



## PLANNING DEPARTMENT

Town of Durham

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January 20, 2021

Ari B. Pollack  
Gallagher, Callahan & Gartrell  
214 N. Main Street  
Concord, NH 03301

RE: Mill Plaza Redevelopment Site Plan and CUP Applications

Dear Attorney Pollack:

This is in reply to your letter of yesterday to the Planning Board Chair and myself, which was in response to mine of January 8, 2021, regarding the steps and documentation needed to bring the Mill Plaza application to final action. In this letter I review the Planning Board's site plan regulations and the Board's votes on some items that you questioned, as well as addressing the scheduling issues further. (The numbering of sections below corresponds to the numbered points in your January 19 letter.)

### 2a. Peer Review of Traffic Impact Analysis and Traffic Model Run

Your letter states, "To my knowledge, the questions of commissioning additional traffic and fiscal impact reviews have been discussed, but were not the subject of a formal vote."

However, please note the following:

- On June 13, 2018, the Planning Board voted "to order a run of the traffic model for this project. (See page 9 of the 6/13/18 minutes.)
- On June 17, 2020, the Board voted to "approve the hiring of a third-party consultant to review the traffic report and traffic model, and related materials the applicant submits." (See pages 12-13 of the 6/17/20 meeting minutes.)
- On September 23, 2020, the Board discussed this further but did not take another vote on the peer review and traffic model. (See pages 17-21 of the 9/23/20 meeting minutes.)

My understanding is that the June 2018 and June 2020 votes, to require a peer review of the traffic study and a run of the traffic model, remain in effect until such time as the Board votes to rescind or amend them.

### 2b. Peer Review of Fiscal Impact Analysis

The Planning Board has discussed at several meetings the question of whether an independent review of the Fiscal Impact Analysis should be required but has not yet made a determination. At the December 16, 2020, meeting, the Board requested that I provide a brief report regarding the Town's fiscal impact analysis standards and issues that have been raised

with respect to the report submitted by Colonial Durham Associates. (See pages 21-23 of the 12/16/20 meeting minutes for the Board's most recent discussion.) I am currently preparing that report.

### 3 & 4. Wetlands, Buffer Management and College Brook

I did not know that Mr. Ballestero intended to make a presentation concerning the buffer management plan at the January 27 meeting. I agree that it would be appropriate for the Board to defer discussion of whether to engage an independent consultant until after it has heard that presentation. Please note that, depending on the time available, the Board may not be able to have that discussion at the January 27 meeting, which could result in a further modification of the proposed timeline.

The conditions of approval of the WCOD and SPOD conditional use permits will likely include commitments by Colonial Durham Associates regarding specific measures to restore healthy functioning of the brook and wetland buffer. The May 2020 report on "Recommendations for Stream Improvements to College Brook" describes several proposed measures but does not identify what entities might be responsible for implementing any of them. In order to expedite the Board's review, it would be helpful at the January 27 meeting for CDA to itemize the measures that it proposes to undertake in connection with the plaza redevelopment project, including a timeline for implementation.

Finally, in light of the Conservation Commission's recommendations not to grant conditional use permits for the proposed activities in the wetland and shoreland overlay districts, the Planning Board may wish to explore with CDA whether and how the proposed redevelopment plan might be modified to allow for increased natural buffer as described in the 2015 settlement agreement.

### 5. Closing the Public Hearing and Final Action

In your January 8 letter, you proposed closing the public hearing on February 24, deliberating on March 24, and taking final action by April 28; that is, the Board's final action would take place one or two meetings after the close of the public hearing. I thought that your proposal was reasonable. My response shifted the close of the public hearing by a month but did not propose changing the date of final action accordingly.

In your January 19 letter you appeared to modify your previous proposal, suggesting that the Board consider taking final action at the same meeting at which the public hearing is closed. Given that this meeting will include presentation of reports from Town staff in addition to final public comment, I do not think that is a realistic expectation.

### 6. Signage Plan

Please note the following:

- The Site Plan Regulations require that the site plan show "Location and size of proposed and existing signs, walls and fences" (Part II, Section 2.2(E)(4)(u)).
- The Site Plan Checklist dated May 23, 2018 (resubmitted with the January 2020 revised application) stated that the information on sign height, area and setbacks

would be “submitted separately” and did not request a waiver from the submission requirements.

- In my report to the Planning Board for its meeting on June 13, 2018, I listed the following items that Colonial Durham’s application indicated would be submitted later:
  - (a) **Dimensions of signs**
  - (b) Elevation drawings with colors & materials
  - (c) Type of illumination, if proposed
  - (d) **Construction management plan**
  - (e) Traffic study, if appropriate
  - (f) Fiscal impact study, if requested
  - (g) System for addressing buildings and units
- At the initial presentation of the application on June 13, 2018, you stated that “there would be a signage proposal, as well as a construction management plan as the review moved forward.” (See page 7 of the 6/13/18 meeting minutes.)

If Colonial Durham Associates does not want to submit the sign information before site plan approval, then I believe that they must request the Planning Board to waive this submission requirement.

#### 7. Construction Management Plan

Again, the Site Plan Checklist submitted with the Mill Plaza application stated that the construction management plan would be submitted separately, and I listed it in my June 13, 2018, report to the Board (see above). My review of other applications for significant projects, such as Madbury Commons, reveals that applicants understand that they are expected to submit at least a draft plan for review by Town staff before Planning Board approval.

In conclusion, I want to emphasize that the schedule which we have laid out is feasible but extremely tight. It assumes that the site plan will not be modified significantly, as would be required to address the issues raised by the Conservation Commission. Meeting the target dates will hinge on timely submission of documentation at each stage and will require clear resolution of outstanding issues at the meetings at which they are discussed, rather than deferring open issues to the end of the process.

Sincerely,



Rick Taintor  
Consulting Planner

cc: Planning Board  
Todd Selig, Town Administrator  
Sean McCauley