

From: Timothy Murphy <timpatmurphy@yahoo.com>

Sent: Tuesday, September 07, 2021 7:49 PM

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Cc: Peter Murphy <petermurphy6@comcast.net>; Mike Sievert <msievert@horizonsengineering.com>

Subject: Fw: Toomerfs reply/Main Street #19 - site plan regulations | Standard III. 8.1 - letter from Robin Mower

Hi Michael, Toomerfs objects to Robin Mower's letter because it does not comply with the requirements in the Zoning Ordinance ("*Any written comment shall be specific when maintaining that the granting of the conditional use permit would adversely or injuriously affect the writer's personal and legal interests*"). Ms. Mower is not directly affected by the proposed development and lacks personal and legal standing. She has offered a legal opinion of the Site Plan Regulations, but to our knowledge lacks legal qualifications.

Section 8.2.1 says, "*Buildings, parking areas, travel ways, and other site elements shall be located and designed in such a manner as to preserve natural resources and maintain natural topography **to the extent practicable** (emphasis added). Extensive grading and filling shall be avoided*". Ms. Mower expounds on the meaning of the word

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"shall", but has overlooked the common meaning of "avoided", which is more equivocal than "prohibited", and means in this context "to endeavor not to meet". Read in context, natural topography should be preserved to the extent practicable, and efforts made to not have extensive grading. That interpretation is consistent with the section on Low Impact Development (5.6.7) ("*with the goal of...achieving...[a]voidance of extensive grading*"). Similarly, see section 8.2.3: "*Development shall follow the natural contours of the landscape to the extent practicable to minimize grading*"; 8.2.7, "*Natural features and systems shall be preserved in their natural condition, wherever practicable. Such areas include...steep slopes...*" Section 8.4 also describes steep slopes and says, "*These elements shall be preserved, if practicable...*". Indeed, "significant" grading is part of the very definition of "Development" in the regulation. Read as a whole, the regulation intends developers to preserve natural features, including slopes, when practicable, but does not prohibit fill when needed. Thank you.

Tim