

# ***Will Colonial Durham Associates***

be permitted to violate Conditional-Use Zoning and further  
degrade a fragile landscaping & flood-zone ecosystem?

JOSHUA MEYROWITZ / 7 CHESLEY DRIVE, DURHAM, NH

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[PPT Link](#)



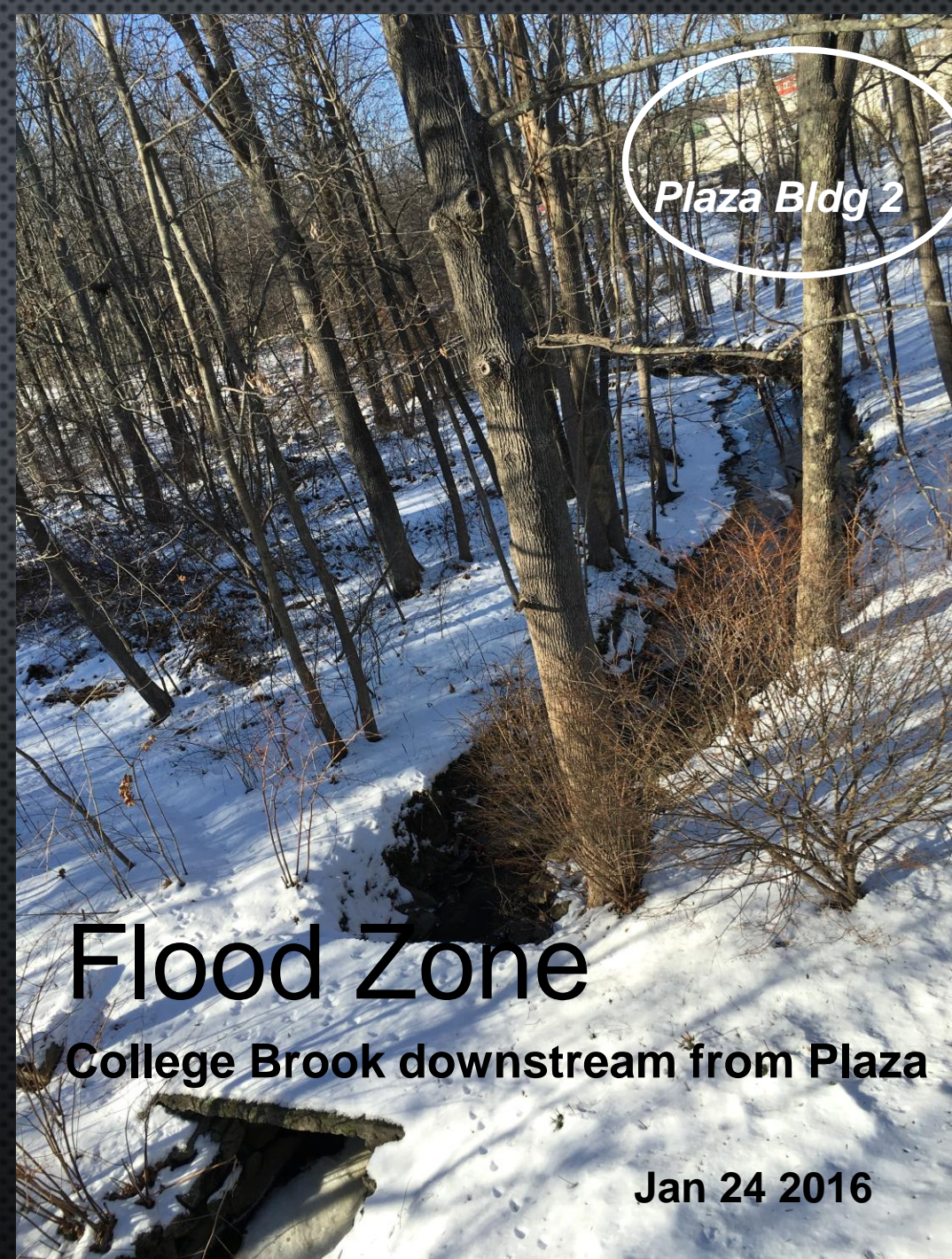


# Hillside destroyed?

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



# September 2002 – Mill Plaza manager Dave Garvey

- *Granted permit to remove chain link fence & propane tank slab*
- Instead: bulldozed entire rear hillside 9,000~ sf (*without* Town permission or NHDES permit)
- CDA planned to add 40 parking *rental* spots within 20~ feet of site boundary at Chesley Marsh





# Response to CDA's 2002 Bulldozing of Southeast Rear Plaza Hillside

## ➤ **Town engineer Bob Levesque cited:**

- Overall negative impact on the College Brook & College Brook Greenway
- Resulting runoff/pollution into wetland not allowed by 2002 standards
- Need for a compensatory stormwater system that stopped direct drainage into College Brook

## ➤ **Residents and UNH experts raised concerns in 2002 about:**

- Additional flooding of private properties & public paths/footbridge
- Pollution & sediment runoff into Brook, further deterioration of College Brook Greenway
- Loss of a pleasant hillside, with rare-bird sightings, previously used for picnics & meditation
- Thinning delicate vegetative buffer between commercial zone and residential & passive rec areas

See more details in [Durham's Mill Road Plaza: 1967-2018](#), pp. 23-25.



**Oct 2002: Planning Board rejected the amended parking plan**  
*But for 18+ years, CDA has ignored ban on parking in bulldozed area  
and has not restored the hillside – or even maintained the area.*





**Shortly after CDA abandoned award-winning Mill Plaza Study Effort (which it had initiated!)**

CDA brazenly used its illegal 2002 damage to justify a 2009 “improvement” on “existing [CDA-degraded] condition” in an application to infringe further on wetland setback for more rental parking spots. (CDA falsely claimed to PB that the proposed added parking at very rear of the site was needed for Plaza *customers*. CDA even pressured its commercial tenants to give false testimony at hearings.)

- CDA’s 2009 application countered 2000 Durham Master Plan re: restoring/enhancing the College Brook Greenway and buffers between commercial and residential zones.
- CDA’s plan also ran counter to 2007 College Brook Report for Mill Plaza Study Report:

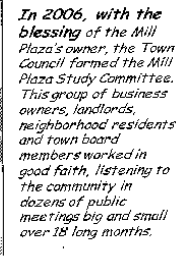
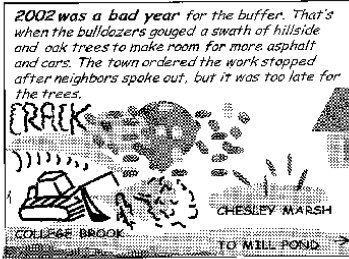
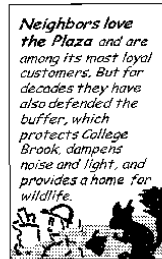
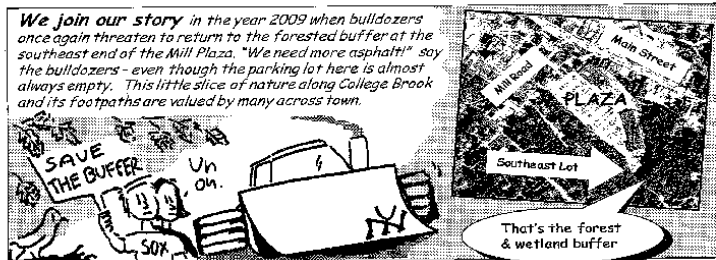
***“Restore vegetated buffers to improve water quality, moderate flood waters, provide wildlife and plant habitats and travel routes, contribute to the scenic quality of the site, and improve protection of the residential neighborhoods from the noise and visual impact of the commercial area....” (p. 8).***



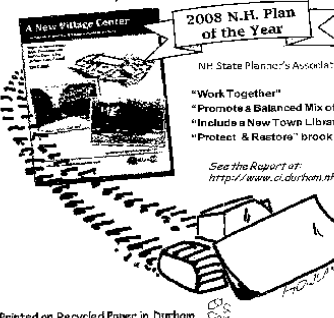
# Opposition to CDA's (Repeated) Attempt to Add Parking in Rear Wetland Buffer

Over multi-month series of 2009 Planning Board & Conservation Commission meetings\*

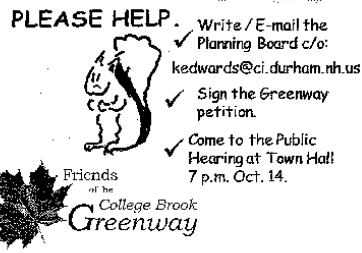
## The Mill Plaza & the Return of the **BUFFER-EATING BULLDOZER**



*Working with the Durham community and generous assistance from the American Institute of Architects, the MPSC crafted a set of recommendations to guide redevelopment at the Plaza - recommendations that balance growth with neighborhood and environmental protection.*



*But now, something funny's going on ... In spite of all of this work, the bulldozers are back to finish the mess they started back in 2002! How can the Plaza "need" more parking when it already rents dozens of long-term spaces? Sadly, this is a test of the worth of citizen input in Durham town planning. Let's not let the bulldozers run it into the ground!*



Printed on Recycled Paper in Durham.

- A flyer (at left) alerted residents to the CDA application.
- A petition to protect College Brook Greenway signed by 300+ residents across Town (70 different streets).
- A UNH SEAC petition gathered 93 signatures.
- Neighborhood kids – who walk to school over College Brook footbridge at Chesley Marsh & through Plaza – submitted their own petition.
- Dozens of residents spoke at meetings/wrote letters.

\*See more details in Durham's Mill Road Plaza: 1967-2018, pp. 36-52.



**Oct. 8, 2009—Conservation Commission  
Discusses CDA's Parking Proposal for Almost 5 hrs**

Addressing the following conditions:

*The Planning Board shall approve a Conditional Use Permit for a use in the WCO (Wetland Conservation Overlay) District only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:*

- 1. There is no alternative location on the parcel that is outside of the WCO District that is feasible 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.*



# Durham Conservation Commission (DCC) 2009 Conclusion

*If the “pre-existing” condition is (per CDA’s claim) the degraded site (after illegal 2002 bulldozing), then CDA project meets three of the four standards for conditional use (#2—minimal soil disturbance, #3—counterbalancing mitigation, and #4—restoration to “existing condition”).*

***But even with that CDA-favored definition of “pre-existing” condition, DCC rejected CDA claim for #1: “need” & “necessary location” for parking spots Plaza wanted to put in wetland buffer.***

**“Buffers are created for a purpose,”** said Chair Jamie Houle, adding further qualifier:

**If the “pre-existing condition” is determined by the Planning Board to be the site before the illegal 2002 bulldozing, then the application failed to meet ANY of the four standards necessary for conditional use.**

\* \* \*

***These factors/analyses still hold in 2020, with CDA never having restored 2002 damage.***



## Town Attorney Walter Mitchell's Nov 2009 Ruling on CDA Parking-expansion Application:

*The Planning Board cannot consider a site plan for an out-of-compliance site*

- “Once the property owner leased out 30 some spaces for long term parking, they were no longer available to support the retail uses, and **from that point on the property owner was violating the site plan approval — and apparently still is.**”
  - “In the absence of obtaining approval for an amended site plan to incorporate this second principal use of the property (I do not agree that it is an accessory use since...the **long-term parking** is not incidental to any principal use of the property), the **use must cease.**”
- “Further, in order to be approved as a second principal use, the property owner will have to apply for and obtain a conditional use permit from the board.”

***Instead, CDA has EXPANDED its unlicensed parking space rental business to 120+ spots.***

For full CDA 2009 Application/Review details, see pp. 36-52, [Durham's Mill Plaza, 1967-2018](#)



## **Nov 20, 2009—Planning Board Notice of Denial of CDA's Proposed Parking Expansion**

*The Board carefully considered the arguments presented by the applicant and interested citizens both for and against, together with the purpose and specifics of the current zoning ordinance.*

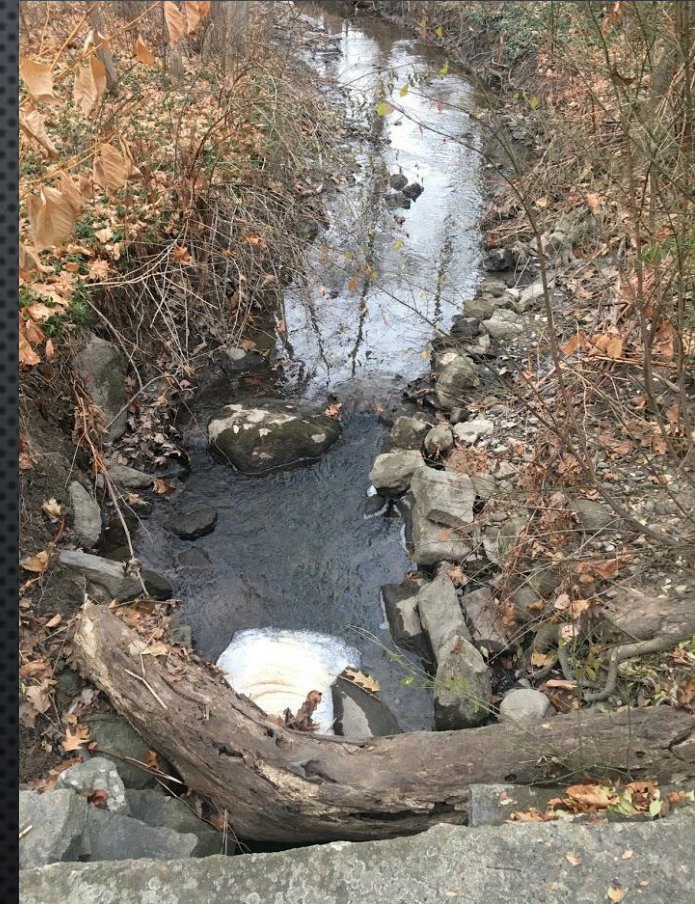
*As stated at the Planning Board meeting of November 4, 2009, the motion to disapprove the applications stated that the applications were denied for the following reason(s):*

- ***Based on the advice of the Town Attorney, the Planning Board is not in the position to consider approval of this application without the owner first applying for approval of the existing leased spaces.***
- ***The applicant has failed to address activities that were not approved by the Planning Board in 2002 such as clearing, excavating and grading.***
- ***The 70 foot buffer approved on the original plan in 1978 is an important residential buffer and should be maintained as approved in the 1978 plan.***

Excerpt; see full [Findings of Fact & Notice of Denial](#). Again, CDA has thumbed its nose at Durham by *expanding* its space-rental business, with no permit, and it has never restored the rear hillside nor even maintained the area in the most basic of ways.



Although Planning Board *rejected* CDA application (5 to 2) Nov 2009  
the increased flooding/property damage from illegal 2002 bulldozing has never been addressed







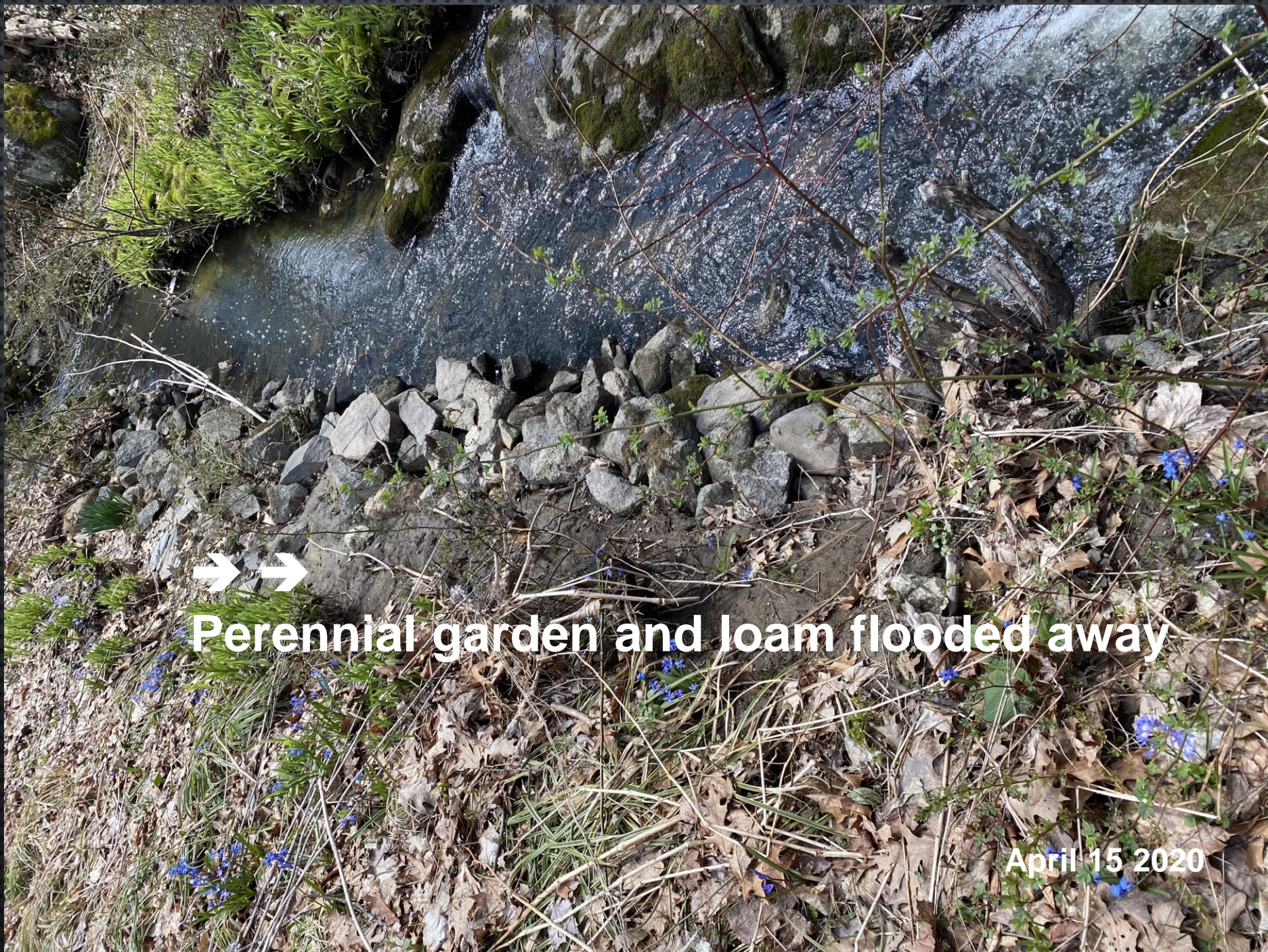
Chesley Dr homes have lost  
thousands of dollars of  
shrubs, trees, perennials, top  
soil, whole gardens.

*2nd Brook channel from  
flooding erosion*

*Roots  
Exposed →*

April 15 2020





**Perennial garden and loam flooded away**

**April 15 2020**





←← Brook bank here before 2002

April 15 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](#), p. 9

\*Actually from 2002 illegal bulldozing



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

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



Dec 18 2012



## **Nevertheless, CDA apparently misled stormwater-plan reviewer in 2020**

“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/is very poor, so transcription might not be exact.



## View of College Brook & Mill Plaza from 7 Chesley Drive, Jan 2016 ([45-sec video](#))

Tap slide in PPT or try external link above





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







See COLLEGE BROOK FLOODING videos (more to be added) at new YouTube Channel  
[https://www.youtube.com/channel/UC4Wyy3CASCaGxLm\\_H\\_gw9gg](https://www.youtube.com/channel/UC4Wyy3CASCaGxLm_H_gw9gg)



Flooding brings down 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 use external link above







Beautifully  
landscaped  
backyard at  
5 Chesley Dr



The same  
landscaping at  
5 Chesley Dr,  
after rainstorm





“The Applicant [CDA] 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](#)





## Sewer Line Photos by Eric Lund, 31 Faculty Rd, downstream of Mill Plaza

CDA “represented both to the Planning Board and the peer reviewer that there are no obstructions to the flow of College Brook downstream of the Mill Road Plaza. I wish to share a couple of photographs, taken from the upstream rear corner of my property, that suggest that this representation is not true.” — [Eric Lund](#)



17 June 2020  
moderate drought



13 July 2020, 30 mins  
after thunderstorm

Dr. Lund also reports that when he bought his house in 1998, he owned dry land across the Brook, and there was a bridge to reach it (so that it could be mowed).

***After illegal CDA bulldozing of a Plaza hillside in 2002, both the bridge and the land it reached have been washed away by College Brook flooding.***



**Chesley Dr homeowner on routine Brook flooding**  
**and Town commitment to see that CDA fixes it as part of any redevelopment**

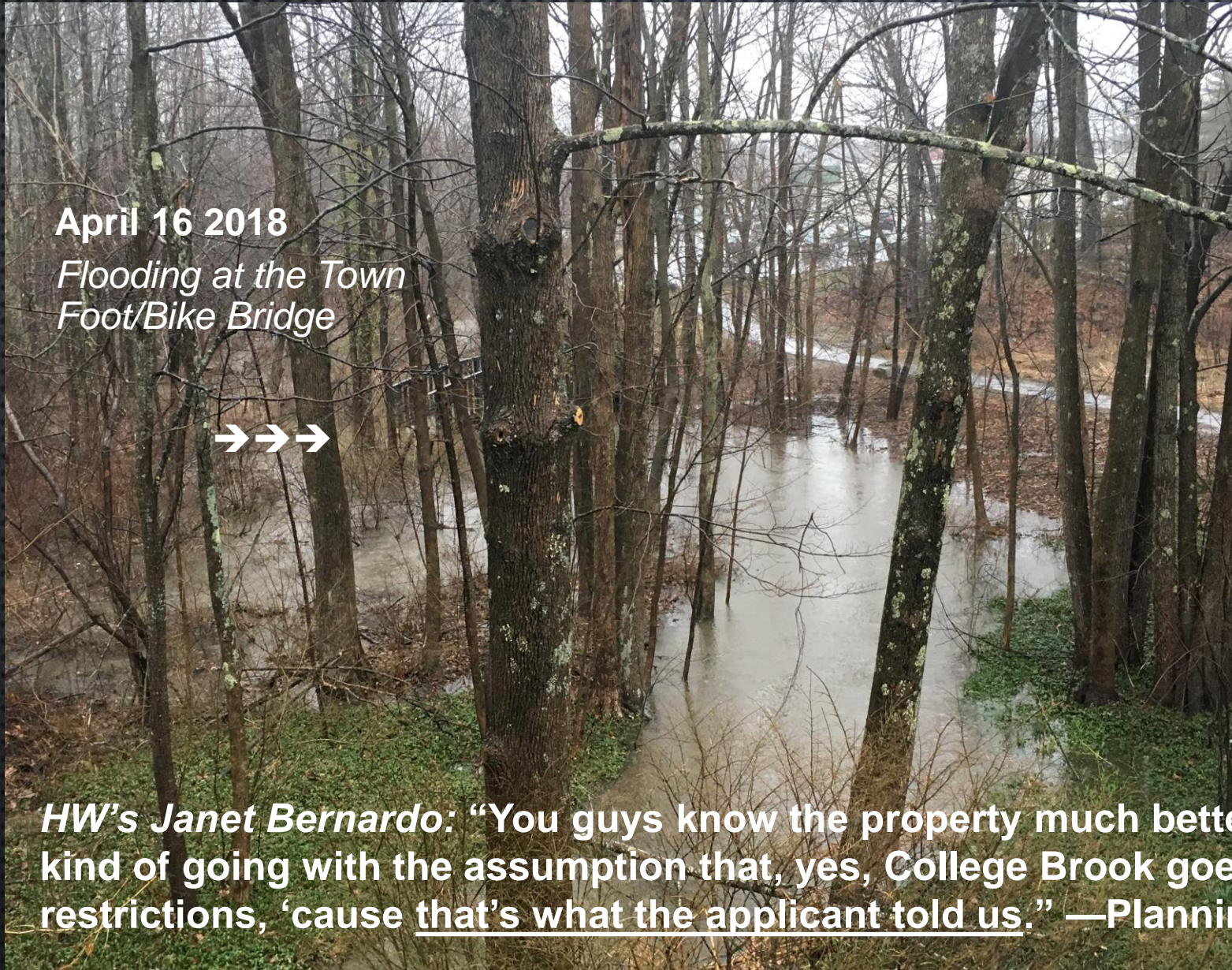
*If we have heavy or prolonged rain the brook floods to the top. During most heavy storms the water overflows into the yard.... This is not just a little standing water either. It is a raging brook that has caused considerable erosion to our property.*

*The brook sits in a wide and deep trench full of exposed roots, rocks and areas where soil has collapsed in.... All storm water and snow from the plaza is either washed or pushed into College Brook creating a deluge for us downstream.*

*Weekly, I pull trash out of the brook: Bottles, traffic cones, diapers, cans, food wrappers....*

***On July 20, 2019 I emailed [Durham Director of Public Works] Mike Lynch with my concerns about flooding in our yard. A few days later Mike stopped by to check the yard out. He told me that the flooding was most definitely caused by the plaza.... He specifically said that any new construction would require collection, filtering, and slow release of storm water.... Once this was fixed we wouldn't have flooding issues any more. [David McCormick 6-19-20](#), 5 Chesley Drive***



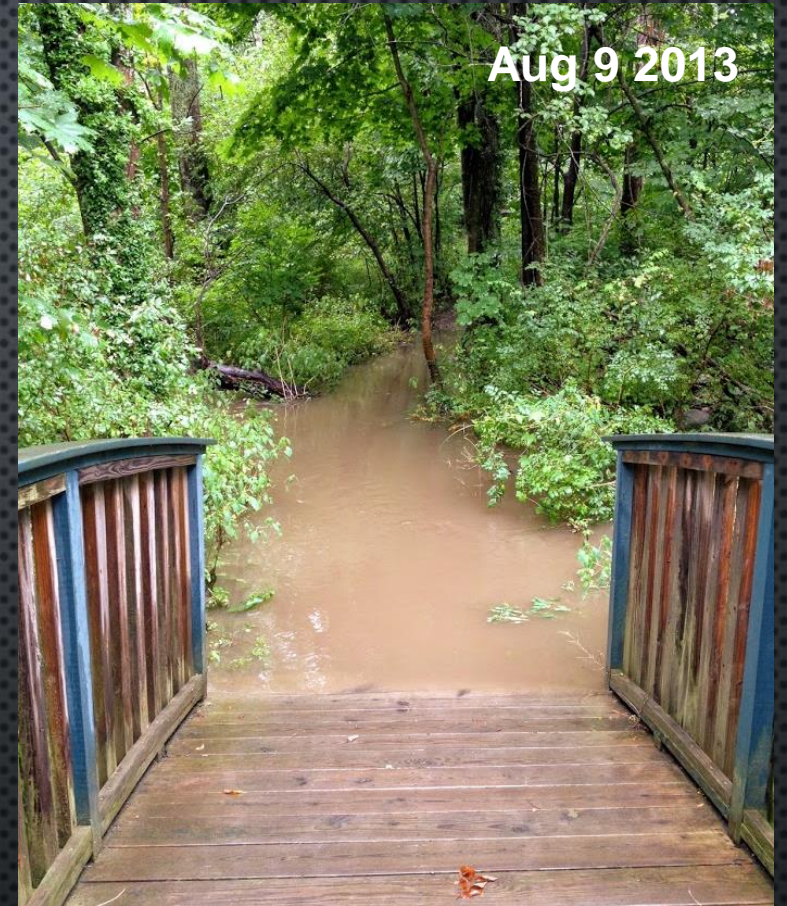


April 16 2018

Flooding at the Town  
Foot/Bike Bridge



**HW's 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



Aug 9 2013



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 in residents' eyes – 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. [CDA Attorney] **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](#), Mill Plaza Plan #4, p. 2



***2016 CDA promise —“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](#)

\* \* \*

***2020 reality—“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



Concerns about disturbing “natural state” of threatened hillside date back decades

*1977—Plaza Engineer concern:*

*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

\* \* \*

***2020—CDA Proposal: “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

June 11 2020

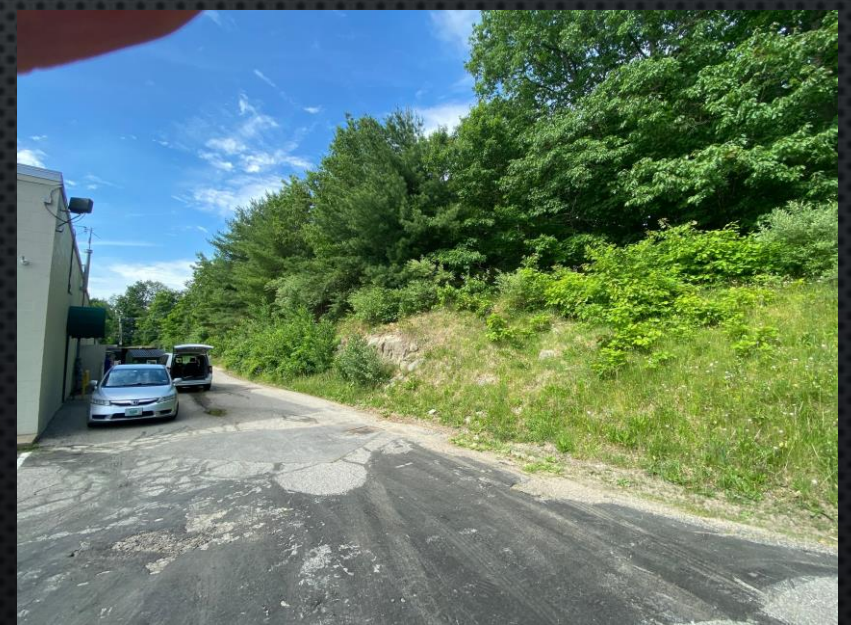
**NOTE:** I used the very conservative 17,415sf figure for the threatened hillside in my [letter](#) to the CC and in my presented PPT on Oct 26 because that's the number that the 3rd party stormwater report included for an *increase in impervious area* on the site (the only number we'd been able to acquire to that time after 10+ months of requests).

Now that CDA's Joe Persechino mentioned for the first time on Oct 26 an increase in pervious area near the Brook, Contract Planner Rick Taintor pressed for more precise data and has now confirmed [here](#) that much MORE of the hillside is to be taken out: an astonishing 47,610 sf. (See "new development area," referring to the removal of 1.1 acre of vegetated hillside that would become part of Bldg C.)



## 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 substantial 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



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 1.1 acre (47,610 sf + cubic mass) of thickly vegetated slope into “new development”\* impervious building.



Per CDA, this structure would be **150 feet closer to neighborhood, the Chesley Marsh, & College Brook flood zone** than the current single-story rear Plaza building.

\*see [Taintor 11-18-20](#)



## ***Are CDA images designed to deceive the Planning Board and public?***

**The white-topped woman looks to be taller than the retaining wall (since we all know the typical size of a person, the wall appears small)**



**Yet on Aug 26 2020, CDA finally revealed that the proposed retaining wall would be 13-feet tall and topped by a 4-foot fence.**

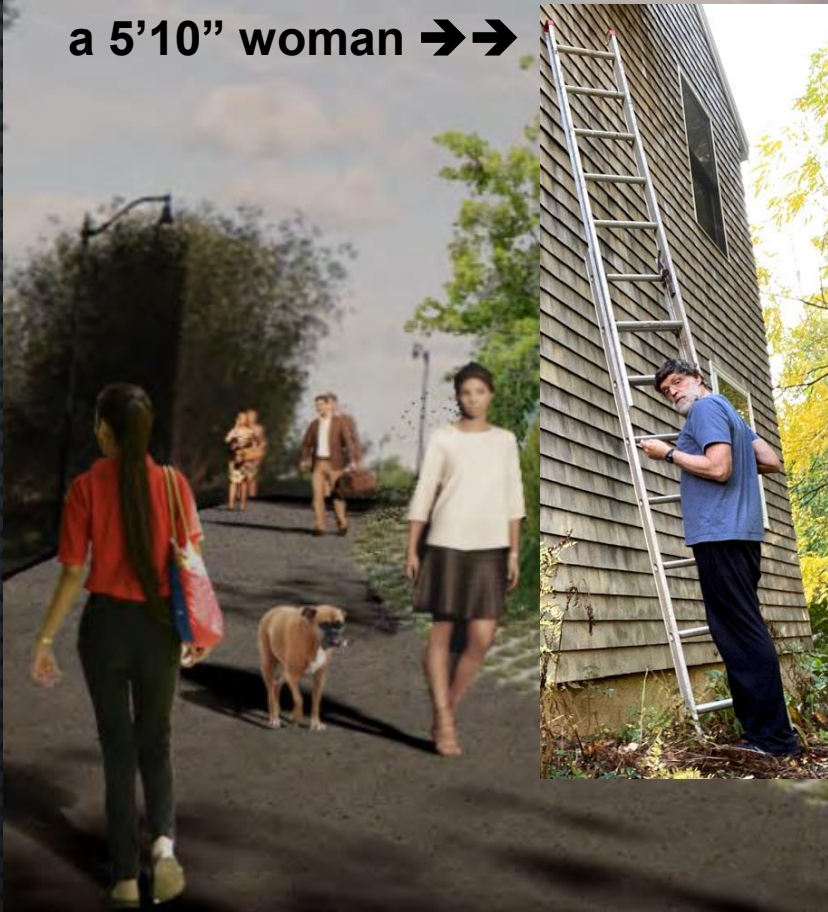


# The height of the proposed Bldg C retaining wall

NOT including the 4-foot fence atop the wall

*illustrated with 13-foot extension ladder*

The retaining wall alone  
(before the 4' fence) is  
this much taller than  
a 5'10" woman →→





An accurate rendering of a 5'10" woman would show her to be the height of the male shown both at the wall with 13' ladder and next to her here.

*This image illustrates the degree of distortion (gargantuan woman!) presented by CDA in misrepresentation of actual height and mass of the proposed wall.*

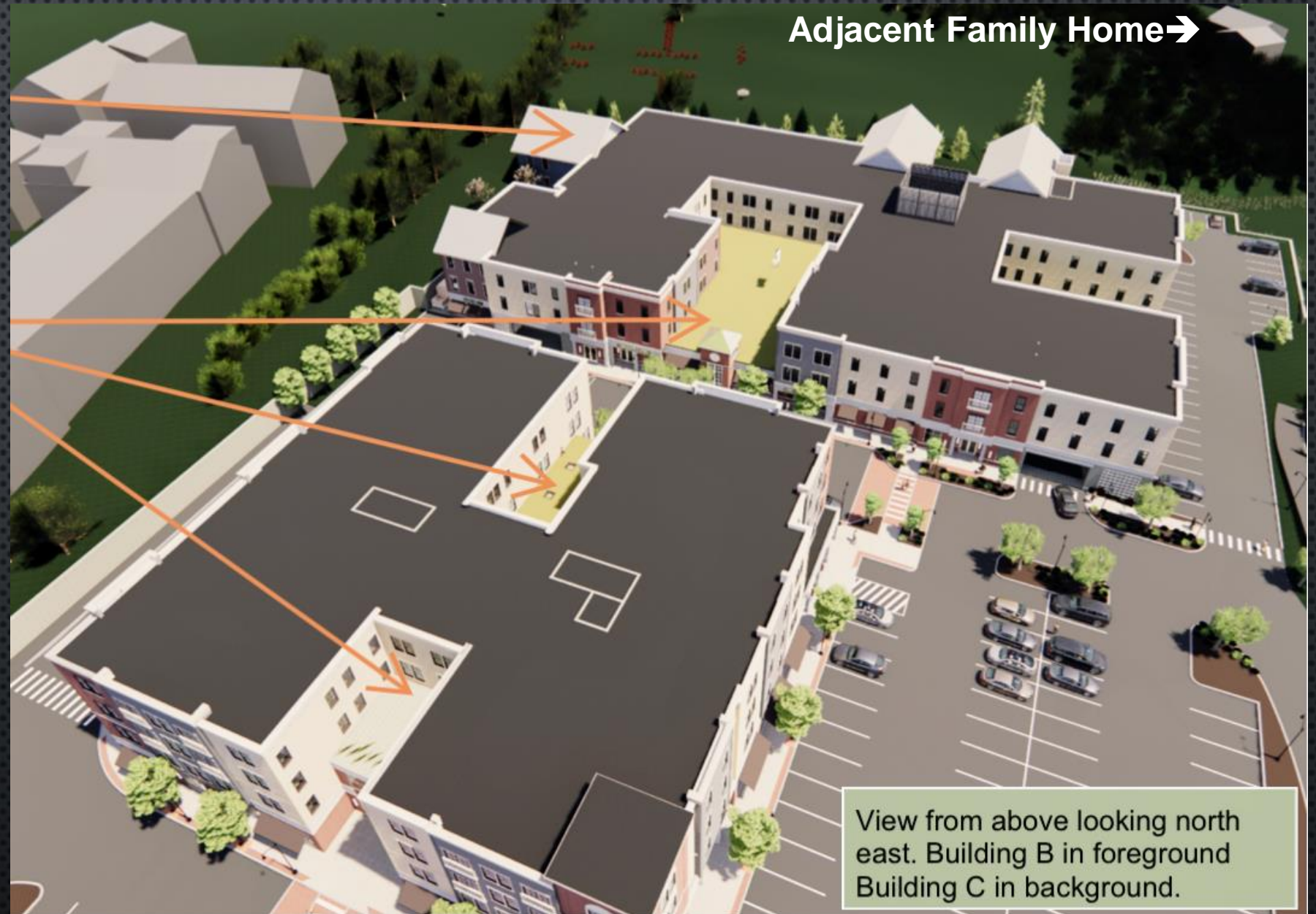


***Town Boards should demand VISUAL ILLUSTRATIONS from CDA, not OPTICAL ILLUSIONS!***



*Really “In-Scale” with Neighborhood, as Conditional Use Zoning Requires?*

*Dozens of citizen comments have critiqued massive, dense, claustrophobic scale of the buildings.*



Adjacent Family Home→

View from above looking north east. Building B in foreground Building C in background.

*Mislabeled by CDA as “looking North East” (where Settlement says housing should be located); actually looking **SOUTH** east.*



## Example of Resident Appeal for Smaller Buildings & More Landscaping

“...about vegetation and soil volume and shade and green space and tree health and tree maintenance..... 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 issues by reducing building footprints or reducing the amount of asphalt....”**

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

Master degrees in Forest Ecology & Landscape Architecture; Member, Amer. 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*





## Another Example of Resident Appeal for Smaller Buildings & More Landscaping

“...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.**”

“...you can reduce the size of the buildings.... 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



# PB Member: Reduce Buildings & Parking to Increase Greenspace

**Planning Board Member Richard Kelley:** “The applicant has asked for feedback in regards to landscaping.... We heard from the public, and I feel much the same way.... And I do realize what I’m asking: That would be **a reduction of building footprint, parking, in order to get greenspace.** But I’m going to throw that out there and ask the applicant to look at that and **report back *next week*, whether it can be done or not.**” – PB June 10 2020, 10:54p – transcribed from [video](#); [emphases added; see also [minutes](#), p. 18]

***That “next week” is now 5+ months past – and CDA has remained silent on this matter.***

Moreover, a Planning Board authorized “Architectural Design Review Subcommittee” (6-1 vote, Sept 23 2020) has somehow been changed out of public view to a “*Minor Architectural Subcommittee*,” precluding input on changes that would reduce shoreland/wetland incursions and bring the proposal into scale for the site/adjoining neighborhood – as *required* by Conditional-Use zoning.



# Flooding “Fix”

Once confronted with evidence of downstream flooding, the Horsley Witten reviewer sent “supplemental comments” acknowledging the flooding, but keeping the original “all’s okay” conclusion in place.

*“College Brook flows continuously into Mill Pond. By reducing the peak rate of stormwater discharging from the site and into College Brook it does not appear that the proposed development will negatively impact the flow rate of College Brook. **HW understands that there is a flooding concern downgradient of this development.**”*

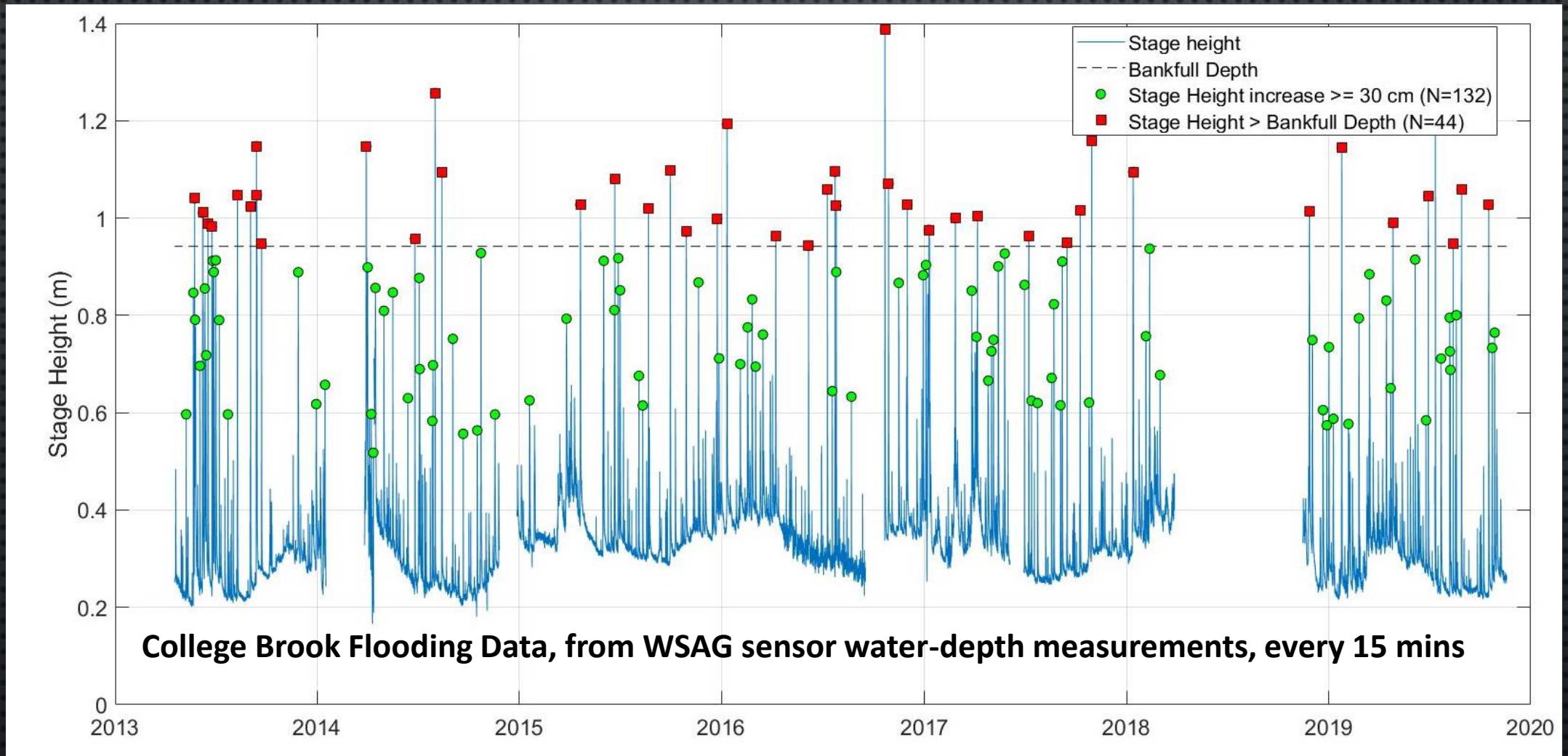
*“The water flowing in College Brook results from many sources and therefore a comprehensive watershed study would be needed to identify measures to reduce the down gradient flooding problems. It is HW’s opinion that this proposed development will not exacerbate any downstream flooding.”*

[Horsley Witten Group Supplemental Comments 6-22-20](#)

- No mention of flooding increase from illegal 2002 bulldozing of still unrestored 9,000 sf hillside
- No mention of how proposed stormwater system could *reduce* flooding *if* acre+ hillside preserved
- And the Town seems to have abandoned years of promises that Mill Plaza redevelopment would finally **FIX** the downstream flooding – rather than (as report says) be unlikely to make it much worse



# UNH Water Systems Analysis Group (WSAG)



WSAG sensor data estimates: April 2013 to Nov 2019, 132 storm events with stage-height rise of 12" or more (1.7/mo avg), 44 exceeding "bankfull depth" (.6/mo avg). *Please contact WSAG for precise details.*



# UNH Water Systems Analysis Group (WSAG)

studying the flooding and health of College Brook since 2013



Please draw on WSAG expertise & data before advising Planning Board on CDA WCOD & SPOD applications.



*"In understanding the environment as an integrated system, WSAG explores the physical, chemical and biological processes that shape hydrological systems, with emphasis on the unique role of humans as agents of change."*



## Durham's Conditional Use Zoning is the Tool & *the* Remedy

As noted in the ordinance, Conditional-Use (CU) Zoning is intended to encourage environmentally and aesthetically positive developments – and to *stop* environmentally/aesthetically damaging proposals.

CU zoning requirements are *not* intended to be pro-forma “just ask our permission, and we’ll say ‘okay’” rules. It is difficult to imagine a more environmentally exploitative site plan than what CDA is proposing (WCOD incursions w/ 45 parking spots & other structures, demolition of 1.1 acre of urban forest on Plaza site and encouraging more destruction on adjacent Church Hill lots).

Please advise Planning Board to draw on explicit power of Conditional Use Zoning to require:

- Front, side, and rear setbacks in excess of the minimum requirements
- Screening of the premises from street/adjacent property in excess of minimum requirements
- Landscaping in excess of any minimum requirements
- Modification of the exterior features of buildings or other structures
- Limitations on buildings/structures size more stringent than minimum/maximum requirements
- Footprint or lot coverage less than the allowed maximum of this Ordinance

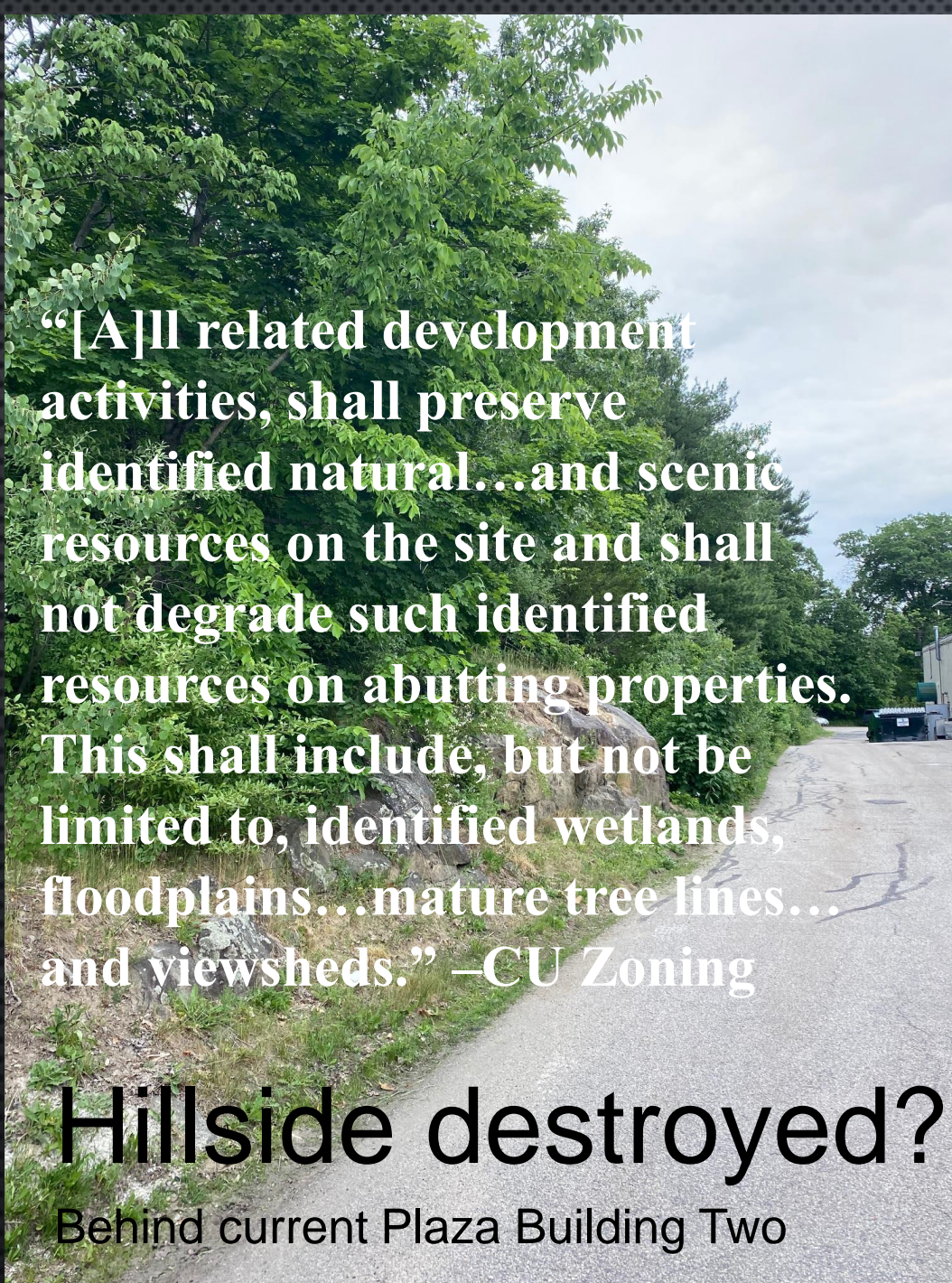


To conclude, I ask that the Conservation Commission, with the extensive power of Conditional-Use permitting – which is designed to prevent buffer incursions and promote site plans with *positive environmental impact* – advise the Planning Board to turn down CDA's Wetland & Shoreland Conditional Use permits

– *unless* CDA returns with a site plan for less massive buildings, less massive (or no) retaining walls, more landscaping, and, particularly, unless the 47,610 sf (1.1 acre) of thickly vegetated hillside behind current Building Two is no longer targeted for destruction.

***Moreover, the “pre-existing condition” for your review should be the site before CDA's illegal bulldozing of a 9,000 sf hillside in 2002, that is, before the resulting increased flooding, soil erosion, and other environmental & property damage downstream, which is unaddressed in current proposal.***



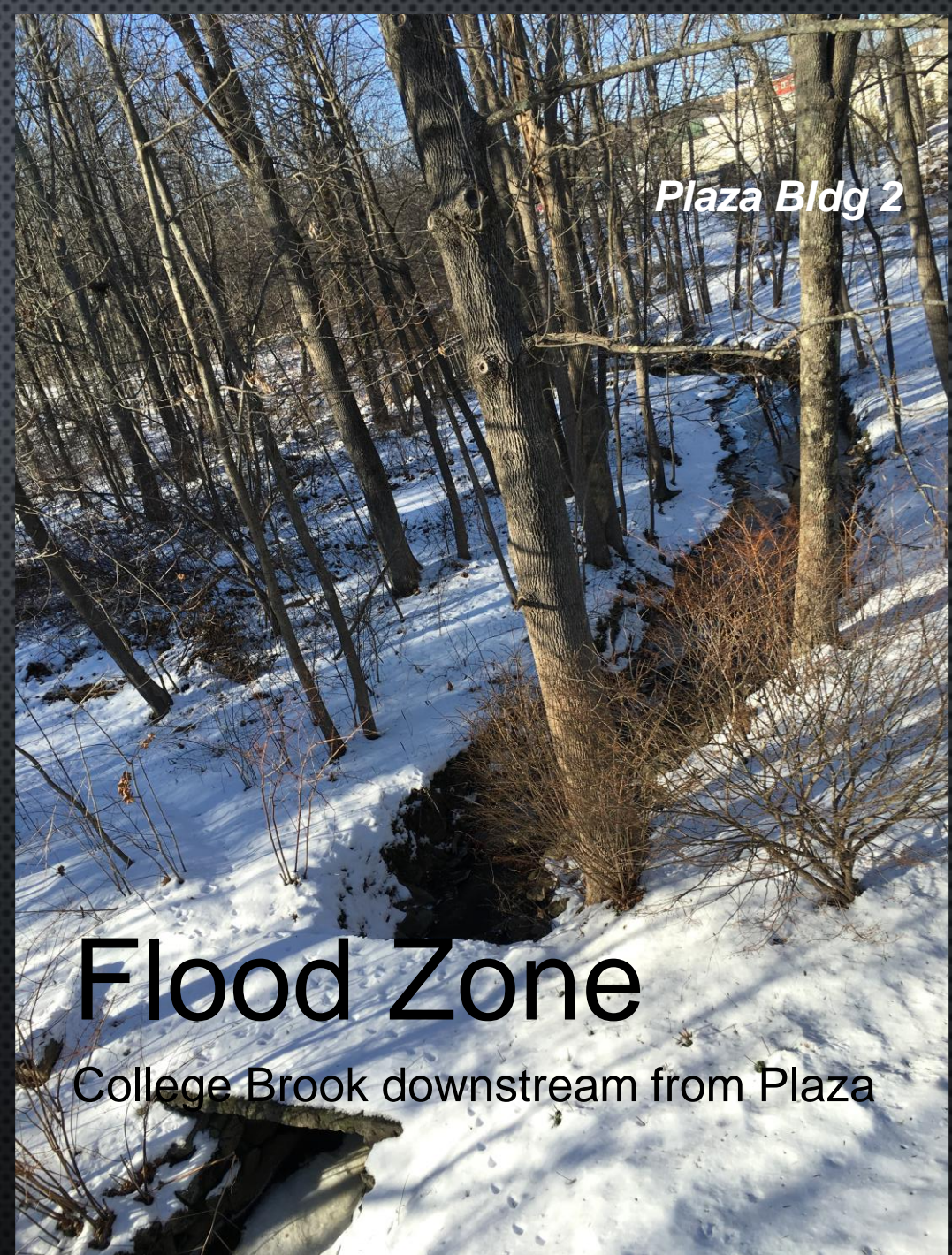


“[A]ll related development activities, shall preserve identified natural...and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains...mature tree lines...and viewsheds.” –CU Zoning

## Hillside destroyed?

Behind current Plaza Building Two

*Part of  
single  
Landscaping  
and  
Stormwater  
Ecosystem*



*Plaza Bldg 2*

## Flood Zone

College Brook downstream from Plaza



# ***Will Colonial Durham Associates***

be permitted to violate Conditional-Use Zoning and further degrade a fragile landscaping & flood-zone ecosystem?

Durham's CU Zoning is intended to "ensure [a project that]...will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the town."

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[PPT Link](#)