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# **An Opportunity Not To Be Missed**

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Presentation to the Durham Planning Board  
on the Colonial Durham Associates Site Plan and CUP application  
May 19, 2021, by Robin Mower

# CDA Comments on Rental Parking

– 2016 –

**From:** Ari Pollack <[pollack@gcglaw.com](mailto:pollack@gcglaw.com)>

**Date:** Thursday, March 31, 2016 at 12:35 PM

**To:** Todd Selig <[tselig@ci.durham.nh.us](mailto:tselig@ci.durham.nh.us)>

**Cc:** Sean McCauley <[sean@mralp.com](mailto:sean@mralp.com)>, Edgar Ramos <[edgar.ramos@sintracapital.com](mailto:edgar.ramos@sintracapital.com)>, Laura Spector <[laura@mitchellmunigroup.com](mailto:laura@mitchellmunigroup.com)>

**Subject:** Mill Plaza - Existing Parking Conditions

Todd-

Thank you again for meeting with Sean, Edgar. Excess parking spaces are sometimes rented in Durham downtown.

Distinct from some deliberate parking spaces that have evolved as a modest means of covering losses, Mill Plaza's customer parking is not negatively impacted.

Mill Plaza's management team places rough estimates on the number of parking spaces that are rented in Durham downtown.

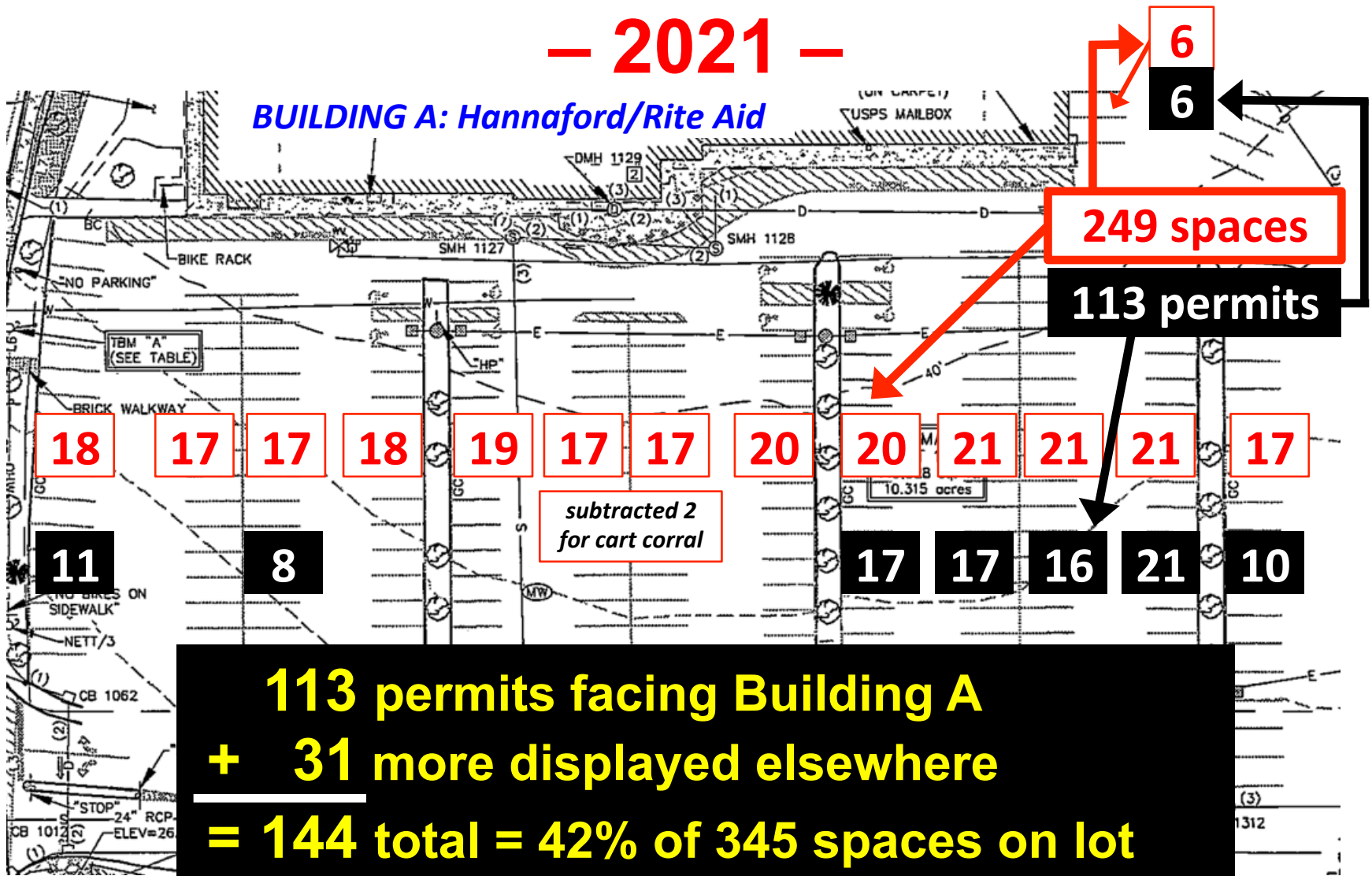
In the past, spaces have been rented by semester, for the summer months, or sometimes year-round. For the summer of 2016, for instance, approximately 25 parking spaces are rented at an average of rate of \$200 for the summer. At these numbers and rates, parking rentals are hardly a major source of revenue.

“In the past, spaces have been rented by semester, for the summer months, or sometimes year-round. **For the summer of 2016, for instance, approximately 25 parking spaces are rented** at an average of rate of \$200 for the summer.”

# Rental Parking Permits On Site

- 2021 -

*BUILDING A: Hannaford/Rite Aid*



# Town Attorney: Not Our Business

**Laura Spector-Morgan, letter of April 6, 2021:**

. . . Disagreements between Hannaford and Colonial Durham regarding Hannaford's lease, replacement of the existing building, **and/or parking are private disputes in which the town should not involve itself.** . . .

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**No, this is NOT the Town's business . . .**

. . . **EXCEPT** where it affects planning, per our zoning ordinance, to “regulate the use of land for the purpose of protecting the public health, safety, convenience and general welfare of the residents of the Town of Durham.”

# No Trouble Finding Parking

## Planning Board minutes, November 4, 2009

... Annmarie Harris, 56 Oyster River Road, said she had lived in the Faculty neighborhood and **shopped at the Plaza since 1969, and had never had any difficulty parking close to the stores.** . . .

... Councilor Robin Mower, 11 Faculty Road, said with the leaves off the trees, she had the best view of the Plaza of anyone in Town. She said **a camera focused on the Plaza** from her house **would never find the parking lot full, either in the past or present.** . . .

## Planning Board minutes, January 27, 2016

... **Mr. Kelley said currently, it was rare to experience difficulty finding a parking space at Mill Plaza.** He noted that the current configuration of the buildings lent itself to having a segment of parking in front of one of the buildings, and another segment of parking in front of the other building. He asked how many spaces would be afforded to the existing commercial tenants when they were in Buildings A and B, and was told there would be 126 spaces. **He said what was needed were some micro parking studies, which considering current uses and the closest parking to those uses, and comparing that to what was required and what was proposed with the project.**

# Colonial Durham Associates re: Hannaford



ARI B. POLLACK

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pollack@gcglaw.com

VIA HAND DELIVERY

February 12, 2020

Durham Planning Board  
c/o Rick Taintor, Contract Planner  
[rtaintor@ci.durham.nh.us](mailto:rtaintor@ci.durham.nh.us)  
Town of Durham  
8 Newmarket Road  
Durham, NH 03824

Re: Response to Attorney Mark Puffer's February 5, 2020 Letter Regarding the Revised Mill Plaza Redevelopment Application

Dear Members of the Durham Planning Board:

**Ari Pollack to  
Planning Board,  
February 12, 2020:**

. . . the *Planning Board's* approval of the Mill Plaza Redevelopment plans is not dependent on Colonial Durham acquiring Hannaford's consent to all aspects of the project. . . .

# Who Is Shopping at Hannaford?

## Or . . . Location, Location, Location

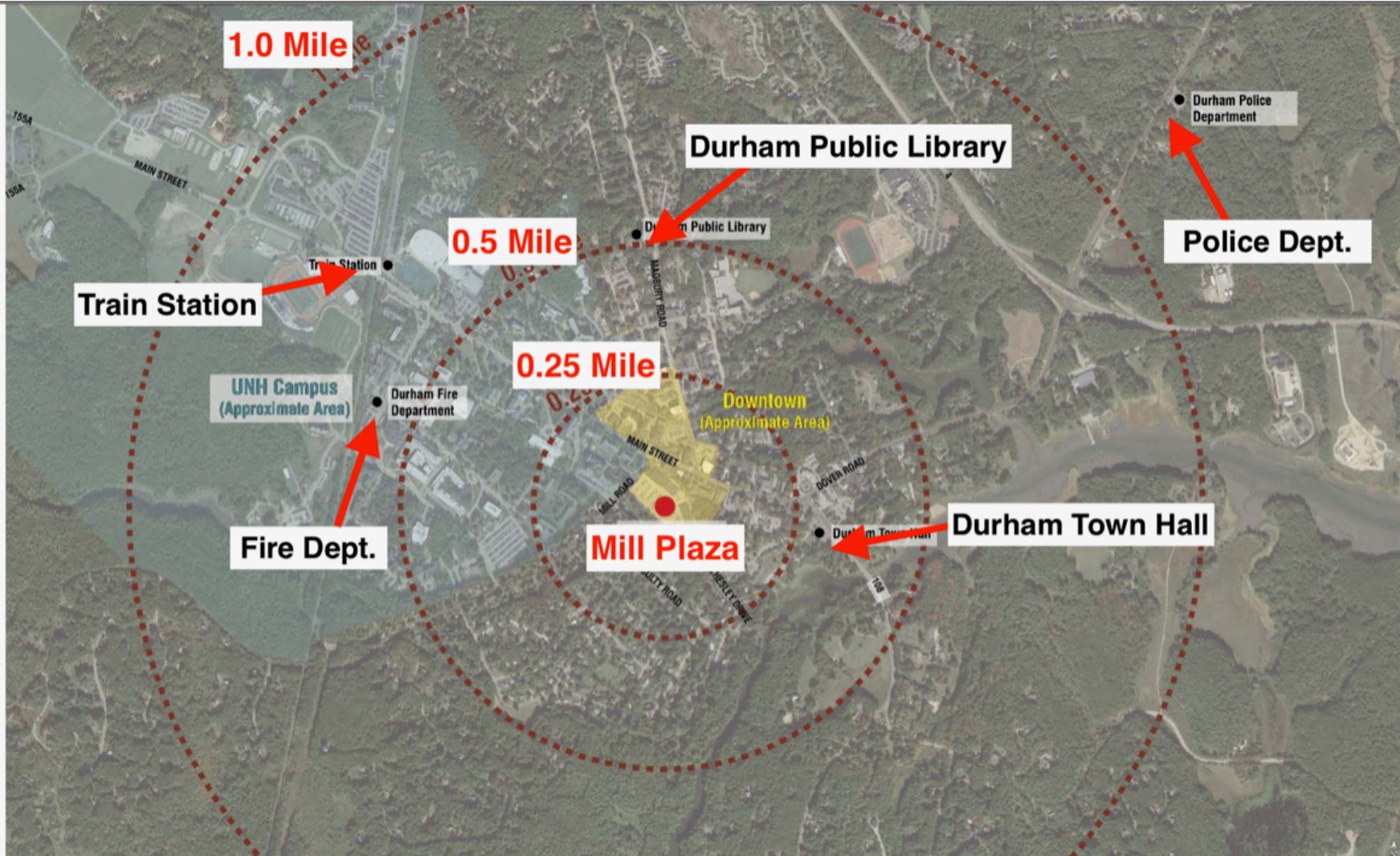
- Roughly one-third of Durham households lie within a one-mile radius of the Plaza
- Since 2015, when Durham Marketplace became Hannaford, inventory has become oriented heavily toward students, many — if not most — nearby
- Student apartments + fraternities and sororities downtown ( $\pm$  2,000 residents) + UNH dorms + downtown single-family households =

**Thousands of shoppers can walk to the Plaza**

# 1-mile Radius for 1,000s of Shoppers

Harriman Design presentation June 14, 2017

Context: Area





# Other Supermarkets, Other Towns

Mostly require vehicular access

- **Dover:** Hannaford Fields on Rte 108; Hannaford and Shaw's on Central Avenue
- **Lee:** Market Basket on Rte 125/Traffic Circle
- **Stratham:** Market Basket, Hannaford, and Shaw's on Rte 108
- **Portsmouth:** Market Basket and Shaw's on Woodbury Avenue; another Market Basket on Lafayette Road/Rte 1

**These are NOT in the heart of small towns**

# Police Chief Kurz: Discourage Cars

## Former Police Chief Dave Kurz to Michael Behrendt:

“The location of this complex and the philosophy of the management group **should discourage renters from having automobiles through a definitive statement via lease agreements. . .**” [10/11/16]

**“ . . . the proximity to the UNH campus should serve as encouragement that renters do not require automobiles.**

Additionally, Durham and UNH have worked diligently to offer alternative traffic options such as our relationship with “ZipCar” where spaces in the downtown have been committed to this ride-sharing strategy. Additionally the robust UNH bus transportation system is extremely effective enabling easy access to Dover, Newington Mall and Portsmouth. The Amtrak Downeaster Train provides easy access to Brunswick, Maine and Boston. **All these options offer ample transportation for any student attending UNH.**” [11/6/19]

# How Many Parking Spaces?

- 1. Fewer for Hannaford than proposed**
- 2. Not for residential tenants\***
- 3. Complementary commercial uses on site**

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## Do we really need 400 spaces?

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\* The Planning Board has a history of discouraging residential housing parking in our downtown, for example, at Orion and Madbury Commons projects.

*Number of Parking Spaces: Why Should We Care?*

**COLLEGE BROOK**

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*More reasons to care*

**MILL POND, GREAT BAY**

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# Nitrogen Loading to College Brook

... then to Mill Pond, Oyster River, and Great Bay

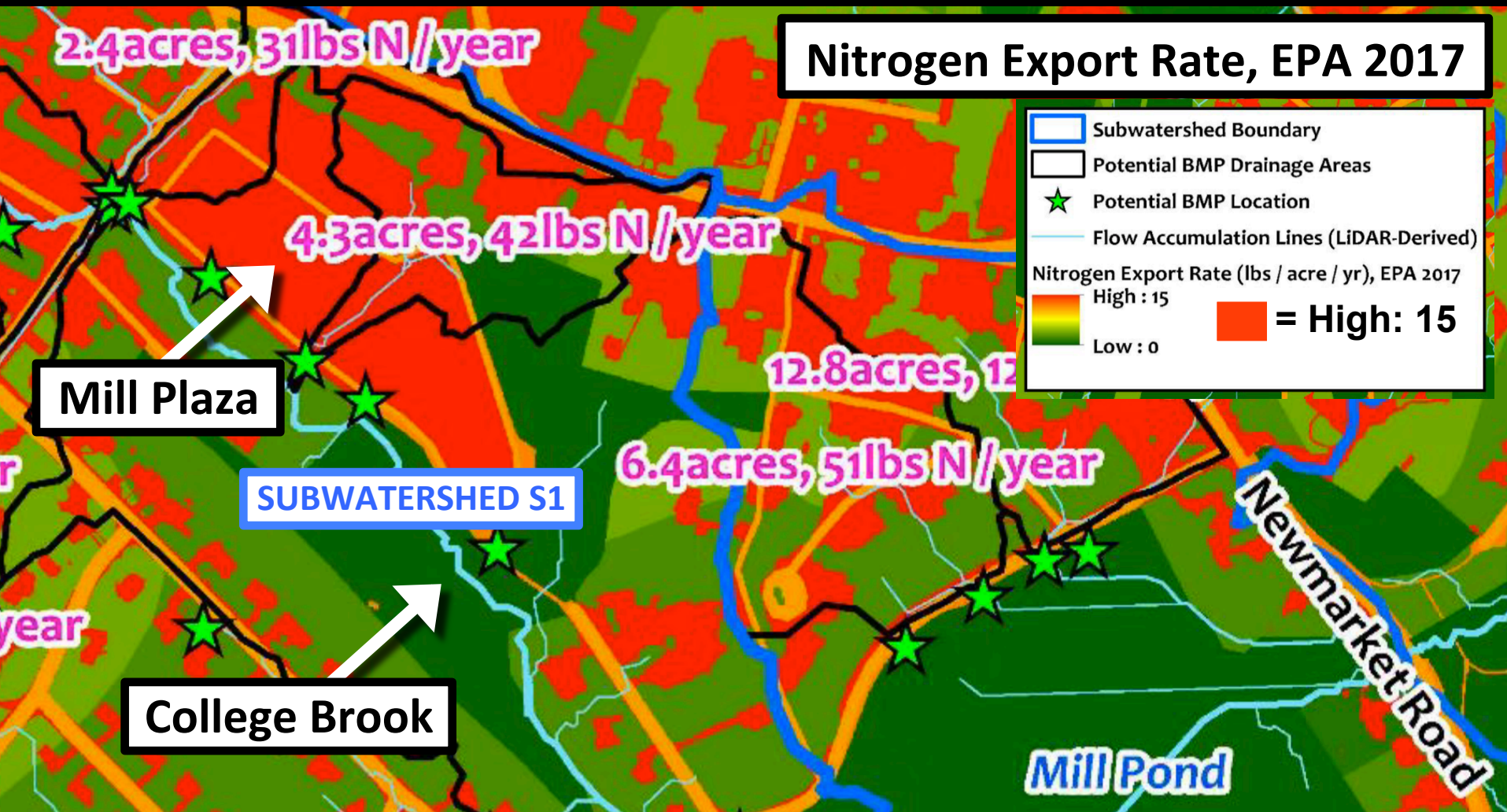


Figure 7 – Heat Map of Nitrogen Loading by Subwatershed S1 and Potential Retrofit Opportunities for Lower Mill Pond Watershed | “Mill Pond Nutrient Control Measures Final Report,” Waterstone Engineering (2018)

# Nitrogen: Parking Lots, Streets

## Nitrous oxides via atmospheric deposition

. . . Streams receive chronic nitrogen inputs in various chemical forms such as nitrate ( $\text{NO}_3$ ), ammonia ( $\text{NH}_3$ ), and organic N from upland sources such as fertilizers, animal wastes, leaf litter, leaking sewer lines, **atmospheric deposition, and highways** . . . . Subsequent eutrophication leads to environmental impacts such as toxic algal blooms, oxygen depletion, fish kills, and loss of biodiversity . . . . Nitrogen enters aquatic ecosystems in various forms through multiple pathways. **For example, nitrous oxides ( $\text{NO}_x$ ) enter by atmospheric deposition** . . .

‘Meta-Analysis of Nitrogen Removal in Riparian Buffers.’ Paul M. Mayer, Steven K. Reynolds, Jr., Marshall D. McCutchen, and Timothy J. Canfield. *J. Environ. Qual.* 36:1172–1180 (2007).

. . . In two studies . . . **parking lots and streets were responsible for over 30% of the nitrogen and were second behind lawns in their contributions to the phosphorus load** . . .

‘Impacts of Impervious Cover on Aquatic Systems,’ Center for Watershed Protection (2003).

# Nitrogen: Vehicles and Roads

## Nitrous oxides via atmospheric deposition

. . . **Nitrogen [“N”]** in vehicle exhaust, emitted as nitric oxide, nitrogen dioxide, nitrous acid, and ammonia, is a source of N both to the air and to road surfaces, which in turn can enter aquatic systems as atmospheric deposition and as road runoff during precipitation events. **Increasing density of impervious surfaces within watersheds has been shown to be related to increased concentrations of streamwater N . . . and salinity . . . , and has been related to declines in stream biodiversity . . . .**

“Nitrogen in Runoff from Residential Roads in a Coastal Area.” Eric A Davidson, University of Maryland Center for Environmental Science; Kathleen Savage, Woodwell Climate Research Center; Neil Dennis Bettez, Cary Institute of Ecosystem Studies; Roxanne Marino; R. W. Howarth, Cornell University. July 2010 *Water Air and Soil Pollution* 210(1):3-13.



# Nitrogen Is Just One Example

## Research: EPA and Center for Watershed Protection

**“Runoff from roads and parking lots often contains high nutrient loads compared to other impervious surfaces and is also a source of sediment, heavy metals, and organic compounds** (e.g., polycyclic aromatic hydrocarbons, or PAHs). Concentrated flow from roads and parking lots causes stream degradation, flooding, and other hydrologic impacts. . . .

“Operation and Maintenance of Green Infrastructure Receiving Runoff from Roads and Parking Lots: Technical Memorandum,” U.S. Environmental Protection Agency, Lakes Restoration Initiative, September 2016

**Table 33: Metal Sources and Source Area “Hotspots” in Urban Areas**

Metal	Sources	Source Area Hotspots
Zinc	tires, fuel combustion, galvanized pipes, roofs and gutters, road salts <i>*estimate of 60% from tires</i>	parking lots, commercial and industrial rooftops, and streets
Copper	auto brake linings, pipes and fittings, algacides, and electroplating <i>*estimate of 50% from brake pad wear</i>	parking lots, commercial roofs and streets
Lead	diesel fuel, paints and stains	parking lots, rooftops, and streets
Cadmium	component of motor oil and corrodes from alloys and plated surfaces	parking lots, rooftops, and streets
Chromium	found in exterior paints and corrodes from alloys and plated surfaces	most frequently found in industrial and commercial runoff

*Sources: Bannerman et al., 1993; Barr, 1997; Steuer et al., 1997; Good, 1993; Woodward - Clyde, 1992*

“Impacts of Impervious Cover on Aquatic Systems,” Center for Watershed Protection (2003).

# Parking Lots and Pollutants

## Research: Environmental Protection Agency

“Runoff from roads and parking lots often contains high nutrient loads compared to other impervious surfaces and is also a source of sediment, heavy metals, and organic compounds (e.g., polycyclic aromatic hydrocarbons, or PAHs). Concentrated flow from roads and parking lots causes stream degradation, flooding, and other hydrologic impacts. These conditions emphasize the importance of maintaining GI receiving runoff from these surfaces.”

“. . . Material and pollutants accumulate on roadways and parking lots during dry weather conditions, forming a highly concentrated first flush of pollutants during rainfall events. **Streets and parking lots are often among the land uses with the highest pollutant loads and concentrations.**”

“Operation and Maintenance of Green Infrastructure Receiving Runoff from Roads and Parking Lots: Technical Memorandum,” U.S. Environmental Protection Agency, Lakes Restoration Initiative, September 2016  
<[https://www.epa.gov/sites/production/files/2016-11/documents/final\\_gi\\_maintenance\\_508.pdf](https://www.epa.gov/sites/production/files/2016-11/documents/final_gi_maintenance_508.pdf)>

# Engineered Stormwater Systems Have Their Limits

“Jellyfish Filter is a stormwater quality treatment technology featuring pretreatment and membrane filtration in a compact stand-alone system. Jellyfish Filter removes floatables, trash, oil, debris, TSS, fine silt-sized particles, and a high percentage of particulate-bound pollutants; including phosphorus and nitrogen, metals and hydrocarbons.”\*

## JELLYFISH FILTER – PERFORMANCE TESTING RESULTS\*

Pollutant of Concern	% Removal
Total Trash	99%
Total Suspended Solids (TSS)	89%
Total <b>Phosphorus</b> (TP)	<b>59%</b>
Total <b>Nitrogen</b> (TN)	<b>51%</b>
Total Copper (TCu)	>80%
Total Zinc (TZn)	>50%
Turbidity (NTU)	<15

\* Manufacturer’s website <<http://www.imbriumsystems.com/stormwater-treatment-solutions/jellyfish-filter>>

# Vegetated Buffers Mitigate Nitrogen Loads

“ . . . .**nitrogen is transformed by microbes in the soil** . . . The most general conclusion from our 2007 paper is that **wider buffers are more effective** and subsurface water movement through the soil is key to better nitrogen uptake....removing trees from a buffer causes nitrogen, calcium, and some metals to increase in streams while chloride also increases. ”

email to RMower, March 19, 2021, from Paul Mayer, PhD,  
US Environmental Protection Agency, Office of Research and  
Development, Center for Public Health and Environmental Assessment,  
Pacific Ecological Systems Division, Corvallis, OR

“ We analyzed data from 89 individual riparian buffers from 45 published studies . . . data showed that overall, buffers were effective at removing large proportions of the nitrogen from water flowing through riparian zones . . . **wider buffers tended to remove more nitrogen** . . .

“Meta-Analysis of Nitrogen Removal in Riparian Buffers.” Paul M. Mayer,  
Steven K. Reynolds, Jr., Marshall D. McCutchen, and Timothy J. Canfield. *J. Environ. Qual.* 36:1172–1180 (2007).

# Naturally Vegetated Buffers Also:

- **Recharge groundwater** through infiltration, e.g., rain on soil
- **Influence water temperature**, e.g., cools water from heat islands, such as parking lots
- **Provide habitat** for aquatic macroinvertebrates, an indicator of water quality, and for wildlife, e.g., birds and other pollinators

Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands. — Durham zoning ordinance

A *buffer* is a naturally vegetated segment of land directly upslope of a water resource, such as a lake, stream, river, pond, estuary, or other wetland type. . . . A *setback* is a specified distance from a water body within which certain activities are restricted. — Buffer Options for the Bay

*Could a wider buffer also help meet stormwater permitting requirements?*

**MAYBE. HERE'S AN IDEA.**

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# Credit with Regulatory Permits?

## Credit for Going Green

Pollutant Removal Credits for Buffers in MS4 Permits



Credit for Going Green Outreach Toolkit, Multimedia Resource July 2019: PowerPoint Deck. Great Bay National Estuarine Research Reserve <<http://www.nerrsciencecollaborative.org/resource/credit-going-green-outreach-toolkit>>

# What Is the “Going Green Project” ?

**“An innovative tool has been created to help New Hampshire communities meet water quality standards through the use of buffers.** The Going Green Project engaged a panel of experts to generate science-based recommendations for calculating the pollutant removal rate of restored or constructed buffers in development, redevelopment, and restoration projects, and others involving land use change. **Communities can now use this information to receive pollutant removal credits under permits issued by the NPDES Stormwater Permit Program.”**



# Stormwater Permits: Targets and Credits

“. . . Anytime a new stormwater permit rolls out, there are **two sides to the equation: The regulatory target and the credit a community receives for the actions they take to meet it.** For years, engineers, agencies, and communities knew their requirements to decrease nonpoint pollution would be coming, and many partners had proactively been exploring ways to track and account for pollutant reduction activities that could help meet the regulatory targets.

“And while these conversations were happening, the Great Bay Reserve was funded by the NERR Science Collaborative to do an integrated assessment related to the use of vegetated buffers. This project did an extensive analysis of science on the effectiveness of buffers, the economic costs and benefits, policy options, and a detailed community assessment.

“The buffer project found that these areas of natural land around wetlands and waterbodies were highly valued for their ability to keep water clean, provide habitat, control erosion, and reduce flooding. There was also a robust body of local science and data to support healthy buffers’ capacity to provide these benefits. However, communities found it difficult to quantify these values and therefore receive credit for the use of buffers under the state’s stormwater permit. They clearly wanted to go green, but they reasonably asked, “What kind of credit can we get?” Communities wanted to know exactly how buffers compared to gray infrastructure\* when it came to nitrogen removal, and if buffers could ever be counted as a nutrient reduction technique by regulatory community. . . .We refer to this project as BOB, or Buffer Options for the Bay. . . .”

— Cory Riley, Great Bay National Estuarine Research Reserve (NERR)

“Credit for Going Green: Using an Expert Panel Process to Quantify the Benefits of Buffers.” Collaborative Science for Estuaries webinar, June 19, 2020  
<<https://www.youtube.com/watch?v=pRDT1nG7r24>>

\* *Gray infrastructure for stormwater management refers to a network of water retention and purification infrastructure (such as pipes, ditches, swales, culverts, and retention ponds) meant to slow the flow of stormwater during rain events to prevent flooding and reduce the amount of pollutants entering waterways. (Nicholas Institute for Environmental Policy Solutions, Duke University)*

# Buffers MAY Get Credit

## Key Decisions

### **What Gets Credit**

Restored or constructed buffers in development, redevelopment, restoration & other projects involving land use change.

### **Optimal Buffer Condition for Credit**

Forested buffer with a width of 100 feet can achieve maximum removal efficiency values. Deviations from this condition result in penalties that reflect lower performance expectations.

# Wider Buffers: Additional Value

“ . . . there is **extensive scientific support for the conclusion that wider buffers support a variety of services beyond pollutant removal**, including the provision of wildlife habitat, flood and storm surge protection, stream migration, and nutrient cycling. . . .”\*

**Durham’s zoning ordinance explicitly acknowledges the value of a 75-foot wetland upland buffer strip for College Brook, echoing the above science.**

**“ While an expanded buffer would not manage stormwater directly from Mill Plaza, an expanded buffer would provide reduction for upstream stormwater and provide additional area for stream restoration.”**

— Robert Roseen, Waterstone Engineering, to the Planning Board, May 19, 2021

\* Credit for Going Green Outreach Toolkit, Multimedia Resource July 2019: PowerPoint Deck, slide titled “What the Curves Can’t Address”: presenter’s notes. . Great Bay National Estuarine Research Reserve <<http://www.nerrsciencecollaborative.org/resource/credit-going-green-outreach-toolkit>>

# Buffer Alone Is Not LID, but . . .

## A wider buffer allows space for LID techniques

- UNH Stormwater Center\* and other researchers have shown that **GREEN** infrastructure, aka **low impact design (LID)**, effectively removes pollutants and mitigates the thermal effects of stormwater (*think “parking lot heat island”*), such as algae growth, a threat to Mill Pond
- **LID techniques could augment the natural functioning of a vegetated buffer to College Brook**

\* UNH Stormwater Center, 2012 Biannual Report: “. . . The use of porous asphalt, standard pavements, and a sub-surface gravel wetland produced exceptional water quality benefits.”

# “From Runoff to Resource”\*

## (Infiltration Recharges Waterbodies)

The most common storms drop a half inch or less of rain. The runoff these events generate predominantly comes from impervious surfaces, such as roads, parking lots, rooftops, sidewalks, patios, and driveways. **Before Dover installed its green stormwater systems, that runoff—and the pollutants it carried—flowed directly into Berry Brook. Now it flows into permeable soils, where it can slowly infiltrate the groundwater and recharge the brook.** On average, this green infrastructure has reduced the volume of runoff in the watershed by two thirds and almost eliminated runoff from the most common storms.

As a result, the watershed’s streams are flowing higher and much cooler in the summer. . . .

**Less runoff also means a reduced pollutant load to the brook and ultimately to the Great Bay. . . .**

# **“Not All CDA’s Fault” : Response**

## **Abutters on Other Side of College Brook Do Their Part**

From: [John Hart]

Subject: RE: **College Brook and Brookside Commons grounds maintenance**

Date: May 6, 2021 at 1:08:58 PM EDT

To: RobinM, Jean and Mark McPeak

We've been on a **wholly organic lawn management program for seven years. No pesticides or fertilizers ever.**

Salt is an issue as we have a difficult pooling/freezing driveway, but **we installed a deep detention area filled with crushed stone that takes all the runoff before it gets to the Brook.**

This spring we removed all our dead and invasive trees (thirty), and we cleared out all invasive shrubs -- all work along College Brook. We're now trying to find contractor to install native shrubs. All prices have gone through the roof, as you're probably aware.

# View from Brookside Commons . . .



**flood plain**

**brook**

# . . . Yet Not on the Board's Site Walk



**snow piled  
against trees**

**steep slope**

**brook**



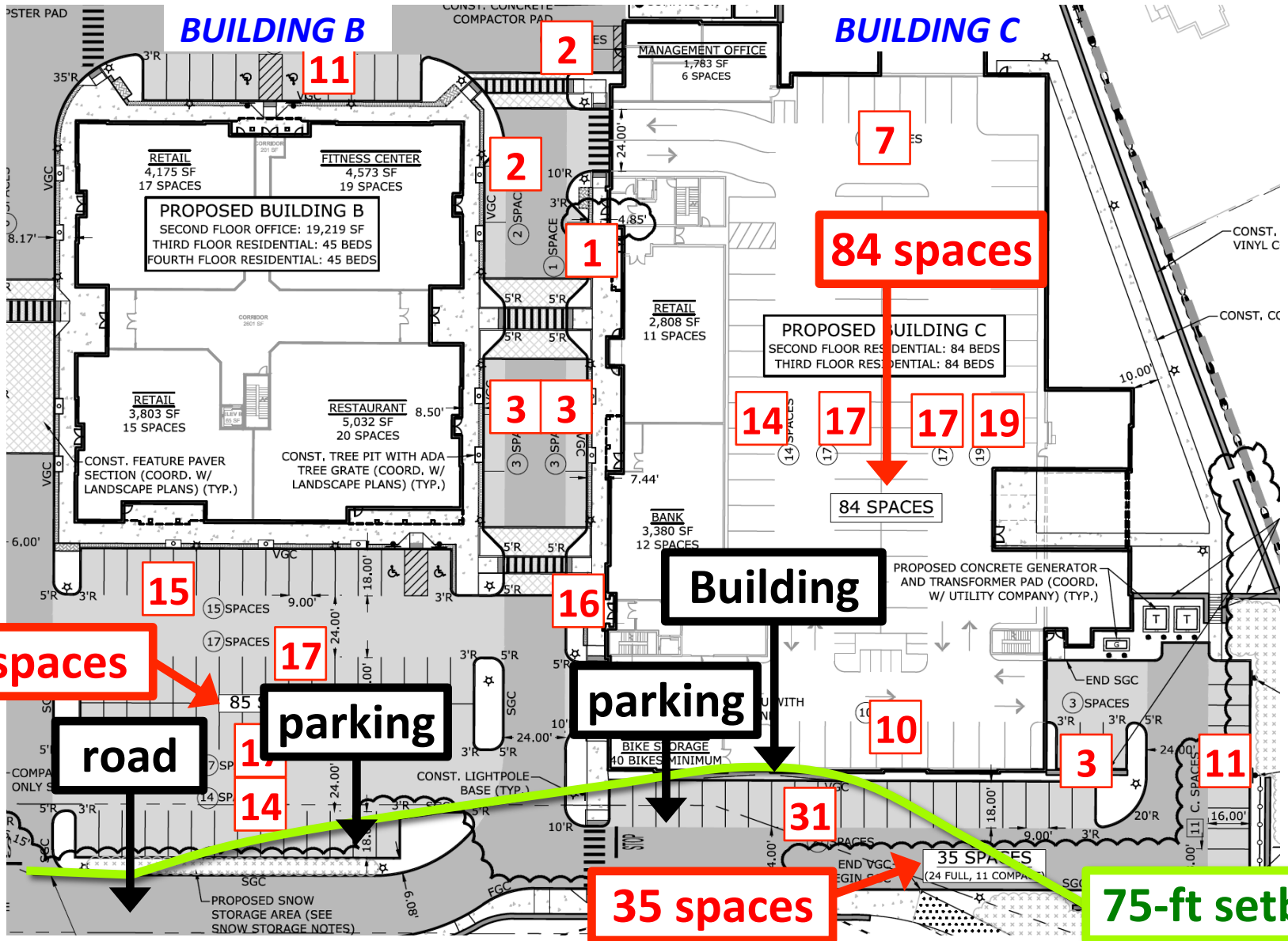
*March 10, 2021 site plan: What is planned for*

**THE SETBACK**



# Parking: March 10, 2021 site plan — right

Sheet C-102



85 spaces

road

parking

parking

84 spaces

84 SPACES

Building

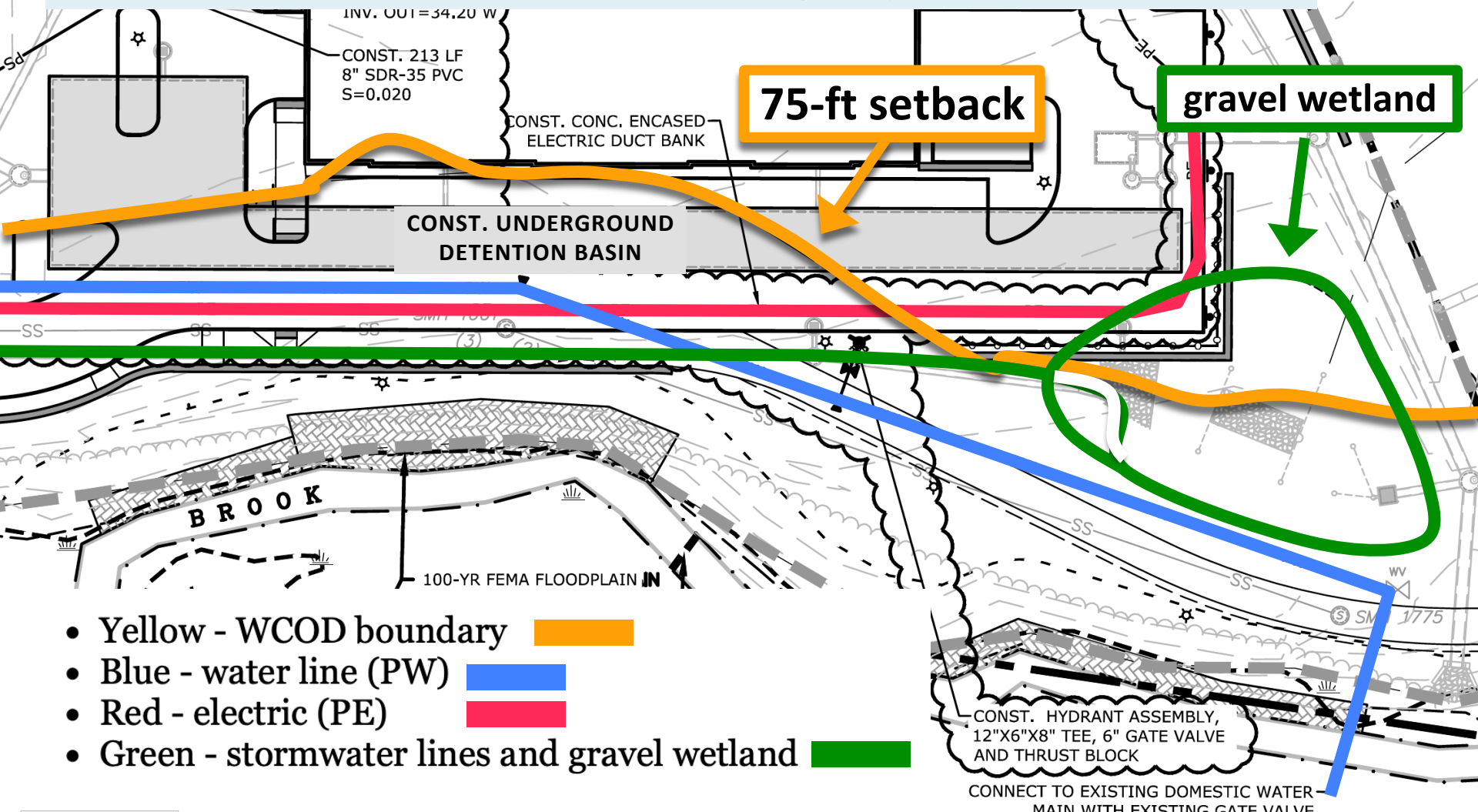
35 spaces

75-ft setback

# Also: Utilities + Stormwater System

Sheet C-104 Utilities Plan, March 10, 2021

I don't know whether everyone is aware of all that's in the 75-ft setback, so I asked Rick Taintor if he would be willing to speak to this slide.



*So . . .*

**WHAT SHOULD WE DO NOW?**

# **WCO Conditional Use Permit**

## **The Conservation Commission said:**

- No, the site plan does not meet the “no alternative location” Conditional Use Permit criterion.
- It also said, “The Mill Plaza parcel, with few exceptions (see below) may accommodate the project without construction in the wetland buffer.”
- “Exceptions to this recommendation would be at the entrance to the parking lot and the minimum distance needed to safely turn away from the wetlands, and the gravel wetland proposed at the opposite end of the site.”

# **“Buffer Is Grandfathered,” Applicant Claims**

**Attorney Ari Pollack to Board, January 24, 2021:**

“You know, the Conservation Commission’s conclusions, in my view, can be summarized simply as, ‘Restore the whole buffer. We think you can do it, so do it.’ I just don’t think it’s that easy. The recommendation ignores the reality that there is an existing condition with a grandfathered encroachment.

“What does that mean? **It means the encroachment occurred before the buffer.**”

*[Planning Board, videorecording mark about 1:04:30]*

# Buffer: In Original Approval

## Consultant reviews files, writes to Planner in 2002

MEMO

TO: Jim Campbell, Director of Planning and Community Development  
FROM: John Harwood, AICP, planning consultant  
RE: Mill Road Shopping Plaza, parcel # 05-01-001  
Tamposi & Lehoullier (original owners)  
DATE: October 2, 2002

I was requested to review the extensive files for this property and provide comments on what has been previously approved by the planning board as well as any conditions of approval that may have been imposed at subsequent site plan reviews.

The file is extensive and somewhat confusing since it begins in the late 1960s. In addition, every new business tenant or change in tenant was required to have site plan approval and there have been several applications that were approved, but never built. **Throughout the record, the main points of discussion have been the number of parking spaces provided, the access road and possible connection to Chesley Dr., and the impacts on College Brook.** With each new application for site plan approval, parking spaces where *[sic]* counted and sometimes re-drawn, landscaping and erosion controls issues raised, and questions posed about the operation of the business. . . .

[continued on next page]



# **Buffer: In Original Approval [cont'd]**

## **Consultant reviews files, writes to Planner in 2002**

... **Another limitation that appears on the site plan is a 70 to 75-foot buffer along the southeastern edge of the property.** Although I could not find any specific discussion about this buffer, the zoning ordinance at the time of approval gave the Planning Board the authority to determine what an appropriate setback would be for a parking lot. Since the lot borders on a residential neighborhood, a seventy-foot buffer was chosen (note: a few copies of the site plan show the buffer as 75 feet but the signed copy is noted as 70 feet). **Every plan shows this buffer, and some have a notation that (drawn) parking spaces will be removed from the buffer.** Another reference to the buffer was made when lighting was being considered for the lot and the setback was highlighted as a buffer to prevent glare from the light poles. As a result, **this 70-foot buffer should be recognized as part of the original approval and therefore maintained. . . .**

# Town Attorney: Comply

**Laura Spector-Morgan to Todd Selig, April 6, 2021:**

. . . The planning board is to treat this application as it would any other application. The application must meet all of the site plan review regulations from which it is not granted a waiver, and **it must comply with all zoning requirements other than the “new” density requirement** or changes that were adopted after the application was originally noticed. . . .

**The Settlement Agreement is not the purview of the Planning Board, but the applicant must ALSO meet terms of the Agreement.**

# Too Late To Change?

**Laura Spector-Morgan to Todd Selig, April 6, 2021:**

. . . The application as submitted **may be changed in either minor or major ways to make it more desirable to the planning board.**

**Planning Board minutes, November 4, 2009**

. . . Mr. McGowan . . . suggested that **the parking lot should be redesigned and improved, based on recommendations from the Mill Plaza study and ideas expressed during this application process.**

*[deliberation on CDA's request to expand Plaza parking by 28 spaces]*

# Too Late To Change?

## “Just Right” number of parking spaces

*Site plan regulations for Mill Plaza — Part III. Development Standards*

### Section 10.2 Shared Parking and Reduction in Parking Spaces

#### General Provisions Regarding Required Parking Spaces

#### Purpose:

7. . . . **The Planning Board may limit the total amount of on-site parking spaces where it determines that an excessive amount is proposed,** including, in unusual cases, stipulating a total amount less than what is specified in the subsection above.

# Too Late To Change?

## Better late than never

- For years residents have asked the Board to address the big-picture issues, **including size and location of parking and buffer.**
- No, it's still not too late — despite what the applicant may claim.
- Options to consider perhaps could include moving parking to a covered ground floor in Building B.

# Alternatively . . .

**Laura Spector-Morgan to Todd Selig, April 6, 2021:**

. . . If the application does not satisfy the site plan review regulations or the conditional use requirements, **the board is free to deny the application based on those criteria. . . .**

# **In Conclusion. . .**

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- 1. Hold CDA to the zoning ordinance.**
  - 2. Pull impervious out of the WCOD.**
  - 3. Let a 75-foot WCOD setback work for the brook — as intended all along.**
-

# Addendum: Query

## Zoning: WCO Performance Standards

## Naturally Vegetated Buffer Strip: Applies? Variance needed?

*April 29, 2021 letter to the Planning Board from Robin Mower*

As required by the zoning ordinance, the Conservation Commission has provided advice to you regarding the applications for Conditional Use Permits relative to the Wetland Conservation and Shoreland Protection overlay district zoning. However, the zoning ordinance also establishes performance standards for these two overlay districts.

These performance standards would appear to be relevant to the Mill Plaza application.

**Question: Do the below performance standards apply? If they do, then it would appear that the applicant must apply for a variance. Please obtain a legal opinion.**

/.../

175-65. Performance Standards in the WCO District.

### **A. Naturally Vegetated Buffer Strip**

/.../ [references the SPO, below]

175-75.1. Performance Standards in the SPO District

### **A. Natural Woodland for Shoreland Development**



