

June 28, 2018

Planning Board
8 Newmarket Road
Durham, NH 03824

RE: **Public Hearing Mill Plaza Redevelopment – 7 Mill Road**

Greetings,

Last night dozens of residents sat through hours of Planning Board matters before the one for which they gave up their evening began: the public hearing for the Mill Plaza did not open until 9:40pm. Chair Rasmussen then stated that the public hearing would be limited to 30 minutes for the night.

Over the course of the past nearly four years, residents have mustered their energies to attend numerous Planning Board meetings for the *nonbinding* Design Review. Many hours of preparation and sacrifice of evenings underlie that participation, not to mention concern for the impacts on their quality of life or value of their property, particularly should the Board fail to require adequate mitigation.

The public hearing that opened the Design Review on October 22, 2014 lasted two and a half hours. Each public hearing thereafter lasted from approximately 1.75 to approximately 3.5 hours. Now, when their comments on the formal application are legally binding, residents find the Board seemingly unreceptive and appearing to bow to the applicant's dictate of a future timeframe for this physically enormous and enormously-impactful project at the heart of our downtown.

It might lead some to wonder just how impartial and thorough the proceedings on this application will be in the future.

I refer the Board to an article by Attorney Christine Fillmore, "Running a Smooth Public Hearing," in *New Hampshire Town and City*, April 2011

<<https://www.nhmunicipal.org/TownAndCity/Article/385>> Relevant excerpts include:

- ...the purpose of holding a public hearing is for the government to obtain public testimony or comment on a particular matter....
- ...In the context of public comment periods at public meetings, time limits of three to five minutes on each person's testimony have been found acceptable within the framework of the First Amendment's protection of free speech. See, e.g., *Wright v. Anthony*, 733 F.2d 575 (8th Cir. 1984). However, when there are specific parties in interest at a public hearing (such as a land use applicant), time limits should be used sparingly and should be considerably longer. A party in interest is one whose property rights are at issue, and limitations on that party's ability to speak should be imposed only if necessary....

Among other concerns for the public: How are we to know in advance when a specific topic will be covered? And what if we want to address multiple topics? Does that mean we need to appear (and take our chances that we will be allowed to speak) at multiple meetings?

New members of the Board may be unaware how the residents' comments have positively influenced the evolution of this proposal, as with others. Public hearings are not merely for venting: they provide perspectives sometimes missed by applicant and Board members.

I copy the Town Council on this correspondence with intent. Planning Board members are accountable—and that, only at the moment of appointment or reappointment—to the Council. Put another way, the Council ultimately shoulders responsibility for the Board. One of this year's "Core Values" of the Town Council Goals is to "Embrace openness in the transaction of public business while conducting Town affairs in a manner that is just and best demonstrates a genuine respect for different ideas, opinions, and perspectives."

The disrespect shown to residents by last night's procedural decisions is shameful. I urge the Board to reconsider the schedule proposed by the applicant and to firmly take back the reins of the project.

Regards,

[Signed: Robin Mower, abutter]