

# Comments to the Durham Conservation Commission supporting their recommendation about the College Brook buffer

Dennis Meadows

Tonight you will discuss whether and how to send to the Planning Board a statement reaffirming your January 4, 2021 recommendation to insist on restoration and preservation of the 75' buffer between College Brook and the Mill Plaza parking lot. I wish to speak tonight in support of that statement.

As you know, preserving the buffer would gain Durham a great deal. It would protect the environmental quality of the Brook, reduce downstream flooding, give pedestrians a safe path into town, shield the Faculty Neighborhood partially from the sights and sounds of the Plaza, and complete Durham's long trail from Doe Farm to the Oyster River Forest - an enormous gift to those who walk, bike, and jog in Durham. It would also give Durham's central business district distinction and a unique appeal.

In contrast, preserving the buffer would cost CDA very little. It might slightly reduce its rental income from a few student parking spaces and increase its costs of snow removal. But that loss would be more than offset by greatly increased goodwill with the town and national recognition for an otherwise very mediocre mall.

Protecting the buffer along the Plaza is so important, that I offered to give Durham \$35,000, if it can persuade CDA to comply with the spirit of its 2015 Settlement Agreement, vacate the buffer, and allow Durham to create a College Brook greenway.

I elaborated on that offer in 4 letters that are posted in the Public Comments section of the Planning Board's website on the Plaza. I won't repeat tonight the points I made in those letters. Instead I will put your buffer recommendation into historical perspective.

Todd Selig's recent 2021 year end report noted the successful completion of the Kenny Rotner Bridge. I believe the first reference to a pedestrian bridge over the Oyster River was in the Conservation Commission

summary for the 1969 *Durham Annual Report*. Already 50 years ago you recognized the importance of our town's environmental resources.

And your belief was widely shared by the people of Durham. For example, Durham's 1969 Master Plan states: "Durham's natural and historic beauties are unusual and worthy of preservation." "The town has an unusual opportunity to develop a series of greenways along the streams [including College Brook] penetrating the village. ..It's recommended that "first priority be given to conservation, because once the prized environment is lost, it can never be replaced.... "

Durham's next Master Plan, completed in 2000, states: "Create an urban .. greenway system that is based upon the major streams and rivers within the core.... The loss of buffers through variances ...should be minimized.... Pedestrian access to the Mill Pond may be encouraged with downtown ... footpaths such as the pedestrian path to the pond from Main Street and Mill Road through the Mill Plaza to the footpath through the woods that connects with Chesley Drive.... College Brook should be restored in those areas where it has experienced degradation."

College Brook is in the heart of Durham. For at least the past 50 years **every** citizen, **every** consultant, **every** official study has advocated the restoration and preservation of a buffer along College Brook.

The **only** advocate for violating the buffer has been Colonial Durham Associates.

Over the past few days I have watched many hours of DCAT recordings. It took the members of the Conservation Commission about 8 hours of deliberations and a 2 hour site walk to decide they would recommend restoring and preserving the 75' buffer. It took Colonial Durham Associates just a few minutes to show that they would ignore the recommendation.

You know this negotiation strategy: "What's mine is mine, and what's yours is negotiable."

The main CDA response to your recommendation that I saw was to call for cutting off further public input. CDA's representative merely said about your recommendation, "what could be worse than that?"

I know two things that could be worse than that for CDA, but they would both be better for Durham.

First, reject the myth that it is impossible to move the entrance to the Plaza parking lot out of the buffer. Although different versions of its site plans have assumed it is possible to move a four-story building, including all its associated utilities and roadways, to different places on the CDA property, we are supposed to believe that CDA can not move a simple driveway entrance a few feet north on Mill Road. I believe the company is planning a \$50-60 million construction program. Independent civil engineers will tell you that the construction costs for moving the entrance out of the buffer would be a few tens of thousands of dollars.

Second, reject the myth that refusing the current CDA proposal will leave Durham with something even worse. CDA has told us repeatedly that we do not have any alternatives to their proposal. I heard variations of this claim four separate times during one session in a recent Planning Board meeting. If you repeat a false statement often enough, it becomes more plausible. But it does not become more true.

The Plaza is a commercial property unique in the Northeast. At the center of a wealthy community and across the street from a large university, it can generate an enormous profit for its owner. CDA obviously realizes that. Why else do you imagine the CDA team has been willing to put up with so much frustration, delay, and citizen criticism for years while seeking approval to increase its investment.

Everyone wants and expects the Plaza property to be redeveloped. The people of Durham are not blindly against development; they are just against blind development.

If only three members of the Planning Board decide that this CDA plan fails to satisfy the requirements for conditional use approval, CDA will come back with a plan that does. Or they will sell the Plaza to new owners who will. It is definitely possible to earn a significant profit with a project in the Plaza that enhances, rather than degrades the quality of life in the center of our town.

The importance of the Conservation Commission is explicitly indicated in the current Durham zoning code with the phrase "[Planning board in](#)

consultation with the Conservation Commission." To consult does not mean to ignore.

If the Conservation Commission's recommendation of January last year continues to be ignored, Durham will lose the possibility of restoring the College Brook buffer for another 50 years or more.

On February 21, 1973, the Durham Conservation Commission wrote a letter to the Durham selectman that is still relevant today. I quote from that letter, "Construction .. now proposed, directly above the banks of the brook, will cause more erosion of soil and more silting into these adjacent waterways unless preventive measures are guaranteed as a condition for the granting of a new building permit."

Because your warning was ignored 50 years ago, construction took place on the Plaza. It became impossible to protect the buffer, silting occurred, and Durham's Mill Pond filled in exactly as predicted. Notice who has been receiving the profits and who has been paying the costs. That should not happen again.

Ultimate authority to decide on the buffer lies with the Planning Board. Will the Plaza project be required to comply with Durham's zoning or will Durham's zoning be twisted to comply with the Plaza project? I like to believe that several members of the Planning Board will choose the first. If you can reaffirm your support of your earlier recommendation you will help them do that.

But if you decide to do that. Do it tonight. I expect the opportunity for public comment will be closed after the Planning Board's next meeting.