

From: [Peter Wolfe](#)
To: [Rick Taintor](#); [Karen Edwards](#)
Subject: Letter Concerning College Brook
Date: Sunday, February 28, 2021 1:55:34 PM

Durham Planning Board:

I have been following the ongoing saga associated with Mill Plaza from the sidelines. Hard to believe this all started when I was on the Planning Board before I started my term as Chair. I was hoping that the project would have been approved by now. Unfortunately, it has not been approved and I am going to have to at least comment on the latest issue – College Brook.

It appears that you, the Planning Board, must decide how to respond to the issues raised by the Conservation Commission. Your dilemma is how to balance our zoning ordinance and its protection of environmental concerns with concerns raised by the developer for Mill Plaza. In deciding how to proceed there are preliminary questions that should be addressed.

First item to address, relates to the purpose of the 75 foot buffer, as stated in the zoning ordinance:

- A. Protect the water quality of wetlands by appropriately managing stormwater runoff, siltation and sedimentation, and the construction or alteration of allowed or pre-existing buildings and structures;
- B. Minimize flooding and flood damage by preserving the flood storage capacity of wetlands;
- C. Protect wildlife and fisheries habitats and wetlands vegetation;
- D. Maintain stream flow and groundwater recharge;
- E. Conserve natural beauty and scenic quality; and
- F. Limit uses of the wetland and upland buffer to those that are consistent with the objectives

These purposes go beyond dealing with stormwater management. Wetlands provide a filter to what goes into our streams and brooks that flow into the Oyster River and Great Bay.

Reducing this protection will allow more hazardous runoff from the parking areas into College Brook. In enacting our zoning ordinance the town council set as a goal the protection of our streams and brooks to provide this protection. **It is not about flow rates but what is going into our brooks.**

The second item is balancing the contention that it is too late to change the project. Criteria for both the SPOD and WCOD conditional use permits say the project shall demonstrate that there is no alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed development. In addition, the location, design, construction, and

maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as **well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts.**

These require some affirmative evidence by the applicant which appears to be lacking. As you may recall, these issues were referenced in the letter to the board dated June 21, 2018 submitted by BCM Environmental Land Law PLLC. Now close to the finish line for this proposal you must figure a way forward. Frankly the easiest and safest way to move forward would have the applicant file a variance with the ZBA. Hopefully, the ZBA could address the environmental concerns and reasonableness of any waiver request.

If you do not require a variance then the question is whether you support the reasons for the creation of the Conservation Commission and its recommendation and support the reasons the town council created the WCOD and SPOD, or do you except without further inquiry the rational of the applicant.

Which will it be?

Thankfully submitted
Peter Wolfe