

31 December 2020

To: Durham Conservation Commission & Planning Board

From: Joshua Meyrowitz, 7 Chesley Drive, Durham

Re: CDA's abuse of Plaza site has continued throughout the site-plan review process

I appreciate Robin Mower's Dec 30 [submission](#) with photographs from earlier years to illustrate that: *"Colonial Durham Associates' ongoing Mill Plaza snow removal practices perpetuate destruction of the vegetated buffer required by original Planning Board approvals – and by our zoning ordinance."* I am writing with very recent 2020 photographs to reinforce her points and add additional commentary.

As I walked through the Plaza mindfully in the last week, attending to the recent snow and rain impact, I again became aware of what is so familiar to Plaza abutters and regular Plaza visitors that it often becomes invisible: **How Colonial Durham (CDA), even during such heightened attention to its proposals and promises, seems to thumb its nose at Durham residents and boards.**

Days after the Dec 20 snowfall, one could still see how CDA does not respect residents enough to keep clear the within-Plaza walkway along the Brook, or even shovel the pedestrian/bike connection (which is on Plaza property) to the pathway to/from the Plaza into/out of the Faculty Neighborhood.



Wed, Dec 24, 2020, 4:57 pm



Pictures from approx. 3:45 pm on Wed, Dec 24, 2020

Yet, a NHDES publication about snow plowing suggests that the Plaza has been violating State law by plowing snow into the Brook (unless they have a permit to dispose of waste into a waterway):

"The debris and contaminants that inevitably end up in plowed snow make it illegal to dump snow directly into waterbodies. RSA 485- A:13, I(a) prohibits discharging wastes to surface waters without a permit." <https://www4.des.state.nh.us/nh-ms4/wp-content/uploads/2020/11/Snow-Disposal.pdf>

Even the current heightened Conservation Commission attention to the approximately 9,000sf area that CDA illegally bulldozed in 2002 (and never restored), has not discouraged CDA from using that area for both unlicensed rental-space parking and debris collection.



Two pics from 12/26/20, at about 3:20pm

The compacted-for-paving bulldozed area, later thinly top-soiled/seeded, is within WCOD from both Brook & Chesley Marsh wetland.

In short, CDA has acted, during this multi-year review, like the employee who eats a banana during a promotion interview and then throws the peel on the floor – and still expects to get the promotion, because he's always gotten away with such thumb-nosing behavior in the past.

Care conditions: This abusive CDA pattern explains why so many residents (John Hart, Diana Carroll, Robin Mower, Beth Olshansky, to name just a sample) have written and spoken not only about the need to hold CDA to zoning setback requirements but also to mandate explicit conditions of long-term site maintenance and care, with strong penalties for failure to fulfill commitments.



At left, ten days after most recent snowfall, and following a warm spell and heavy rains, one can still see snow that was plowed into the Brook buffer blocking the pedestrian path and melting into the Brook.

Also note the plow-damaged granite curbing & vegetation.

Dec 30, 2020, 4pm

The “once-in-a-lifetime” opportunity: I hope that Commission members recognize that the Plaza will be redeveloped soon in one way or another, by the current owner or the next one. The pending site plan is not the only or final opportunity. I and hundreds of other Durham residents have devoted thousands of hours to working on plans for positive Plaza redevelopment. A plan that complies with all Conditional-Use zoning criteria would be very widely supported by Durham residents.

The real “once-in-a-lifetime opportunity,” as Diana Carroll eloquently voiced (Oct 26) and [wrote](#) about (Dec 23), is to establish the *required* natural brook buffer and proper maintenance procedures and protections for the foreseeable future. Moreover, increasing the permeable surface on the site, in keeping with Durham setback requirements, could finally address the [flash flooding of College Brook](#), which was made worse by CDA’s illegal bulldozing of the Southeastern hillside in 2002.