

DRIVE-THROUGH FACILITY CONDITIONAL USE PERMIT APPLICATION

June 15, 2021

Planning Board
8 Newmarket Road
Durham, NH 03824

Mill Plaza Redevelopment. 7 Mill Road. Continued review of application for site plan and conditional use for mixed-use redevelopment project, drive-through facility for bank, and activity within the wetland and shoreland overlay districts. Colonial Durham Associates, property owner....Central Business District. Map 5, Lot 1-1.

Dear Members of the Board,

If I remember correctly, the Planning Board has yet to discuss the proposed drive-through facility although the public has occasionally commented.

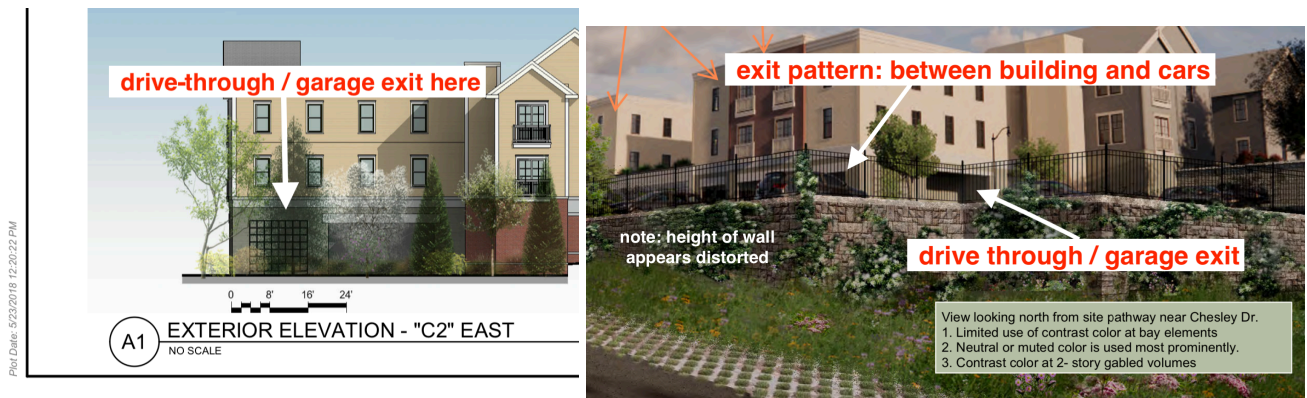
From what I understand, the **higher elevation, traffic pattern, and increased traffic** for the proposed location would impose **exterior glare and noise on residential abutters “greater than the impacts of adjacent existing uses”** (see ordinance Section 175-23.C.2. of the Conditional Use criteria).

For these and additional reasons provided below, the drive-through CUP application should be denied.

Additional information needed

It would be helpful to clarify related features of the plan prior to closing the public hearing (elevation, traffic pattern, likely hours of bank teller or ATM operation).

In addition, I urge the Board to **request that the applicant provide visual renderings** showing (a) the context for vehicular and pedestrian traffic pattern and (b) head-on vehicular views at night. Visual representations include these screenshots (my labels), which lack detail:

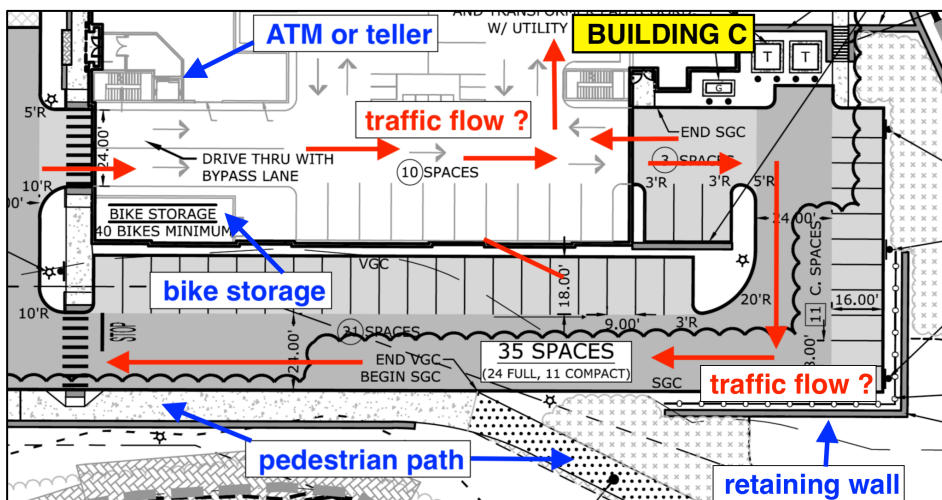


Below, I provide fodder for discussion.

- Summary points
- Conditional Use Criteria Not Met—External Impacts
- Concern—A walkable downtown emphasized in Master Plans
- Alternative location should be considered

Summary points

- Site plan note error: The “Site Data” block on Sheet C-102 of the site plan dated March 10, 2021, states “(Based on Town of Durham Zoning Ordinance, Date Varies/Vested)” that “bank with drive-through” is a “permitted use.” It is permitted only as Conditional Use.
- A drive-through facility CUP application was submitted on January 2, 2020—16 months after the formal submission. During that interval, it likely was not on anyone’s mind.
- The drive-through facility would be located inside the southeasterly Building C, specifically, in the parking garage, with:
 - An entrance in the SW corner of the building alongside bike storage, with bicyclists exposed to idling vehicle emissions; and
 - Exits either (a) at the SE corner of the building, with vehicles turning right (south), then driving west between exterior parking and ?? (building? path?), or (b) at the NW corner of the building, with vehicles driving through the parking garage and then between first-floor commercial uses.



- Vehicles exiting as in (a), above, i.e., driving parallel to College Brook and then turning south, would face single-family homes on the north side of Faculty Road and, driving west, apartments in Brookside Commons.
 - Grading would raise the southern side of Building C about 6 feet higher.
 - Headlights of exiting vehicles would thus be highly visible to Faculty Road homes, particularly during months with no foliage.
- Part of the drive-through operation may be staffed, but it is unclear whether part will be purely an (unstaffed) ATM nor what would be its hours of availability, perhaps 24/7.
- In August 2017 CDA applied to the Zoning Board for a variance for a drive-through (i.e., a “drive-thru”) facility accessory to a pharmacy. The application was denied.
 - Arguments presented by the public for the ZBA’s variance criteria, which are similar to the Conditional Use Permit criteria, are pertinent, e.g., “public interest.”
 - Excerpts from the minutes of the August 8, 2017 ZBA hearing and decision are provided below.

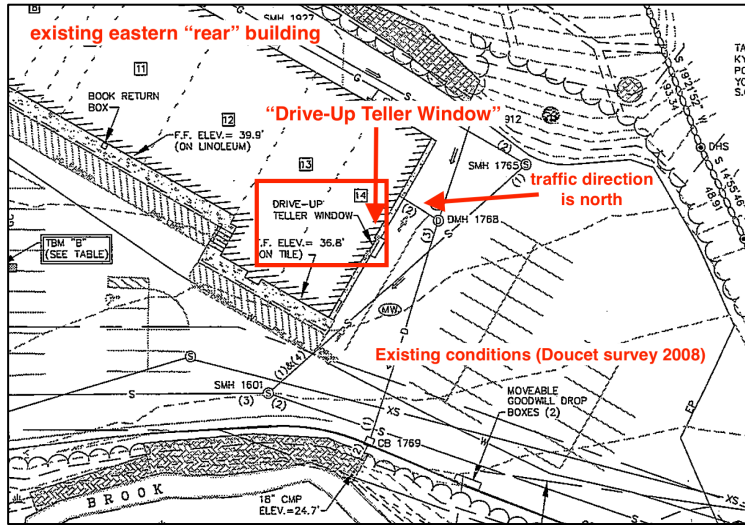
Conditional Use Criteria Not Met—External Impacts

See Section 175-23.C. of the zoning ordinance dated June 16, 2014:

2. **External impacts:** *The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare....*

1. Glare greater than adjacent existing uses

- a) The existing drive-through facility for the former NH Federal Credit Union (?) is located toward the back of the rear building. Cars drove north-east along the back wall, with the teller window at their left, as shown below; I do not recall they they exited but think it could have been by traveling west behind—and screened by—the building;



- b) The current easternmost, rear parking area is rarely used and not the site of frequent movement, particularly since the credit union office (and its drive-through) closed.
- c) A drive-through facility by its nature is designed to encourage a stream of traffic.
- d) The traffic pattern for the proposed drive-through facility location would direct the majority of, if not all, the cars and their headlights toward Faculty Road. (See image on previous page.)
- e) Grading will raise the elevation of this location on the site by approximately 6 feet. The finished grade level of the SE corner of Building C will be at approximately 6 feet higher in elevation than the site is today (43-ish versus 36-ish feet). See (a) last sheet "Site Sections" of site plan dated January 2, 2020 and (b) sheet C-103 of the site plan dated March 3, 2021.

These factors—**traffic pattern, increased amount of traffic, and higher elevation**—would result in more lights from more vehicles, i.e., **more glare**, whether moving or stationary, being more visible to homes on the north side of Faculty Road than today. As a resident of Bayview Road has noted, residents see lights even through trees, particularly during months when trees have lost their foliage.

In addition, the proposed location would attract and send more cars along the southern roadway, shining more lights onto the 55+ Brookside Commons apartments.

2. Noise greater than adjacent existing uses

Due to the above factors (elevation and traffic pattern), noise will also carry more directly to Faculty Road and Chesley Drive abutters, whether the sounds of cars starting up or in motion or of conversations and music through open car windows.

The anticipated greater volume of traffic would also create more noise.

3. Polluting vehicle emissions

At the August 8, 2017 ZBA hearing (see below), supportive arguments referenced new vehicle technology that would obviate pollutant emissions, whether idling or starting up. While some drivers are purchasing such vehicles, most are not, and most certainly those with lower disposable incomes, such as students, are not. Indeed, many people without the financial ability to buy newer cars buy older cars that, typically, are less environmentally friendly.

One might reasonably conclude that most drivers using the drive-through facility will be driving vehicles that contribute emissions. These will be more intense in this smaller area.

One might also wonder about the exposure of bicyclists using the garage's bike storage area immediately opposite the drive-through teller window and ATM.

Concern—A walkable downtown emphasized in Master Plans | community value

Opposing arguments made at the 2017 ZBA hearing referenced decades of community planning for a walkable downtown, particularly the Master Plans. Walking is a key element of our social capital: People out walking see each other and chat with neighbors they pass. Personal encounters occur between people in public places and stores (or banks), not in cars.

The footpath connecting the Mill Plaza to both Chesley Drive and the footbridge crossing College Brook to Faculty Road (and thus to hundreds of residents in the Faculty neighborhood) is a stone's throw from the proposed exit from the proposed drive-through facility. Many residents use these paths to walk or bike to school, the university, downtown, and the library. Residents and nonresidents alike use these paths for their lunchtime exercise walks. Young children walk unaccompanied on these paths.

Certainly pedestrian safety should be protected once we step foot onto the Mill Plaza site—whether from a car or from any access point at the periphery, so that concern should be among the features the Planning Board discusses.

Where the Planning Board has discretion, as with a Conditional Use application, it is appropriate to be mindful of the Master Plan, as Michael notes, below:

From: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Subject: Main Street #19 - parking references from Master Plan from Ellie Lonske

Date: May 17, 2021 at 1:57:39 PM EDT

To the Planning Board,

... The Master Plan is a policy and planning document and is not legally binding but it can be a useful reference for issues where broader town goals and policies can provide context – such as for conditional uses, zoning amendments, special exceptions, and variances – provided the board is discerning in considering its applicability.

Residents' comments: August 8, 2017 ZBA meeting minutes

On August 8, 2017, Colonial Durham Associates sought a variance for a drive-through accessory to a pharmacy. The variance was denied. The current site plan proposes a drive-through accessory to a financial institution/bank—which is allowed by Conditional Use.

Some of the arguments set forth by residents at the 2017 ZBA meeting reflect my own perspective on the current application. These include (emphasis added):

Mark McPeak, Mill Road said he lived close to the proposed drive thru. He said the Town's decision to not allow drive thrus in the CBD seemed wise, and helped retain the walkable character of the town. He noted a survey he'd done of seniors in Durham as part of the Future Land Use Committee outreach for the Planning Board, which indicated that *people already felt that walkability in the Town had been compromised.*

Eric Lund, Faculty Road read a letter from **Andrew Kun, Faculty Road**, which asked that the ZBA reject both variance requests... Concerning the drive-thru pharmacy variance, the Kuns said Durham could use more areas where residents, students, and customers of downtown businesses could walk, sit, gather to talk, and see their kids play. They asked the ZBA not to decrease the walkability of their town by allowing a drive-thru pharmacy in the center of it... Mr. Lundt said... he agreed with the Kuns that *having a drive thru was contrary to the interest of having a walkable path along College Brook*, and urged the ZBA to deny the variances.

Kai Forcey-Rodriguez, Thompson Lane said he had many concerns about the project as a UNH student, having lived in Durham for the past twenty years, and having the luxury of living in a very walkable town. He said one of his biggest concerns was that *a lot of middle schoolers, high school students and other people living in the Faculty neighborhood followed the dirt path along College Brook, and then walked into the Plaza and up past Bella's Restaurant.* He said he didn't see that the path was in this plan. ¶ He said he remembered *the drive thru for the bank, which caused traffic congestion and conflicts with pedestrians, and he spoke in some detail on this. He said he thought another drive thru would heavily conflict with pedestrian traffic.*

A woman who didn't give her name questioned how the drive-thru would work, and also said as someone who lived near where the drive-thru would be located, *there would be idling cars there seven days a week, all day long. She said the noise, and exhaust wouldn't be fair to the people who lived nearby.*

Nancy Lambert 17 Faculty Road said she was an abutter... She said she realized the proposed *drive-thru wasn't in keeping with the vision of a walkable community. She described the problems it would cause, and said among other things, it wouldn't allow for easy community building and would be harmful from an environmental perspective. She said when people got out of cars, they walked and interacted with their neighbors, and said drive thrus should be in commercial strips that catered to vehicular traffic not in the community core. She said they shouldn't unintentionally undermine the character of the Town with a drive thru where it didn't belong.*

An alternative location should be considered

- Situating the bank and its drive-through facility in the NW corner of Building C would (a) move it toward commercial Main Street and away from residences and College Brook, and (b) be safer for pedestrians.

- From a bank customer (driver) perspective, the proposed location is “odd” and out of the way—even if you are a patron of other Plaza businesses.
- Entering and exiting traffic need not include a “straight shot” along College Brook and the adjacent pedestrian path.
- In addition, it is highly likely that the pedestrian walkway would be safer were the drive-through facility exit moved to the northwest corner of Building C.
- Moving the drive-through facility away from the bike storage area would be healthier for bicyclists.

Request: Renderings that show drive-through facility exit in context

As mentioned at my opening, I urge the Board to request that the applicant provide greater detail about the proposed drive-through facility before you close the public hearing and deliberate.

Regards,

Robin