

March 23, 2020

Planning Board  
8 Newmarket Road  
Durham, NH 03824

*RE: Continued Public Hearing - Mill Plaza Redevelopment. 7 Mill Road. Continued review of formal application for: 1) Site plan and 2) Conditional Use for mixed use redevelopment project and activity within the wetland and shoreland overlay districts. A revised general layout has been submitted for review. Colonial Durham Associates, property owner. Sean McCauley, agent. Joe Persechino, Tighe & Bond, engineer. Ari Pollack, attorney. (Rick Taintor is serving as the Town's Contract Planner.) Central Business District. Map 5, Lot 1-1.*

Dear Members of the Board,

Below please find information relative to the two landscaped areas of interest relative to the proposed redevelopment of the Mill Plaza. Notes on these areas are included under item #12 on "Notes" on Sheet 2 of the "Existing Conditions Plan of the Mill Plaza" conducted by Doucet Survey, dated May 8, 2008. (See below.)

First, I urge the Board to request that the 2008 "Existing Conditions" be posted online, as requested in the past; for easy reference, I will forward a copy to the Planning Department. (You will need to zoom in considerably to read it on your computers.)

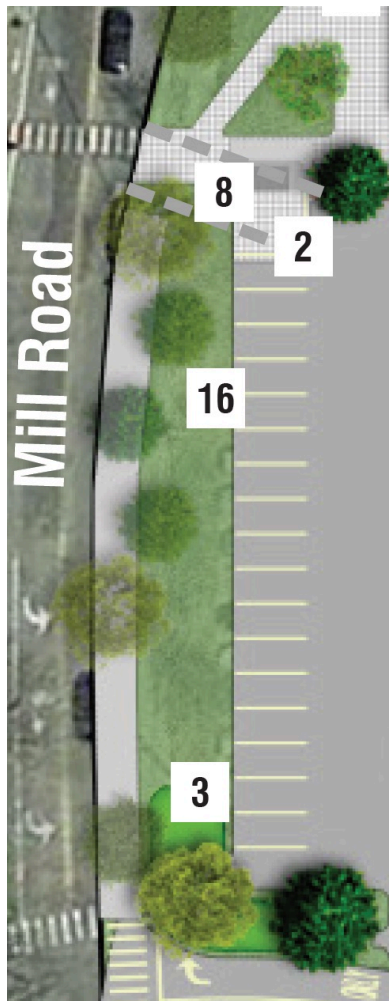
Two areas of interest—although not the primary ones, i.e., the parking lot and the southern edge—relative to proposed landscaping are:

1. The triangle at Mill Road and Main Street that I believe is known as "Memorial Park" on which the Town holds an easement. See Note 12B. *Reference to this Note is clearly visible on Sheet 1 of the 2008 Plan.*
2. The strip along Mill Road from College Brook to "Memorial Park." A quitclaim deed indicates that the Town of Durham owned it, as of March 7, 1951. See Note 12F. *Reference to ownership and/or the Note is NOT clearly indicated on Sheet 1.*

Second, we need answers to the following questions:

1. Does the Town of Durham still own the strip along Mill Road?
2. If it does, can the Town choose how it is landscaped, entirely separately from the Colonial Durham application? (It would seem obvious, but let's confirm.)
3. Is it preferable that the Town coordinate plans and costs with CDA?

Below I provide a screenshot capturing this strip as shown on page 1 of the Site Plan Renderings dated January 2, 2020, prepared by Harriman, showing proposed landscaping:



Please see following pages for: (1) transcription of Note 12 on the “Existing Conditions Plan” and (2) screenshots of a few relevant deeds from books of the Strafford County Registry of Deeds.

Sincerely yours,

Robin

Notes from Robin Mower, March 22, 2020

- Information in this document pertains ONLY to the Notes on the “Existing Conditions Plan of the Mill Plaza,” Drawing # 2416A, Sheet 2, conducted by Doucet Survey, date-stamped May 8, 2008.
- S.C.R.D = Strafford County Registry of Deeds
- Transcription provided first; screenshot from the Plan shown below, as are sample screenshots from the deeds.

### Notes (from Sheet 2 of 2 of the 2008 Doucet “Existing Conditions Plan”)

10. The intent of this plan is to show the location of boundaries in accordance with and in relation to the current legal description, and is not an attempt to define unwritten rights, determine the extent of ownership, or define the limits of title.

12. The parcel is subject to, and/or in benefit of the following easements, restrictions, etc.

A. Subject to a utility easement in favor of PSNH & NETT, see S.C.R.D. Book 854 page 254.

B. Subject to an easement in favor of the Town of Durham for grading landscaping and public park use, see S.C. R. D. Book 924 page 204

C. Subject to a conveyance to the Town of Durham for Roadway Purposes, see S.C.R.D. Book 948 page 15 & Book 966 Page 98. Current legal status undetermined. [R. Mower note 2020: The “offer” expired. See Meyrowitz history of the Plaza.]

D. Subject to the terms of a boundary line agreement between Tamposi & LeHoullier and Cheney [original property owners/developers], see S.C.R.D. Book 966 page 113.

E. Subject to the terms and conditions of a 10 year lease (as they may apply) made between Osgood and the Town of Durham in February 1953, see S.C.R.D. Book 613 page 440.

F. Subject to a conveyance to the Town of Durham which defines the edge of the Mill Road Right of Way, see S.C.R.D. Book 590 page 278. [R. Mower note 2020: Quitclaim, i.e., not an easement. Date of the deed is March 7, 1951.]

G. #1 [misnumbered on 2008 Doucet plan]. Subject to the terms and conditions of a 10 year lease (as they may apply) made between Chesley and Nett in April, 1938. See S.C.R.D. Book 483 pages 73 & 394.

G. #2 [misnumbered on 2008 Doucet plan]. Subject to the terms and conditions of a 10 year lease (as they may apply) made between Chesley and Nett in February, 1928. See S.C.R.D. Book 429 page 270.

H. Subject to a sewer easement in favor of the Town of Durham. See S.C.R.D. Book 809 page 315.

I. Subject to a sewer/drain easement in favor of UNH. See S.C.R.D. Book 467 page 489.

- J. Subject to a right of way. See S.C.R.D. Book 877 page 29. [R. Mower note 2020: warranty deed between Olivia Osgood and Walter Cheney, dated October 6, 1970, pertaining to the strip of land between Chesley Drive and the primary area of the Plaza; note misspelling of property owner "Mowar" (correct spelling is "Mower")]

Below is a screenshot from Sheet 1 of the above-referenced 2008 Doucet plan:

12. THE PARCEL IS SUBJECT TO, AND/OR IN BENEFIT OF THE FOLLOWING EASEMENTS, RESTRICTIONS, ETC.
- A. SUBJECT TO A UTILITY EASEMENT IN FAVOR OF PSNH & NETT, SEE S.C.R.D. BOOK 854 PAGE 254.
  - B. SUBJECT TO AN EASEMENT IN FAVOR OF THE TOWN OF DURHAM FOR GRADING LANDSCAPING AND PUBLIC PARK USE, SEE S.C.R.D. BOOK 924 PAGE 204.
  - C. SUBJECT TO A CONVEYANCE TO THE TOWN OF DURHAM FOR ROADWAY PURPOSES, SEE S.C.R.D. BOOK 948 PAGE 15 & BOOK 966 PAGE 98. CURRENT LEGAL STATUS UNDETERMINED.
  - D. SUBJECT TO THE TERMS OF A BOUNDARY LINE AGREEMENT BETWEEN TAMPOSI & LEHOULLIER AND CHENEY, SEE S.C.R.D. BOOK 966 PAGE 113.
  - E. SUBJECT TO THE TERMS AND CONDITIONS OF A 10 YEAR LEASE (AS THEY MAY APPLY) MADE BETWEEN OSGOOD AND THE TOWN OF DURHAM IN FEBRUARY, 1953, SEE S.C.R.D. BOOK 613 PAGE 440.
  - F. SUBJECT TO A CONVEYANCE TO THE TOWN OF DURHAM WHICH DEFINES THE EDGE OF THE MILL ROAD RIGHT OF WAY, SEE S.C.R.D. BOOK 590 PAGE 278.
  - G. SUBJECT TO THE TERMS AND CONDITIONS OF A 10 YEAR LEASE (AS THEY MAY APPLY) MADE BETWEEN CHESLEY AND NETT IN APRIL, 1938, SEE S.C.R.D. BOOK 483 PAGES 73 & 394.
  - G. SUBJECT TO THE TERMS AND CONDITIONS OF A 10 YEAR LEASE (AS THEY MAY APPLY) MADE BETWEEN CHESLEY AND NETT IN FEBRUARY, 1928, SEE S.C.R.D. BOOK 429 PAGE 270.
  - H. SUBJECT TO A SEWER EASEMENT IN FAVOR OF THE TOWN OF DURHAM, SEE S.C.R.D. BOOK 809 PAGE 315.
  - I. SUBJECT TO A SEWER/DRAIN EASEMENT IN FAVOR OF UNH, SEE S.C.R.D. BOOK 467 PAGE 489.
  - J. SUBJECT TO A RIGHT OF WAY, SEE S.C.R.D. BOOK 877 PAGE 29.

Screenshots from the Strafford County Registry of Deeds for Notes 12B and 12F; note, these screenshots do not show the entire documents.

## TRIANGLE PARK AT MAIN AND MILL

12B. Subject to an easement in favor of the Town of Durham for grading landscaping and public park use, see S.C. R. D. Book 924 page 204

### QUITCLAIM DEED

..THAT we, Samuel A. Tamposi and Edward N. Lehoullier, both .....  
.....  
of Nashua Hillsborough County, State of  
New Hampshire, for consideration paid, grant to the Town of Durham, a municipal corpor-  
ation duly organized by law in the State of New Hampshire  
.....  
of Durham (Street Address)  
(Town or City) Strafford County, State of  
New Hampshire, with QUITCLAIM covenants, the

(Description of land or interest being conveyed: incumbrances, exceptions, reservations, if any)

An easement over a certain tract or parcel of land situate on Mill Road, at or near the intersection of said Mill Road with Main Street in Durham, County of Strafford, State of New Hampshire and bounded and described as follows:

Beginning at an iron pin at the northeasterly corner of the easement area herein described at land now or formerly of Isabella Smart, and running thence S 48° 19' W a distance of 70.1 feet more or less to a point at the northwesterly corner of said property now or formerly of Smart; thence turning and running by other land of Grantors N 42° 34' E a distance of approximately 60 feet more or less or until said line intersects with a point which is 10 feet distant from the edge of Grantors' lot line on Mill Road; thence turning and running in a generally southwesterly direction on a line parallel to, and 10 feet distant from, Grantors' lot line on Mill Road until said bound intersects with the driveway serving as the entry to Grantors' premises; thence turning and running in a northwesterly direction along said driveway or entry a distance of 10 feet to Mill Road; thence turning and running in a generally northeasterly direction along Mill Road to a point; thence turning and running in a generally northeasterly direction along said Mill Road on a curve to the right having a radius of 516.1 feet a

1973 MAY -1 PM 2:15

Meaning and intending hereby to grant the perpetual right and easement in and to said Grantee for purposes of entering upon said land and grading and landscaping the same, and further to use the same for such public and park purposes as the Grantee may desire.

STAFFORD COUNTY

..... wife of said Grantor, release to said Grantee all rights of  
husband homestead and other interests therein.

WITNESS *own* hands and seals this *20th* day of *April*, 19 *73*..

Witness:  
*[Signature]*  
.....  
*(to both)*

*[Signature]*  
Samuel A. Tamposi  
*[Signature]*  
Edward N. Lehoullier

STATE OF NEW HAMPSHIRE  
Hillsborough ss.

.....  
Samuel A. Tamposi and Edward N. Lehoullier

April *20*, 19 *73*

Personally appeared and acknowledged the foregoing instrument to be  
..... voluntary act and deed.

Before me,

*[Signature]*  
.....  
Notary of the State

REGISTER OF DEEDS

MILL ROAD VEGETATED STRIP

12F. Subject to a conveyance to the Town of Durham which defines the edge of the Mill Road Right of Way, see S.C.R.D. Book 590 page 278. [R. Mower note 2020: Quitclaim, i.e., not an easement. Date of the deed is March 7, 1951.]

LIBER  
PAGE

590  
278

Dated the 7<sup>th</sup> day of March, A. D. 19 51.  
Signed, sealed and delivered  
in presence of

Dwight Hall      Luella L. Blaisdell  
Strafford, ss.      March      A. D. 19 51

Personally appeared the above named Luella L. Blaisdell and  
acknowledged the foregoing to be her voluntary act and deed.

Before me, Dwight Hall  
Justice of the Peace.

RECEIVED: 2:50 P. M. March 9, 1951.      EXAMINED BY Anna Morin Dube

**Know All Men By These Presents**

THAT I, Wilfred A. Osgood, single,  
of Durham, N. H.  
for and in consideration of the sum of one or more dollars  
to me in hand before the delivery hereof, well and truly paid by The Town of  
Durham, New Hampshire,

Dated the 7<sup>th</sup> day of March, A. D. 19 51.  
Signed, sealed and delivered  
in presence of

Dwight Hall      Luella L. Blaisdell  
Strafford, ss.      March      A. D. 19 51

Personally appeared the above named Luella L. Blaisdell and  
acknowledged the foregoing to be her voluntary act and deed.

Before me, Dwight Hall  
Justice of the Peace.

RECEIVED: 2:50 P. M. March 9, 1951.      EXAMINED BY Anna Morin Dube Register.

**Know All Men By These Presents**

THAT I, Wilfred A. Osgood, single,  
of Durham, N. H.  
for and in consideration of the sum of one or more dollars  
to me in hand before the delivery hereof, well and truly paid by The Town of  
Durham, New Hampshire,

A certain tract of land situated in the Town of Durham,  
County of Strafford and State of New Hampshire.

Beginning at a point on the south edge of the culvert header that is  
over the center of the culvert of the small brook that flows through  
Durham Village and under Mill Road, so-called; thence running North  $52^{\circ} 34'$   
East 125.6 feet to an iron pin; thence running North  $55^{\circ} 14'$  East 50 feet to  
an iron pin; thence running North  $59^{\circ} 36'$  East 50 feet to an iron pin;  
thence running North  $67^{\circ} 32'$  East 50 feet to an iron pin; thence running  
North  $70^{\circ} 52'$  East 50 feet to an iron pin; thence running North  $76^{\circ} 17'$   
East 50 feet to an iron pin; thence running North  $84^{\circ} 32'$  East 50 feet to  
an iron pin at the northeast corner of land of the Grantor and also being  
the northwest corner of land of Isabelle Smart, said iron pin is on the west  
side of the old New Hampshire Turnpike known as Main Street today and is 66.0  
feet west of the north boundary of said Main Street; the last eight courses  
bounding on land of the Grantor; thence running westerly and southerly  
partly on stone wall along the original bound of said Mill Road to the place  
of beginning.

Being part of *lot of land received by grantor Wilfred A. Lyman*  
*from estate of Jay Bell Lyman*