

College Brook Degradation & Flooding:

20 Years of Mill Plaza Violations* & Deceptions

of RSA 485-A:13,I (a) – “Water Discharge Permits” – *and more

known to, but unchecked by Durham officials,
with promises of a “fix” through Planning Board Review
of a Mill Plaza Redevelopment proposal

Submitted to the Durham Planning Board, Conservation Commission, & Town Council, January 4, 2022

by Joshua Meyrowitz, 7 Chesley Drive, Durham, NH

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Adapted from multiple letters & presentations to the Planning Board & Conservation Commission
and a Town Council “Public Comment,” Oct 4, 2021, 7:04:50-7:09:50 pm, [video](#). (xf)

20 Years of Mill Plaza Violations & Deceptions

which a PB review of a redevelopment plan was finally supposed to address

- 2002 – CDA bulldozes eastern hillside w/o permit, adding flooding, erosion, silting downstream
- 2002-2020 – Town staff promise that any Plaza redevelopment will be required to fix flooding
- 2006-2008 – CDA encourages Durham to work on vision for site, then abandons award-winning result
- 2009 – CDA uses “degraded” condition (it caused) to justify plan for more WCOD parking
- 2009 – Con Com: site-plan fails on both “pre-existing condition” definitions (2002 & 2009)
- 2009 – Town Attorney: spot-rental “must cease”; no PB review for “out-of-compliance” site
- 2009 – Planning Board denies added parking proposal, citing 2002 damage, ConCom, & Attorney
- 2015 – CDA signs Legal Agreement, pledging restored 75-ft wetland buffer (but ignores it)
- 2016 – CDA Engineer informed about downstream flooding; promises reduced impervious area
- 2019 – Hannaford makes approval conditional on Church Hill Woods deforestation for parking
- 2019 – UNH’s Water Systems Analysis Group reports 1.7/mo avg overflow events in College Brook
- 2020 – Peer reviewer: “Applicant has proposed an *increase* in impervious area”
- 2020 – Peer reviewer: CDA informed us that College Brook does not overflow its banks
- 2021 – Peer review: Oct 2021 plan worse than May 2020 plan re: peak-discharge rate flooding risks
- 2021 – Peer review: discharge stormwater volume higher than current *untreated* site
- 2021 – CDA continues to bulldoze snow into bank of College Brook in apparent violation of state law
- 2014-2022 – all CDA plans max out stormwater system benefits w/ WCOD violations & hillside removal
- **2022 – “pre-existing” should be 2002, with Church Hill tenant-parking plan part of stormwater review**

Mill Plaza Unauthorized Bulldozing of Hillside

- Sept. 2002: Mill Plaza manager Dave Garvey
 - Given permit to remove chain link fence & propane tank slab
 - **But bulldozed entire rear eastern hillside ~9,000sf (more cubic) (*without any Town or NHDES permits*)**
 - CDA plan: add 40 *rental* parking spots near site boundary at Chesley Marsh
- Residents trying to take photos threatened with arrest by CDA



Results of Bulldozing Eastern Hillside

- Destruction of pleasant hillside, with rare-bird sightings
- **Added downstream silting & flooding ever since**
- Loss of sound/light buffer
- Residents had to pressure Town officials & Planning Board to intervene



Town Engineer on Bulldozing

Per Town engineer Bob Levesque:

- The resulting runoff/pollution into wetland is **FORBIDDEN** by 2002 standards
- **REQUIRED** compensatory stormwater system stopping direct drainage into Brook
- **CDA must restore, fix, mitigate** to reduce the added flooding/pollution



The first of many encouraging Town promises, still unfulfilled.

See more details in [Durham's Mill Road Plaza: 1967-2018](#), pp. 23-25.

Good News: Planning Board rejected amended parking plan (Oct 2002)

Bad News: For 19+ years, CDA has ignored ban on parking in the bulldozed area, has not restored hillside – nor even maintained area.



April 14 2020



Oct 24 2020



Oct 24 2020

**Town
has done
NOTHING!**
(about this)

Seven (7) Years Later (2009)...

...shortly after CDA abandoned award-winning Mill Plaza Study effort (which CDA had encouraged)

- CDA used degraded “existing condition” (*which it had illegally caused*) to justify application to “improve” the “degraded” site – by infringing further on the wetland setback for more rental parking spots.*
- CDA even pressured its commercial tenants to give false testimony at Town hearings (i.e., that they needed more customer parking at almost-empty rear of site).

*Per Oct 2009 Conservation Commission ([pp. 41-43](#)): Even if CDA’s questionable “existing condition” claim is accepted, the application fails CUP criterion #1. Moreover, if “pre-existing condition” is determined to be site before 2002 bulldozing, then the application fails to meet ANY of the four standards necessary for conditional use.

2009 Town Attorney Ruling

Attorney Walter Mitchell wrote to Town Planner Jim Campbell
(via [email](#), November 4, 2009)

- 1) The Planning Board cannot consider a plan for an “out-of-compliance” site
- 2) Plaza spot-rental business “must cease”

For full CDA 2009 Application/Review details, see pp. 36-52, [Durham’s Mill Plaza, 1967-2018](#)

And Since Then?

Attorney Mitchell's ruling has never been enforced.

CDA has **EXPANDED** its unlicensed parking rental business to 150+ spaces.



Cars parked at
2:16 am, Wed
Sept 23, 2020

CDA has continually **lied** to Hannaford, the public, and Town officials about extent of that *unapproved* use. Town has not held CDA to account.

Good News: Planning Board rejected 2009 CDA application, citing Attorney Mitchell ruling and the fact that:

“The applicant has failed to address activities that were not approved by the Planning Board in 2002 such as clearing, excavating and grading.”



April 16, 2007

Views from
2nd floor
window,
7 Chesley Dr

2009
DENIAL
NOTICE



Dec 18 2012

Bad News: Increased flooding & property damage since 2002 NOT addressed

**\$1,000s of lost shrubs, trees,
perennials, top soil, whole gardens**

**← 2nd Brook channel
from flooding erosion**

**Roots
Exposed →**

←← Brook bank pre-2002

**7 Chesley Dr
April 15, 2020**



December 2015 — CDA signs Legal Agreement pledging restored 75-ft wetland buffer *increased pervious ground would reduce downstream flooding*

CLAUSE 1d “The Revised Application will provide for proposed buildings and vehicular roads outside of the shoreland and wetland buffers such that variances from town ordinances are not required and the buffers are maintained by the property owner.” – Dec 14, 2015, Legal Settlement [[background/highlights](#); [full agreement](#)].

Town Attorney on Clause 1d: Town Attorney Laura Spector-Morgan summarized the essence of the Settlement for the Durham Planning Board and public on January 27, 2016, she reiterated the plain meaning of Clause 1d in her own words:

“All of the buildings and the roads will be outside the shoreland and wetland buffers, so that no variances are required for those.” [[full transcript](#), p. 1]



Conceptual Design in Settlement:
buildings & roads outside of buffer

No plan submitted by CDA to date complies with this clause of the Legal Agreement

See also: “Settling the ‘Planning Board Role’ Regarding the 2015 Legal Settlement,” [Joshua Meyrowitz 3-19-21](#); “Unedited Transcript of Attorney Laura Spector-Morgan explaining the Dec 14, 2015, legal Settlement between the Town of Durham & Colonial Durham Associates at Jan 27, 2016 PB Meeting,” [Joshua Meyrowitz 4-22-21](#); “The CDA-Durham Legal Settlement is Clear: ‘The Revised [Mill Plaza] Application will provide for proposed buildings and vehicular roads outside of the shoreland and wetland buffers....’” [Joshua Meyrowitz 4-23-21](#); [Conservation Commission Recommendation to the Planning Board](#) and [Letter from Attorney Mark Puffer 8-24-21](#)

CDA Promises vs. Reality

2016 CDA promises:

“[CDA engineer] Mr. Persechino said there would be a **REDUCTION in impervious area with this project**, which would REDUCE RUNOFF. He also said **he would look at [the flooding on Chesley Drive that]** Mr. Behrendt described.”

— Excerpts from January 27, 2016, [Planning Board Minutes](#)

2020 revelations:

“The **Applicant has proposed an INCREASE in impervious area** of approximately 17,415* square feet (sf).”

[Horsley Witten Group First Peer Review 5-4-20](#)

*Dec 8, 2021 Public Hearing: Peer reviewer cited improvement in Oct 2021 plan, but still 2,164 sf impervious *increase* over current site ([video](#), 7:27:37p, [minutes](#)). With 9,000~ sf 2002 bulldozing, *impervious increase* would be 11,264~ sf.

2020 – CDA misled the third-party stormwater reviewer

“We asked [CDA] about potential flooding.... the **volume is being increased** a small amount. So that always is something that we realize ‘okay, let’s make sure that there’s not going to be so much volume that if it was a bathtub...and you keep adding volume, it would eventually go over the top.’

But...when we talked about it, they [CDA] were able to explain how College Brook...continuously flows to Mill Pond, so there’s no real restrictions such as if it was a bathtub with a small outlet or something that would restrict it....”

**Janet Carter Bernardo, Horsley Witten,
CDA Stormwater Plan Reviewer**

—Planning Board Meeting,

[May 27, 2020](#), 9:25:30 pm

Note that audio quality was very poor, so transcription may not be precise.

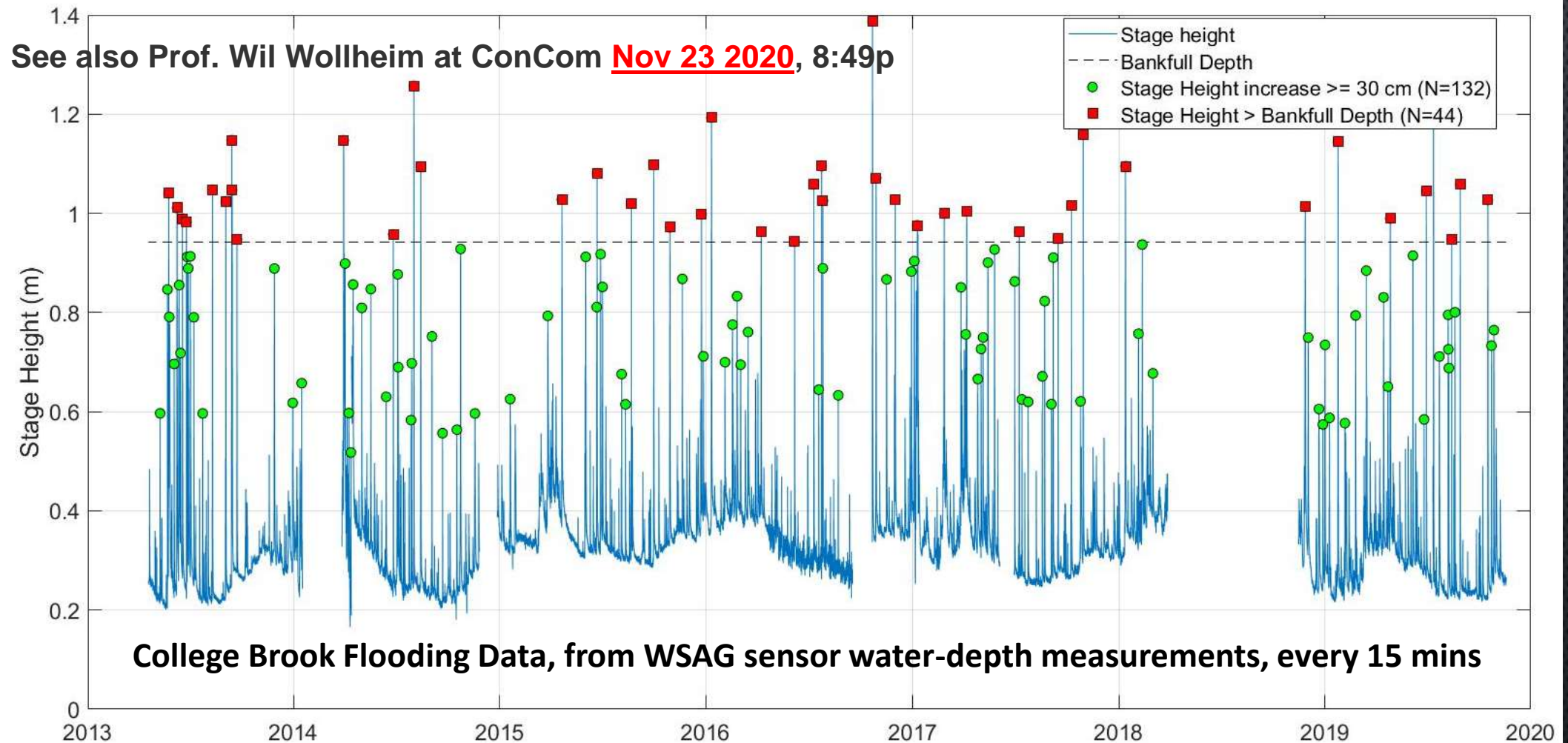


2020 – CDA misled the third-party stormwater reviewer



Peer Reviewer: “The Applicant [CDA] has clarified that College Brook flows to Mill Pond and stated that there are no restrictions that would cause the Brook to backup creating a flooding issue downstream.” [HW 2nd Peer Review Report](#)

UNH Water Systems Analysis Group (WSAG)



WSAG sensor data: April 2013 to Nov 2019, 132 storm events with stage-height rise of 12" or more (1.7/mo avg), 44 exceeding "bankfull depth" (.6/mo avg).

Town staff reassurances over the years that *any* redevelopment of Mill Plaza would finally fix the flooding downstream have suddenly vanished.

See: [Technical Review Group May 31 2016](#) & [David McCormick 6-19-20](#)



Chesley Dr. backyard



Chesley Dr. backyard, after rain

“The flooding is a major concern. In the short 6 months we have lived at 5 Chesley, we have noticed a lot of flooding and standing water on our property. It makes it difficult to mow regularly and disrupts the peaceful enjoyment of our property.” – *New owners’ comment, 1-3-22*

Dr. Eric Lund at 31 Faculty Rd, downstream of the Plaza, reports that when he bought his house in 1998, he owned dry land across the Brook, and there was a bridge to reach it (so that it could be mowed).



After the unauthorized CDA bulldozing of the eastern Plaza hillside in 2002 – which led to noticeably increased flooding on downstream properties – both his bridge and the land the bridge reached washed away from the increased College Brook flooding.

Dr. Lund adds that there was a period of time when he could see a flap of sod (the soil underneath it having been washed away), but that's now long gone as well.

Church Hill Woods targeted for removal for large parking mound for Mill Plaza tenants, adding stress to College Brook

Hannaford [demands](#) Church Hill parking lot for its approval of Plaza proposal (2019).

Chesley Marsh & College Brook flood zone would function as parking structure's stormwater "drains."

A wide diameter drainage pipe at base of parking mound would direct stormwater toward wetland & impaired College Brook.

Rock wall at lot boundary →

Chesley Marsh

[Church Hill Application & Citizen Comments](#)

Chesley Dr →

← Mill Plaza

[\(video\)](#)

Culvert into College Brook

Attorney [letter](#): Plaza & Church Hill applications functionally intertwined



Church Hill Woods (proposed for Plaza tenant parking) upland here →

[Video LINK](#) (00:13)

7 Chesley Dr, across the
street & downhill from
Church Hill Woods
Jan 16 2021, 12:05 pm



From: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Date: Tuesday, March 10, 2020 at 5:08 PM

To: Rick Taintor <rtaintor@ci.durham.nh.us>

Subject: Destruction of only "green" area on Plaza Site [*Email excerpts below*]

Dear Rick, Could you please point me and others (public and Planning Board) to where CDA's plans indicate *(or please ask CDA to clarify)* **how many square feet and cubic feet of currently permeable land on the rear hillside is to be blasted away behind current Building II....**

[D]uring the Feb 12 meeting, Joe Persechino repeatedly mentioned "reducing impermeable areas" as a goal -- without mentioning that the largest permeable (and, in effect, only really "green" and "landscaped" part of the Plaza site) was to be blasted away and covered by part of a multi-story building....

Moreover, in the past, CDA has claimed to be working with independent stormwater experts (from UNH, I believe). This time, I heard only reference to consulting with "some folks." Have you or others pressed CDA for the details of their independent folk experts and how that relates to what they are planning for stormwater treatment/management?...

You can see the frequent flooding as illustrated in the **27-sec video* posted [here](#) & [here](#) (shot...from my study window on February 27, 2020, looking toward the Mill Plaza)...You can also see comparative still pictures and links to other flooding videos in my [Nov 4 2019](#) letter to the PB on the Church Hill application....**

Best, Joshua

**[On February 27, I sent the same flooding video to April Talon, PW Dir. Lynch – to no response for months.]*



Joshua Meyrowitz query during May 27, 2020, Public Hearing: ~Rick Taintor could answer if he forwarded any of the College Brook flooding pictures and videos I sent him in early 2020 to anyone involved in the stormwater review for Mill Plaza.~

Rick Taintor: “I do remember getting it.... I did not forward it to anyone.”

—Planning Board Meeting
May 27, 2020, 9:38:35



Meyrowitz Email to Rick Taintor, June 5, 2020:

“As you know, Durham citizens have been requesting for months (via emails to you, emails posted on Citizens Comments, and public comments during PB hearings) basic dimensional information about the pending CDA site plan, including in the following recently posted emails: [Robert Russell 4-23-20](#) & [Robin Mower 5-13-20](#).”

Can you provide an update on whether the PB has requested what residents have been asking for and related information they need for informed and thoughtful review and whether CDA has responded and, if so, in what way and with what information.”

Taintor June 5 reply:

“Both of those emails (and many others) have been forwarded to the Planning Board members, but as of yet **the Board has not called on the applicant to provide any of the requested additional information.** I do not know if the members feel that they have enough information, or if they are waiting until they’ve gone through the review once and will ask for more details to be provided with the next complete plan revision.” (emphasis added)

June 8, 2020 Email *Excerpt*: “Brook Flooding-Fix Promises Forgotten?”

See [full email](#) to Town Engineer April Talon, PW Dir. Mike Lynch (c.c. Town Admin. Todd Selig)

Dear April & Mike, ...Over many years, the two of you have given me and my neighbors on Chesley Drive the reassurance that any redevelopment of Mill Plaza (no matter what its other limits might be) would finally fix the flooding that we experience downstream from Mill Plaza (made worse since illegal Plaza action in 2002...).

Thus, we were shocked to hear at the Planning Board on Wednesday, May 27, 2020, [video here](#), that the independent stormwater reviewer for the Plaza (Janet Carter Bernardo of the Horsley Witten Group) indicated that she was never told anything about the Brook overflowing and that Colonial Durham Associates (CDA) had reassured her that there were no “restrictions” downstream to the water from the Plaza flowing freely to the Mill Pond (even though CDA has long heard about and seen the flooding). Thus, she said, although the volume from the Plaza post-development would actually *increase* somewhat (a result of the previous hillside behind current building two being blasted away and covered with an impervious new Building C), the stormwater plan met guidelines. Based on that CDA misrepresentation to the external review team, the Planning Board expressed satisfaction with the stormwater plan....

In November 2019, I wrote again about the flooding to April Talon and the Planning Board (with pics and video links) in regard to the proposal to turn a steeply sloped (toward the Brook flood zone) wooded lot on Church Hill into a 200-car treeless parking mound: [Comments from Joshua Meyrowitz 11-4-19](#) and then I also emailed (to April Talon and Mike Lynch on February 27, 2020 (forwarded also to Plaza Contract Planner Rick Taintor soon after) about the flooding and the connection to the Mill Plaza stormwater plan (with a [flooding video](#) from that day “shot at 11:41 am today from my study window looking toward the Mill Plaza, after the raging, white-water flooding a few feet from my house had abated a bit.”)...

Further, the downstream flooding was apparently also not raised by April Talon, since she [endorsed](#) the review of the stormwater plan.... **What can we do to correct this misrepresentation (and misguided Planning Board acceptance) and to – most significantly – finally address the ongoing damage to our properties? – Best, Joshua**

Flooding “Fix”

Once presented with evidence of downstream flooding in mid-2020, the Horsley Witten reviewer sent “supplemental comments” acknowledging the flooding, but keeping the original “all’s okay” conclusion in place.

*“College Brook flows continuously into Mill Pond. By reducing the peak rate of stormwater discharging from the site and into College Brook it does not appear that the proposed development will negatively impact the flow rate of College Brook. **HW understands that there is a flooding concern downgradient of this development.... “The water flowing in College Brook results from many sources and therefore a comprehensive watershed study would be needed to identify measures to reduce the down gradient flooding problems. It is HW’s opinion that this proposed development will not exacerbate any downstream flooding.”** * — [Horsley Witten Group Supplemental Comments 6-22-20](#)*

- **No mention of flooding increase from 2002 bulldozing of still unrestored 9,000~ sf hillside**
- **Ignored: how stormwater system could *reduce* flooding *if* hillside saved & WCOD buffer restored**
- **And the Town seems to have abandoned years of promises that Mill Plaza redevelopment would finally **FIX** the downstream flooding – rather than (as report says) probably not make it much worse**

Next: See what Horsley Witten Review of Updated 2021 Stormwater Plan Reports →

* Final sentence & link to posted comment was sent to me by April Talon on June 23, in only response to my June 8 email to Talon et. al on prior page.

Per: Stormwater Peer Review – for Revised Site Plan – **HW CHART ONE**

Oct 2021 stormwater plan worse than May 2020 plan re: flooding potential

“HW notes that the post-development [stormwater discharge] rates generally increased from the previous (May 2020) design iteration, while total runoff volumes decreased. During the 25-year storm event the site discharges 7 cfs [Cubic Feet per Second] higher peak flow rates into College Brook than the previous design iteration.”

Storm	Pre-Development	May 2020 Post-Development	October 2021 Post-Development
1-inch	3.34	2.09	2.29
2-year	24.93	8.67	9.22
10-year	40.69	24.02	29.44
25-year	52.99	41.30	48.82
50-year	64.44	54.41	62.31

Thus, the Oct 2021 plan is worse than the prior May 2020 plan in terms of factors that will likely increase downstream flooding (the *Peak Rate* of Stormwater Discharge in Cubic Feet per Second, or CFS).

Indeed, once one reaches the 25-year storm level, there is *very little* improvement between “Pre-Development” (that is, the current, NO stormwater system, site) and the Oct 2021 “Post-Development” predictions in terms of **peak rate of discharge**. And, strikingly, there is virtually no improvement at all over the current untreated site at the increasingly frequent 50-year storm level (almost certainly within margin of error for such calculations).

[Stormwater Peer Review by Horsely Witten Group 10-27-21](#)

Per: Stormwater Peer Review – Revised Site Plan – **HW CHART TWO**
Stormwater discharge volume worse than current *untreated* site!

Projected volume of stormwater discharge in acre-feet in revised Oct 2021 plan is *higher* than the *current pre-development* discharge at every storm level listed on the chart. [Stormwater Peer Review by Horsely Witten Group 10-27-21](#)

Storm	Pre-Development	May 2020 Post-Development	October 2021 Post-Development
1-inch	0.280	0.363	0.359
2-year	2.066	2.167	2.138
10-year	3.459	3.552	3.519
25-year	4.577	4.663	4.629
50-year	5.632	5.712	5.679

There is still no attention in the peer review to what ought to be the legal “pre-existing” condition (pre-Sept 2002 eastern hillside bulldozing), as I have outlined in numerous presentations to the Planning Board, Conservation Commission, and Town Council. And there is still no attention to post-2002 increased flooding, erosion, and silting documented by me and others in presentations and submitted documents. (And recall that the first peer report reflected CDA’s misrepresentation to HW that College Brook does not overflow.)

Moreover, there is still no attention in the review to the added stress on College Brook from the interrelated plan to deforest Church Hill Woods for Plaza-tenant parking (see [College Brook as 19 Main St Drain](#)).

Prof. Ballestero: Slower Release of Plaza Stormwater Could *INCREASE* Downstream Flooding

HW Peer Reviewer: “There’s definitely a possibility of that.”*

Without greater reduction in stormwater VOLUME from within the Plaza site, the slower release from Plaza likely to increase downstream flooding.

As CDA’s “Streamworks” Consultant, Professor Thomas Ballestero explained to the Planning Board on [Jan 27, 2021](#), with the *delayed* release of water from the Plaza site with the improved stormwater system, flooding downstream might actually *increase*, because Plaza water would then join the later flow from upstream.



**Dir., UNH Stormwater Ctr
& Streamworks Consulting**

“Today, when it rains, it hits the asphalt [in Mill Plaza], gets to the Brook, and runs out to the Oyster River very quickly. While all the other runoff from upstream is coming downstream [later]. In the future, you are going to be holding that [Mill Plaza] runoff and then slowly releasing it at the same time the water is coming from upstream [leading to an increase in downstream flooding].” – *Prof. Ballestero at 10:17:12 pm, Jan 27, 2021*

***Janet Bernardo of HW:** “If the [Plaza’s proposed] subsurface detention system holds the water back from this [Plaza] site, going to College Brook, and the additional flow that’s coming through from the upstream [UNH] end hits at the same time, is there potential that they could go together and increase the flooding, at the downgradient point? There’s definitely a possibility of that. It’s a very difficult analysis.... but it’s hard to say that one way or another.” See Dec 8, 2021, 7:31:15 pm ([video](#)) for more details.

CDA 2020 Stretched Claim about Mill Plaza Wooded Hillside*

Plaza hillside is a “granite knoll,” a “ledge outcropping,” “not gonna really absorb water” as typical soil would – CDA Engineer Joe Persechino, [10-26-20](#)



1.1-acre hillside to be
blasted away → → →

CDA claims that removing a thickly vegetated hillside would NOT stress stormwater system or negatively affect wetland, brook, & watershed nor violate [CU zoning](#) restrictions (“Shall not degrade...mature tree lines...viewsheds.”)

*Contrast with USDA Urban Forest expert view: [John Parry 10-26-20](#)

Protection of Forested Areas on this Parcel

“It appears most of the wooded acreage on the north side of the parcel will be removed.

The developed urban area in Durham has very little forested area remaining. Saving forest cover in urban areas is a holistic way to provide environmental benefits such as improved air and water quality and energy conservation in nearby buildings. Though small, this small urban forest is in a prominent location that provides a valuable visual buffer between the downtown commercial and residential areas.

Look at this area on an aerial photo, or on the ground from different viewpoints and you can appreciate how the loss of this woodland will have a negative effect on aesthetics. **That woodland is also on a steep slope and the trees and other vegetation are important in protecting soil and reducing stormwater flow.** A significant amount of this forested area should be protected.”

– John Parry, USDA Urban Forestry Specialist, [Letter to PB, June 8, 2020](#)

[Excerpted and reformatted for easier reading on PPT slide; emphasis added.]

Town Promises Forgotten / Planning Board Unresponsive

Plaza hillside destruction would likely max out new stormwater plan – with NO commitment to improve ONGOING flooding/erosion that increased after 2002 eastern hillside bulldozing.



The Town of Durham is implicated in downstream flooding damage.

Robert M. Roseen, Ph.D., P.E., D. WRE

Waterstone Engineering, PLLC, [Letter to Planning Board](#), May 19, 2021

Stratham, NH 03885 / (603) 686-2488 / roseen@waterstone-eng.com / [Linkedin](#)



The CDA project, while it has many positive elements for stormwater management, has some significant deficiencies for both the lack of buffer restoration as it relates to stormwater management, and for nonconformance with the 75-foot wetland buffer.

The plan presented is notable for an obvious missed opportunity for nitrogen reduction through a restored wetland buffer and stream restoration, both of which are important stormwater BMPs. Nitrogen reduction from stormwater and nonpoint sources is an essential requirement for the new EPA Total Nitrogen General Permit to avoid more stringent wastewater limits.

The proposed significant changes of an existing non-conforming site require compliance with buffer setbacks.... Finally, it is important to recognize that **any CDA project shortcomings for nitrogen controls will be paid for by the Town of Durham in future efforts in fulfillment of nitrogen reduction required under the new Total Nitrogen General Permit.**

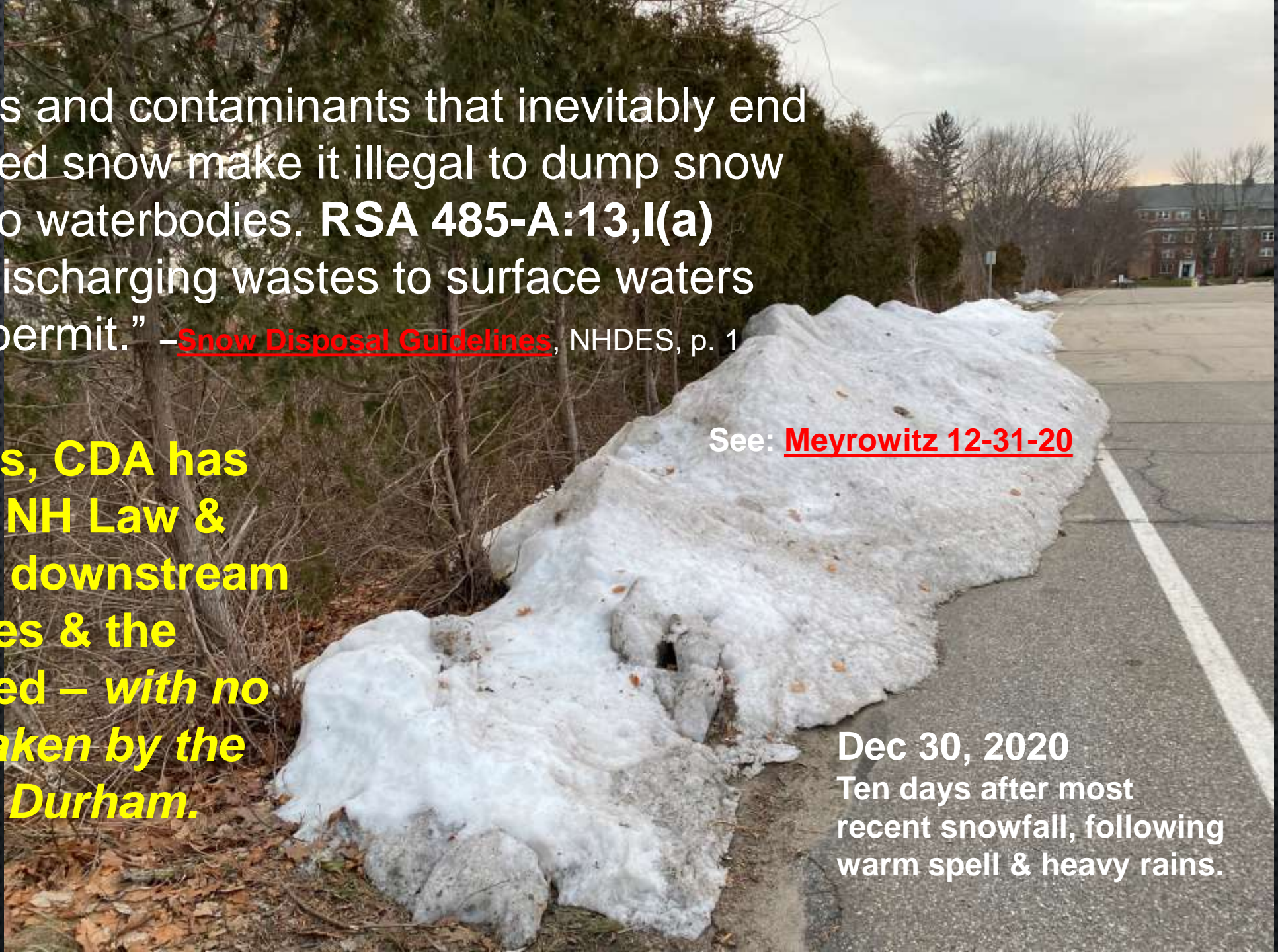
For these reasons, I believe that the project application is **deficient and requires substantial changes for permitting compliance.** (emphasis added)

“The debris and contaminants that inevitably end up in plowed snow make it illegal to dump snow directly into waterbodies. **RSA 485-A:13,I(a)** prohibits discharging wastes to surface waters without a permit.” – [Snow Disposal Guidelines](#), NHDES, p. 1

For years, CDA has violated NH Law & polluted downstream properties & the watershed – *with no action taken by the Town of Durham.*

See: [Meyrowitz 12-31-20](#)

Dec 30, 2020
Ten days after most recent snowfall, following warm spell & heavy rains.



Seacoast faces first ‘plowable’ snow storm of season,”

Fosters Daily Democrat, Dec 17, 2021, p. 1, [FDD LINK](#)

Dec 19 Storm Plowing [VIDEO](#) (00:21)
Town staff forwarded to NHDES, Jan ‘22

Dec 26 Storm Plowing [VIDEO](#) (00:19)
Prior mounds pushed further into bank

Mill Plaza’s first-of-season illegal plowing into College Brook bank, Sun, Dec 19, 3:51 am
Violation of RSA 485-A:13,I (a) – “Water Discharge Permits” [NHDES LINK](#)

Mounds plowed as close to Brook as possible, with no place for snow to melt other than into watershed



**All pics from
Dec 21, 2021**



**Mound at open
gully into Brook**

College Brook Bridge

Active mismanagement documented even in *CDA-submitted [Streamworks Report](#)*

“Current snow management, pushing snow over the bank down into the riparian corridor. Notice the trees are bent and dying, from this practice.” – Streamworks



CDA’s promises to repair some of its own damage (broken curbing from plowing, trash in Brook, damage to trees) should not earn CDA approval of a still non-compliant site plan.



Most of the College Brook watershed is upstream of Mill Plaza, yet the Mill Plaza is unique in scale/density of impervious surfaces directly along & draining into brook



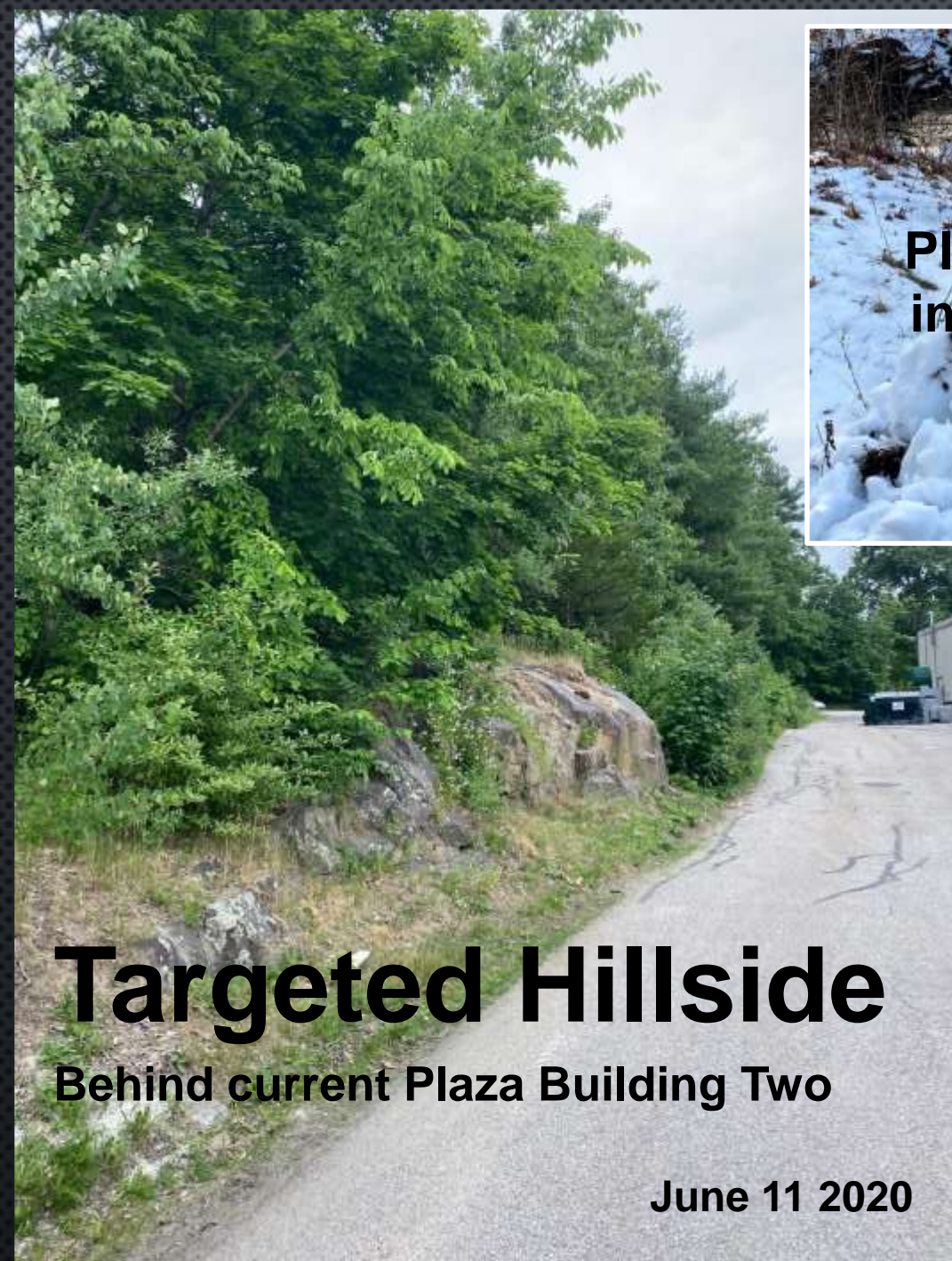
1.1-acre vegetated Plaza hillside to be blasted away to fit in new buildings

Steeply sloped (into flood zone) Church Hill Woods (separate owners) to become Plaza-tenant parking

Indeed, CDA's current proposal overall (with Plaza hillside & Church Hill Woods demolitions) would *increase* scale & density of impervious surfaces upland of the College Brook flood zone.

https://www.ci.durham.nh.us/sites/default/files/fileattachments/planning/page/54437/mill_plaza.jpg

“Though upland areas [e.g., hillside in Plaza & Church Hill Woods] are not at great risk of being flooded, the management of these areas can affect the flooding and erosion downstream. Clearing of natural vegetation and creation of impervious surfaces in upland areas hinders stormwater absorption, increasing the amount of runoff and its flow.” [Flood Resilience Plan](#), 2015, pp. 8-9.



Targeted Hillside

Behind current Plaza Building Two

June 11 2020

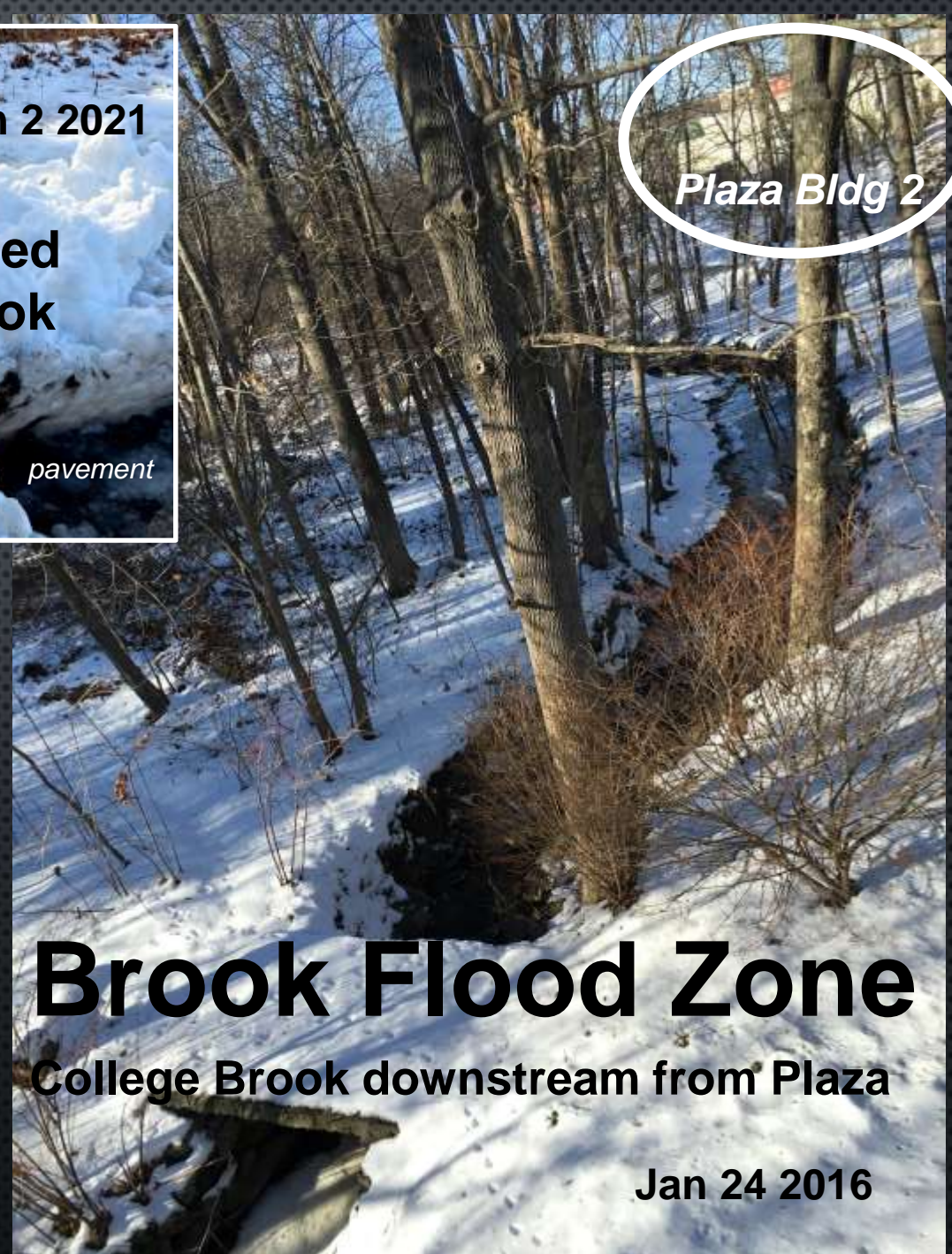


Jan 2 2021

Plaza snow plowed into College Brook

pavement

Part of single landscaping, wetland buffer, & stormwater ecosystem



Plaza Bldg 2

Brook Flood Zone

College Brook downstream from Plaza

Jan 24 2016

20 Years of Violations & Deceptions known to, but unchecked by Durham

The Town is thereby implicated in these violations

The Planning Board has thus far paid insufficient attention to the information presented here, has not challenged CDA on its pattern of deceptions & illegal actions, has not yet pressed for a plan designed to fix the problems that Durham officials have long promised to see fixed.

The CDA design now on the Planning Board table promises merely *not to make the CDA-increased flooding significantly worse. That's not good enough!*

The Planning Board and Town Council should act within their legal responsibility & authority to see that illegal practices are stopped and that damage to properties and the watershed from such actions (bulldozing hillside, dumping snow into College Brook, etc.) is repaired & reversed. **For starters, that means seeing that the “pre-existing condition” for the Plaza stormwater review is from *before* the unauthorized 2002 eastern hillside destruction and that CDA is held to the buffer restoration called for in the Settlement and WCOD Zoning.**

20+ videos at: [College Brook Flooding](#) YouTube Channel, including:

[CALM Waters, Dec 30 2020 2:07p](#) (00:18)

[College Brook flooding & "Lake" \(Plaza in background\) Mar 14 2010](#) (00:30)

[Flooding brings large objects that further restrict flow May 8 2020](#) (00:27)

[Second Brook channel when flooding, Jan 16 2021, 12:02p](#) (00:18)

[Church Hill flow into College Brook Flood Zone, Jan 16 2021, 12:12p](#) (00:23)

Sequential Dec 5, 2020 videos:

[GENTLE UNH water flowing into College Brook at Plaza entrance, Mill Road Dec 5 2020, 3:02p](#) (00:12)

[FLOODED walkway in Plaza, along College Brook with parking-lot runoff overwhelming drains into Brook, Dec 5 2020, 3:05p](#) (00:44)

[TORRENT downstream of Plaza \(Chesley Dr\) Dec 5 2020, 3:14p](#) (00:09)

[Even HIGHER downstream-of-Plaza flow \(Chesley Dr\), Dec 5 2020, 9:33p](#) (00:11)

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Adapted from presentations, submissions, & oral comments to the Planning Board, Conservation Commission, & Town Council, including: "College Brook Flooding," [Meyrowitz 11-4-19](#); "'Laughable' Landscaping at the Heart of Durham," [Meyrowitz 3-5-20](#); "Destroying Pervious Land & Deceiving on College Brook Flooding," [Meyrowitz 6-12-20](#); "Will CDA Be Permitted to Violate CU Zoning & Further Degrade a Flood-Zone Ecosystem?," [Meyrowitz 11-19-20](#); "Ongoing Abuse of Plaza Site," [Meyrowitz 12-31-20](#); "20 Years of Violations & Deceptions," [Meyrowitz 10-4-21](#). (xf)