive* on “no restrictions”  
to College Brook flow

JOSHUA MEYROWITZ / 7 CHESLEY DRIVE, DURHAM, NH

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[PPT Link](#)

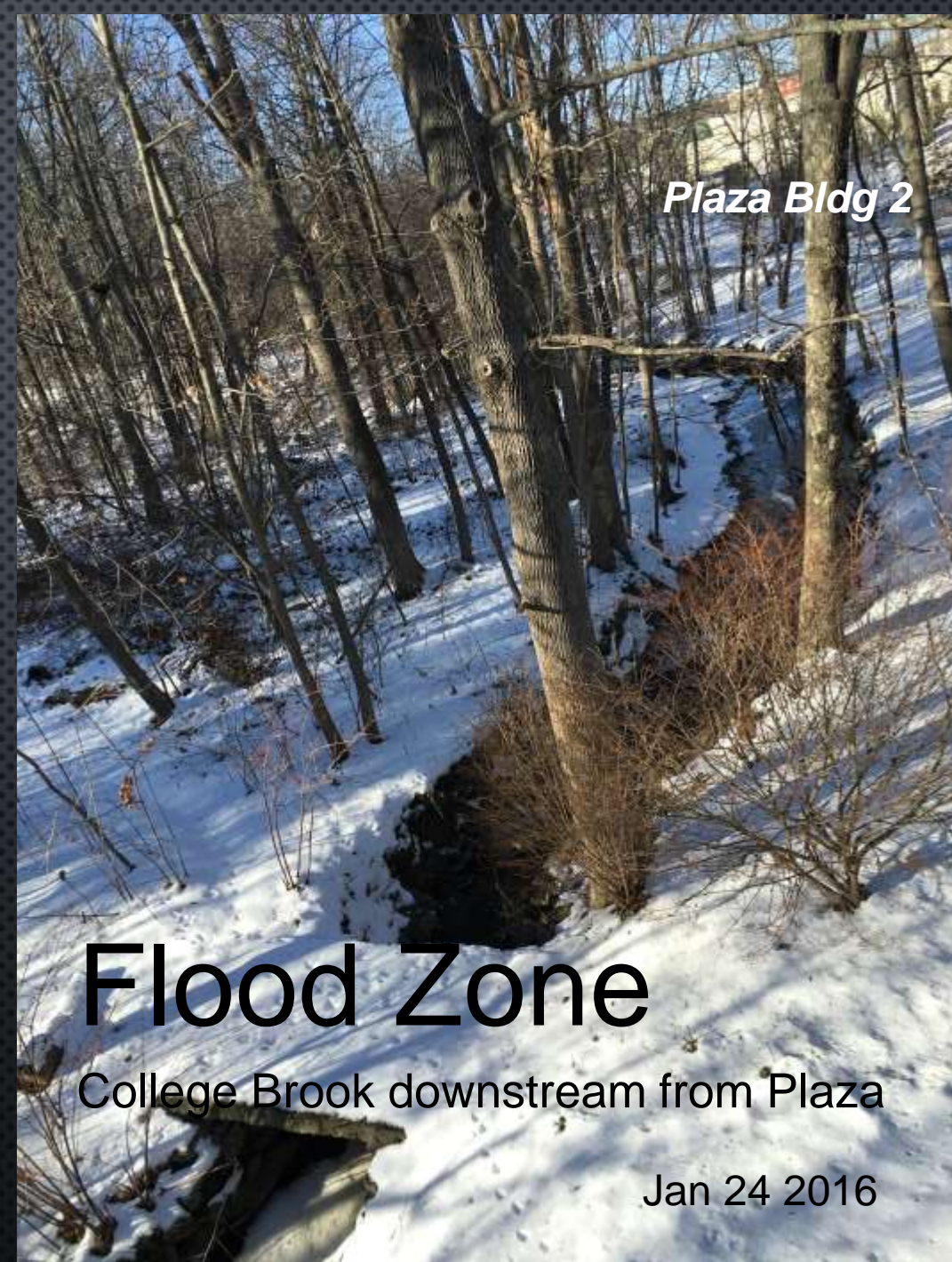


# Hillside destroyed?

Behind current Plaza Building Two

June 11 2020

*Part of single  
Landscaping  
and  
Stormwater  
Ecosystem*



*Plaza Bldg 2*

# Flood Zone

College Brook downstream from Plaza

Jan 24 2016

“We asked [CDA] about potential flooding.... the **volume is being increased** a small amount. So that always is something that we realize ‘okay, let’s make sure that there’s not going to be so much volume that if it was a bathtub...and you keep adding volume, it would eventually go over the top.’

But...when we talked about it, they [CDA] were able to explain how College Brook...continuously flows to Mill Pond, so there’s no real restrictions such as if it was a bathtub with a small outlet or something that would restrict it...”

**Janet Bernardo, Horsley Witten, CDA Stormwater Plan Reviewer**  
--Planning Board Meeting, May 27, 2020, 9:25:30 pm +

Note that audio quality was very poor, so transcript may not be exact.

**September 2002**

Mill Plaza manager Dave Garvey

Permit to remove chain link fence & propane tank slab

Bulldozed entire rear hillside 9,000~ sf  
(*without* Town or NHDES permit)

*for 40 unlicensed parking spot rentals  
within 20 feet of Chesley Marsh wetland*



**Oct 2002: Planning Board rejected amended parking plan**



Town's engineer: An overall negative impact on the College Brook greenway.

Amount of runoff and pollution into a wetland would not be allowed by 2002 standards.

April 14 2020

CDA has ignored ban on parking in bulldozed area and has not restored the hillside or even maintained the area.



April 14 2020

# College Brook Flooding *not* Secret to CDA

*“Mr. Behrendt said he’d been told about **flooding east of the site in the Chesley Drive area**, which had been aggravated due to some development on the Mill Plaza site 7-8 years ago. He asked if as part of the drainage analysis, there was a chance to mitigate some of the runoff issues.*

*Mr. Persechino said there would be a reduction in impervious area with this project, which would reduce runoff. He also said he would look at what Mr. Behrendt had described.”*

Excerpts from the January 27, 2016, [Planning Board Minutes](#)

*Mr. Persechino  
....said he would  
look at [flooding]  
Mr. Behrendt had  
described. – 2016*

**Here's what  
there was to be  
seen!**



Dec 18 2012

# View of College Brook & Mill Plaza from 7 Chesley Drive, Jan 2016 ([44-sec video](#))

Tap slide in PPT or try external link above



A photograph of a stream in a wooded area. The water is dark and reflects the surrounding trees. The banks are rocky and covered with fallen leaves and branches. Several tree roots are exposed along the left bank. The text "Chesley Drive homes have lost thousands of dollars of shrubs, trees, perennials, top soil, and whole sections of our gardens." is overlaid in white at the top right. The text "Roots exposed" is overlaid in white on the left bank. The date "April 15 2020" is overlaid in white at the bottom right.

Chesley Drive homes have lost thousands of dollars of shrubs, trees, perennials, top soil, and whole sections of our gardens.

Roots exposed

April 15 2020

A photograph showing a stream flowing over a series of large, moss-covered rocks. In the foreground, a low wall made of grey stones separates the stream from a garden area. The garden is covered with dry, brown leaves and some green grass. Small blue flowers are visible in the garden. The text "Perennial garden and loam flooded away" is overlaid on the image.

Perennial garden and loam flooded away

April 15 2020



Brook edge in 1990s

April 15 2020

The back of my home at 7 Chesley Dr. seen from across College Brook



Flooding brings large objects that further “restrict” Brook’s flow



May 8 2020

Raging brook brings: tires, luggage, lumber, tree trunks, other debris downstream ([26 sec video](#))

May 8 2020

Tap slide in PPT or try external link above





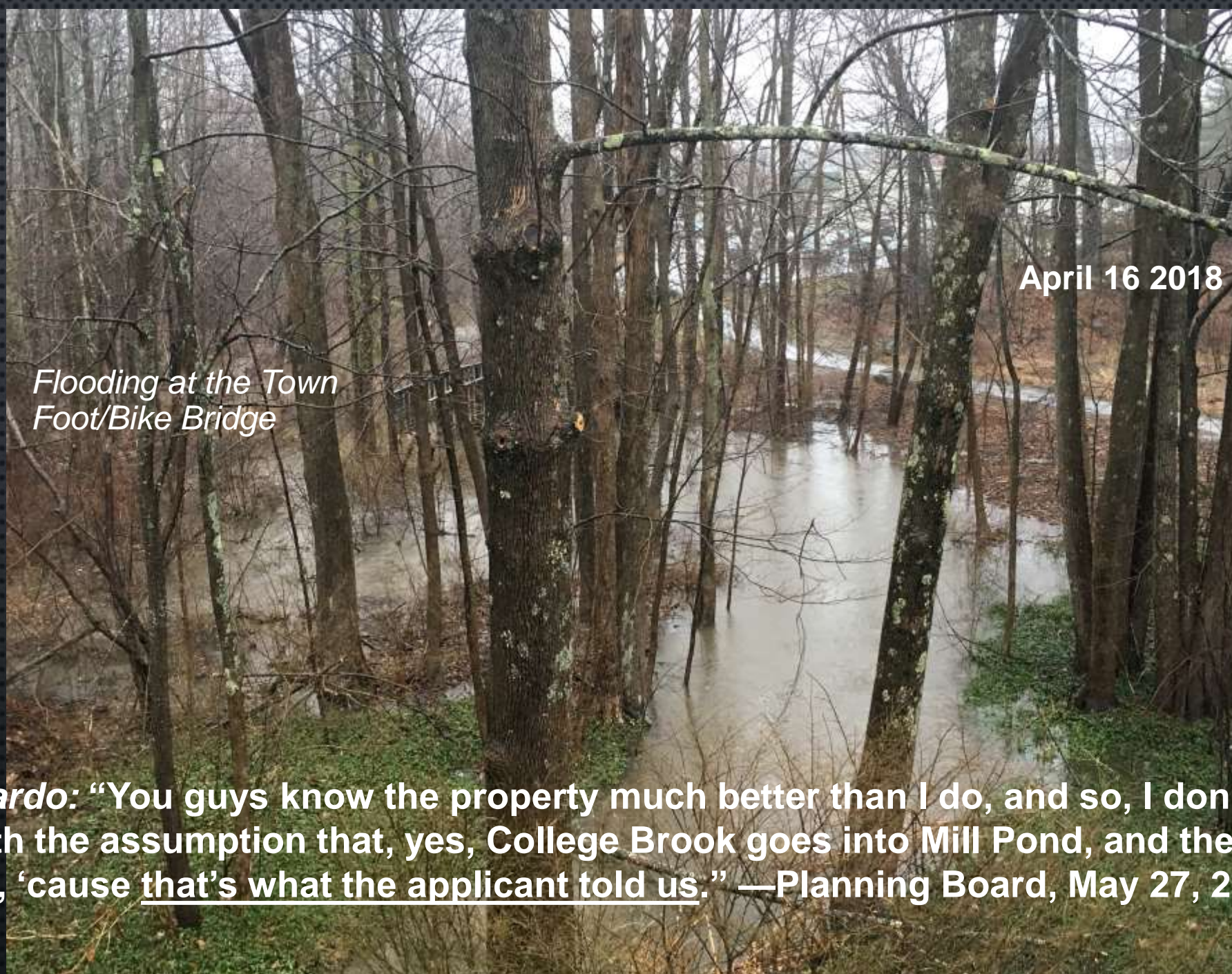
Carefully  
landscaped  
backyard at  
5 Chesley Dr

Flooded  
landscaping at  
5 Chesley Dr



“The Applicant has clarified that College Brook flows to Mill Pond and stated that there are no restrictions that would cause the Brook to backup creating a flooding issue downstream. No further comment.” [HW 2<sup>nd</sup> Peer Review Report](#)





April 16 2018

*Flooding at the Town  
Foot/Bike Bridge*

***Janet Bernardo:*** “You guys know the property much better than I do, and so, I don’t know, kind of going with the assumption that, yes, College Brook goes into Mill Pond, and there’s no restrictions, ‘cause that’s what the applicant told us.” —Planning Board, May 27, 2020, 9:27p

Over many years, Town Engineer April Talon & Public Works Director Mike Lynch have given Chesley Drive residents reassurance that *any* redevelopment of Mill Plaza – no matter what its other limits might be – would finally fix the flooding downstream from Mill Plaza.



# College Brook Flooding & Restoration Needs Told to CDA

**April Talon** asked about drainage.... She asked about porous pavement.... April Talon said prior iterations of plans showed some green areas for treatment. She...said drainage should be considered now. She asked about **brook restoration** and said UNH is doing some restoration upstream. **Ari Pollack** said this would be fine with the developer. **April Talon said there has been flooding on Chesley Drive....**

May 31, 2016 — Technical Review Group discussed Mill Plaza Redevelopment Plan #4

***“Mr. Persechino said there would be a REDUCTION in impervious area with this project, which would reduce runoff. He also said he would look at [the flooding on Chesley Drive that] Mr. Behrendt had described.”***

Excerpts from the January 27, 2016, [Planning Board Minutes](#)

\* \* \*

***“The Applicant has proposed an INCREASE in impervious area of approximately 17,415 square feet (sf).”***  
[Horsley Witten Group First Peer Review 5-4-20](#)

Emphases/Capitalization added

***Meyrowitz to Email Taintor, June 5, 2020:***

“As you know, Durham citizens have been requesting for months (via emails to you, emails posted on Citizens Comments, and public comments during PB hearings) basic dimensional information about the pending CDA site plan, including in the following recently posted emails: [Robert Russell 4-23-20](#) [Robin Mower 5-13-20](#).”

Can you provide an update on whether the PB has requested what residents have been asking for and related information they need for informed and thoughtful review and whether CDA has responded and, if so, in what way and with what information.”

***Taintor June 5 reply:***

“Both of those emails (and many others) have been forwarded to the Planning Board members, but as of yet **the Board has not called on the applicant to provide any of the requested additional information.** I do not know if the members feel that they have enough information, or if they are waiting until they’ve gone through the review once and will ask for more details to be provided with the next complete plan revision.”

*Regarding the tree-covered hillside behind Building II, the Plaza's engineer, Mr. Robert McAuliffe, indicated that the owners hoped to "leave the hill in its natural state" because bulldozing it "would require additional storm drains and would increase runoff."*

ZBA Minutes for the Aug 31 and Sept 14, 1977

\* \* \*

***"The Applicant has proposed an increase in impervious area of approximately 17,415 square feet (sf)."*** Horsley Witten Group First Peer Review 5-4-2020

Hillside behind current Building 2 – targeted for major destruction. ([14-sec video](#))



Tap slide in PPT or try external link above

## ARTICLE VII: CONDITIONAL USE PERMITS

**Preservation of natural, cultural, historic, and scenic resources:** The proposed use of the site, including all related development activities, shall preserve identified natural...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...scenic views, and viewsheds.** *[Article VII: Conditional Use Permits \(PDF\)](#)*



# USDA Urban Forestry Specialist Implicitly Addresses CU violations

## *Protection of Forested Areas on this Parcel*

It appears most of the wooded acreage on the north side of the parcel will be removed.

**The developed urban area in Durham has very little forested area remaining. Saving forest cover in urban areas is a holistic way to provide environmental benefits such as improved air and water quality and energy conservation in nearby buildings. Though small, this small urban forest is in a prominent location that provides a valuable visual buffer between the downtown commercial and residential areas.**

Look at this area on an aerial photo, or on the ground from different viewpoints and you can appreciate how the loss of this woodland will have a negative effect on aesthetics. **That woodland is also on a steep slope and the trees and other vegetation are important in protecting soil and reducing stormwater flow.** A significant amount of this forested area should be protected.

– John Parry, USDA Urban Forestry Specialist, [Letter to PB, June 8, 2020](#)

[Reformatted for easier reading on PPT slide]



***Pervious vs.  
Impervious  
Surfaces at Mill  
Plaza.***

1/3~ of the non-building areas of the site – a large pervious area -- seems to be targeted for destruction.

**North-on-top image  
of the Mill Plaza**

**From:** Joshua Meyrowitz <[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)>

**Date:** Tuesday, March 10, 2020 at 5:08 PM

**To:** Rick Taintor <[rtaintor@ci.durham.nh.us](mailto:rtaintor@ci.durham.nh.us)>

**Subject:** Destruction of only "green" area on Plaza Site

Dear Rick, Could you please point me and others (public and Planning Board) to where CDA's plans indicate (*or please ask CDA to clarify*) **how many square feet and cubic feet of currently permeable land on the rear hillside is to be blasted away behind current Building II....**

[D]uring the Feb 12 meeting, Joe Persechino repeatedly mentioned "reducing impermeable areas" as a goal -- without mentioning that the largest permeable (and, in effect, only really "green" and "landscaped" part of the Plaza site) was to be blasted away and covered by part of a multi-story building....

Moreover, in the past, CDA has claimed to be working with independent stormwater experts (from UNH, I believe). This time, I heard only reference to consulting with "some folks." Have you or others pressed CDA for the details of their independent folk experts and how that relates to what they are planning for stormwater treatment/management?...

You can see the frequent flooding as illustrated in the **27-sec video posted [here](#) & [here](#) (shot...from my study window on February 27, 2020, looking toward the Mill Plaza)...** You can also see comparative still pictures and links to other flooding videos in my **[Nov 4 2019](#) letter to the PB on the Church Hill application....**

Best, Joshua

**Joshua Meyrowitz** inquiry:

~Rick Taintor could answer if he forwarded any of the College Brook flooding pictures and videos to anyone involved in the stormwater review for Mill Plaza.~

**Rick Taintor:** “I do remember getting it... I did not forward it to anyone.”

—Planning Board Meeting, May 27, 2020, [9:38:34](#)

**Bernardo:** “We asked [CDA] about potential flooding.... the **volume is being increased** a small amount.... But...when we talked about it, they were able to explain how College Brook...continuously flows to Mill Pond, so there’s no real restrictions such as if it was a bathtub with a small outlet or something that would restrict it...”



Flooding all year round; not just at snow-melt. ([31-sec video](#)) Nov 13 2018

Tap slide in PPT or try link above





Existing one-story **Building Two** sits about 320-feet from the Chesley Marsh & College Brook Foot foot/bike bridge.

So-called “three-story” building (+13-ft-high retaining wall & 100ft paved deck) will turn 17,415 sf (+ cubic mass) of pervious vegetated slope into an impervious building.



Appears to come about **250 feet closer to the neighborhood, the Chesley Marsh, the College Brook flood zone** than the current single-story rear Plaza building.

I really appreciate what I've heard from the Planning Board tonight about vegetation, and soil volume and shade and green space and tree health and tree maintenance. And I'm feeling very positive.... I hope the developers would not just say they will "examine" these issues – which I've heard repeatedly – but will actually *change the plan* to really push these parameters....

**All the requested waivers, exceptions to the existing landscape regulations seem to be assuming that the buildings, and the walkways, and the asphalt are all immutable objects that can't be changed.** You know, you can't put more trees there because there's asphalt there. You can't put plantings along the buildings because there's a curb. **And the developer can resolve all these issue by reducing building footprints or reducing the amount of asphalt....** I hope the plan continues its very lengthy evolution. Thank you.

**– John Hart, Brookside Commons, Durham**

Master degrees in Forest Ecology & Landscape Architecture

Member, American Society of Landscape Architects

**Planning Board Meeting, April 15, 2020, 8:59 pm**

## PROPOSED



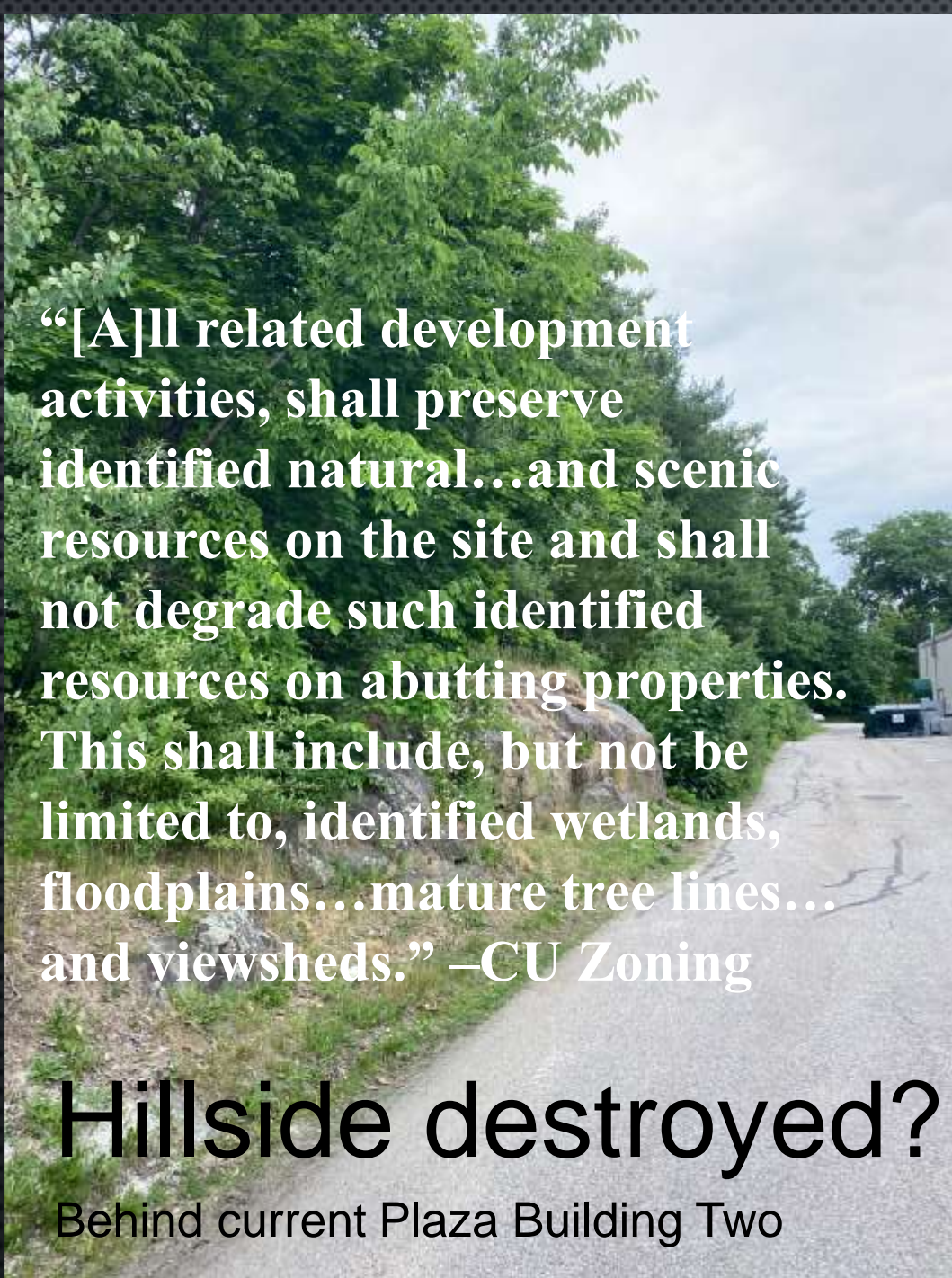
“The design of any new buildings or structures...shall not be incompatible with the established character of the neighborhood. This shall include...the **scale, height, and massing of the building or structure...** The proposed use of the site, including all related development activities, **shall preserve identified natural, cultural, historic, and scenic resources on the site** and shall not degrade such identified resources on abutting properties.” – *CU Ordinance*



[C]onsideration of all these trees, that's very nice. But what about the hundreds and hundreds of trees you're removing completely from the back corner of the site by demolishing that piece of land so that that Building C can fit into the space. How do you count those? That should be part of "landscaping." **You're *destroying* the landscape behind the current building that's going to be demolished. And it seems to me that that's not compensated for by adding a few trees in the parking area.**

The other thing is, the discussion of, "Wow, well, we need all these spaces to accommodate our clients." No, you can reduce the size of the buildings to accommodate the spaces. You don't have to take for granted that those buildings have to be as big as they are. That's another option that the Board can consider and *should* consider. **Those buildings are just too big for that site.** And, so, if you want better landscaping, reduce the size of the buildings.

**Robert Russell, Croghan Lane, Faculty Neighborhood  
Planning Board Meeting, June 10, 2020, 10:25 pm**



“[A]ll related development activities, shall preserve identified natural...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...mature tree lines...and viewsheds.” –CU Zoning

## Hillside destroyed?

Behind current Plaza Building Two

*Part of  
single  
Landscaping  
and  
Stormwater  
Ecosystem*



*Plaza Bldg 2*

## Flood Zone

College Brook downstream from Plaza

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***Destroying*** 17,400+ sf of pervious land  
& ***Deceptive*** on “no restrictions”  
to College Brook flow

***Janet Bernardo:*** “You guys know the property much better than I do, and so, I don’t know, kind of going with the assumption that, yes, College Brook goes into Mill Pond, and there’s no restrictions, ‘cause that’s what the applicant told us.’”

***The external stormwater reviewer was deceived; no Planning Board approval should be based false information.***