



PLANNING DEPARTMENT

Town of Durham

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Planning Consultant's Review

Planning Board Meeting – Wednesday, February 12, 2020

- XI. **Public Hearing - Mill Plaza Redevelopment**, 7 Mill Road. 1) Site plan review and 2) Conditional Use for mixed use and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, LP, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Steve Cecil and Emily Innes, Harriman, site planner. Ari Pollack, attorney. Rick Taintor, Town's Contract Planner. Central Business District. Map 5, Lot 1-1.
- I recommend that the Board reopen the public hearing and vote to continue it to March 11, 2020, or another date certain.

Please note the following:

- 1) On January 22, 2020, the Planning Board opened the public hearing on the revised Site Plan for the Mill Plaza redevelopment project. The Board continued the public hearing to February 12, 2020, for a presentation on stormwater management, utilities and landscaping.
- 2) At the January 22 meeting, Board members heard from Attorney Mark Puffer, representing a group of abutters and other Durham residents, disputing the Town Attorney's opinion that the revised site plan was still grandfathered by the 2015 settlement agreement. Toward the end of the meeting, several Board members requested staff to ask the Town Attorney to respond to the issues raised by Attorney Puffer and to clarify her opinion on this matter. We did follow up and Attorney Spector-Morgan has responded that she continues to believe that the revised site plan does not constitute a new application and that it can be considered independently of the proposed parking lot on the adjacent parcel.

Please note that yesterday (February 5) Attorney Puffer submitted a new letter to the Board further elaborating on his arguments. That letter is posted on the Mill Plaza page on the Town website.

- 3) I have met with Town Engineer April Talon and the applicant's engineer Joe Persechino to review the stormwater plan. I believe that Ms. Talon will be providing comments prior to or at the February 12 meeting.

- 4) Related to stormwater management, College Brook is somewhat degraded, including bank erosion, as it runs along and across the Mill Plaza property. While the proposed site plan mitigates the impacts of runoff from the Plaza parking lot (by closing several direct outfalls from the parking lot and providing a closed stormwater collection and treatment system), it may be appropriate for the Board and the applicant to consider funding for a remediation plan for College Brook along the lines of the University's 2000 "Ravine Master Plan," and for the Plaza to participate in implementation of such plan's recommendations.

In this regard, the applicant's cover letter for the conditional use permit application for Mixed-Use with Residential refers to a "discussed joint venture between the Applicant, the University, and the Town [which] offers the opportunity to further enhance and protect College Brook and is another means of enhancing the amenities of the development site while buffering surrounding neighborhoods" (letter submitted May 21, 2018, revised and re-submitted January 2, 2020, page 4). In addition, the applicant's cover letter for the shoreland/wetland buffer conditional use permit applications states that "Applicant has retained a qualified consultant to suggest additional means of restoring and protecting the College Brook waterway, all of which can be done in partnership with the Town, the University and/or interested abutters" (letter submitted May 21, 2018, revised and re-submitted January 2, 2020, page 2). These statements could be incorporated in specific conditions of the conditional use permits and site plan approval.

- 5) With respect to landscaping, I have identified several aspects of the site plan that do not comply with Development Standards set forth in Part III of the Site Plan Regulations (references are to the regulations dated September 17, 2014, to which the application is vested):

- a) *Sec. 5.8.4 – Trees should be distributed throughout the parking lot as evenly as practical, in order to provide optimal canopy coverage and shading.*

The site plan shows trees only along the perimeter of the large parking field in front of existing Building A. There is no canopy coverage or shading in the interior of the parking lot.

- b) *Sec. 5.8.5 – A landscaping peninsula shall be placed at the end of each parking row (such a peninsula is also referred to as an "end cap"), in line with the adjoining parking spaces, measuring at least the same dimensions as the adjoining parking spaces, wherever the row of parking spaces is adjacent to a perpendicular travel way. Each peninsula shall be planted with one shade tree, or one ornamental tree if use of a shade tree is not practical, for lack of space for roots.*

In the parking field in front of Building A, at least 6 end caps are shown without trees. In addition, many of the end caps are not as wide as the adjoining parking spaces.

- c) *Sec. 5.8.6 – There shall be no more than four continuous parallel parking rows on the interior of the parking lot (i.e. parking rows along the perimeter of the parking lot are not situated on the interior) without installation of a landscaped median separating those parking rows from any additional parking rows.*

The existing parking field in front of Building A appears to comply with this standard: it is divided by landscaped medians into sections each containing four parking rows. However, the proposed site plan eliminates these medians, creating a single parking field containing 10 parking rows with no interior landscaped median. (These 10 rows do not include the perimeter parking row adjacent to Mill Road, or the parking row next to Building B that might be considered to be “along the perimeter of the parking lot.”) It seems that two landscaped medians would be required for compliance with this standard, which would likely require the elimination of at least one parking row.

Sec. 1.1.4 of the Development Standards provide flexibility for nonconforming site conditions, allowing the Planning Board to either (a) require that nonconforming site conditions be brought into compliance, (b) require that the extent of nonconforming conditions be reduced, or (c) require that nonconforming conditions be mitigated. In this case, however, it appears that the proposed site plan involves the creation of a new nonconformity, or at least an increase in the extent of the nonconformity. Therefore, it does not appear that Sec. 1.1.4 applies to this condition.

- d) *Sec. 5.8.9 – Foundation Planting Strip. There shall be a minimum 4 foot wide foundation planting strip between the building and any parking lot or driveway situated on the front or side of the building.*

While several individual trees are proposed at the edge of the sidewalks, the site plan does not show any planting beds along any side of Building B. The only exceptions are small planting areas at the corners of Building B defining the edges of parking rows but not separating the building from the parking lots.

The site plan does not show planting beds along most of the west side of Building C, with the only exceptions being two planting areas flanking the entrance to the garage and drive-through. The plan does show a narrow planting bed along the south side of Building C, but it does not appear to be 4 feet wide.

Finally, no planting bed is shown along the front or east side of Building A, but presumably this could be determined to be grandfathered as an existing nonconformity.

- e) *Sec. 5.8.10 – A minimum of five percent (5%) of the total parking and driveway area, in addition to a buffer strip of at least ten feet in width abutting a public right-of-way, shall be landscaped.*

The plan does not indicate the percentage of the parking and driveway area that is landscaped, but it does not appear to be 5%.

- f) *Sec. 5.8.11 – Parking lots shall be broken up into smaller parking areas with landscaping features and bioretention systems. The total parking area required shall be broken into sections not to exceed forty (40) spaces unless otherwise approved by the Planning Board.*

The large parking field in front of Building A is proposed to contain 209 spaces with only one small internal landscaped island.

The parking field to the south of Building B is proposed to contain 86 spaces with no internal landscaping or bioretention system.

I alerted the project engineer and architect to the existence of landscaping compliance issues following the meeting on January 22.

As the landscaping standards are contained within the Site Plan Regulations rather than the Zoning Ordinance, they can be modified or waived through a waiver from the Board. The applicant has not yet requested any such waivers.

Note that Sec. 5.8.1 exempts “parking areas situated to the rear of the main building, or beyond the line running even with the rear wall of the building” from the landscaping requirements. The regulations do not define what the “main building” is, but proposed Building C would be the largest building on the site in terms of footprint and massing, so this exemption would likely apply to about 22 parking spaces at the extreme southerly corner of the site, nearest Chesley Drive.

- 6) As a result of eliminating the back portion of Building C (i.e., “Building C1” on the May 2018 plan), the revised site plan adds a story to Building B, moving the four-story portion of the proposed development closer to the Faculty Road neighborhood. As the applicant has noted, the maximum allowed height for a mixed-use building in the Central Business District is 3 stories unless the building contains 2 stories of nonresidential uses, in which case the building can be 4 stories high. The applicant has stated that it is important to place the second-floor nonresidential space in Building B to be as visible as possible, and therefore Building C could not be 4 stories high.

However, the Zoning Ordinance provides additional flexibility in certain cases. Under the June 2014 version of the Ordinance, to which the application is vested, the Planning Board may adjust the nonresidential use requirement by conditional use permit where it

determines that the strict application of the requirement is not practical, an alternative arrangement of uses will serve the intent of the requirement, and the amount of nonresidential floor area is at least as much as would otherwise be required (Sec. 175-41.F.7).

Thus, the location of nonresidential uses can be unlinked from building heights within the development if the Board determines that this would be advantageous to the community. For example, it would be possible for the rear portion of Building C to be 4 stories high, including 3 floors of residential uses over the nonresidential ground floor, with Building B containing two floors of nonresidential uses and one residential floor.

Respectfully submitted,

Rick Taintor, AICP
Community Planning Consultant
February 6, 2020