



TOWN OF DURHAM
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Town Planner's Project Review
Wednesday, November 13, 2019

- XI. **56 Main Street – New Restaurant.** The site plan for new restaurant, Italian market, and events space was approved on May 22. Doug Clark, applicant. Peter Murphy, property owner. Mike Sievert, MJS Engineering, engineer. Map 2, Lot 14-4. Central Business Zone.
- A. **Sewer Line.** Request for modification from approval to upgrade sewer line on the subject lot only.
- If there is a good indication that the amount and type of sewage anticipated from the overall property after this new development is comparable to or less than the historical level of sewage then I recommend approval of the change as submitted. There is an updated section of sewer on the adjacent Kostis lot. If the sewer can be upgraded to that section without disruption of the tenants of the Kostis lot then that upgrade would be highly beneficial.

See the emails below conveyed to me from April Talon, Town Engineer; Doug Clark, applicant; and Nick Kostis, affected abutter. This review of a modification request is not a public hearing. The board could treat this as an amendment with notices and a public hearing if deemed appropriate. I informed the one abutter who I believe would potentially be affected – Nick Kostis. If Mr. Kostis attends the meeting on Wednesday, I would urge the board to allow him to speak to this item.

An updated map, narrative, and modification request are included in the packets. Doug Clark had planned to reline the entire sewer line on the subject property and the adjacent lot owned by Mr. Kostis extending to the existing manhole in Pettee Brook. That plan was approved by the Planning Board. Doug Clark and Mr. Kostis met recently but unfortunately were not able to work out an agreement. Doug Clark revised his plan to reline only the sewer on his own lot.

April Talon, Town Engineer, conveyed to me: “Hi Michael – this change is acceptable to the Public Works Department. It is a private sewer service line.

Thank you!
April Talon”

Please see Doug Clark's comments to me below, sent via email. See comments to me from Nick Kostis further below. Mr. Kostis is requesting several assurances. It is up to the Planning Board to determine what is appropriate for the Town to require, if anything, for this requested modification, and which concerns are private matters. *If, as Doug Clark asserts, the expected type and amount of sewage is comparable to the historical level then I think the request should be approved as submitted.* If the expected type or amount of sewage is reasonably expected to be significantly greater then some additional analysis and/or assurances might be in order.

(November 6 from Doug Clark)

Michael,

I just spoke with Nick Kostis. He understands what the revised plan is and will discuss with his team as well as Mike Sievert tomorrow.

He seemed fine with the plan, but looking for some assurance that our improvement will not jeopardize sewer discharge out of 13 Jenkins Ct, or disrupt his tenants. I can't see how it would, but it probably all comes down to flow. I know April has calculated the flow based on the maximum potential capacity, which I know is a number that is substantially higher than what we will actually use.

To that point, and as I have tried to point out on numerous occasions, (mostly to deaf ears), the flow from Ciao Italia will be substantially less than the flow that occurred throughout the 60's, 70's and 80's when the property housed very popular restaurants on the first floor (Dunfey's and then College Corner) as well as a hugely popular bar (Down Under) in the basement.

We will have approximately 25% fewer seats than that era, and serve far less beer, which we all know resulted in a lot more bathroom visits). It is also note worthy to point out that even though the occupancy of the Down Under and Knot was 90'ish, they routinely stuffed far more in on typical Thursday, Friday and Saturday nights.

Compared to the most recent use, with the flower shop upstairs and Knot downstairs, I need to continue to emphasize that we will have 100 seats upstairs, but only expect to open the downstairs 3 nights/week, and for most events, only set up about 50 seats ... 150 total during the limited time the downstairs will be open. Most days we will only operate the first floor restaurant, and expect 70% of our business to be food vs liquor, which should translate to less sewer use.

My expectation is that our overall flow will be considerably less than the old days, and very close to, or maybe slightly higher, than the early days of the Knot.

Thanks,

Doug

(November 6, follow up email from Doug Clark)

Michael,

I just sent you a note about flow ... but yes, April has done a calculation (which I have some issues with). I will try to find it in my email and get it to you unless April or Mike beats me to it.

As I pointed out, our flow will be substantially less than what the property created throughout the 60's, 70's and 80's, and possibly slightly more than what the Knot and florist created in the 90's and early 00's.

It is critical to note that we only expect to have the downstairs open about 3 days/week, and only expect to set up about 50 seats, half of what the Knot had.

We also expect the majority of our business will be food, not liquor, which will translate to far fewer bathroom breaks.

Thanks,

Doug

(November 8 from Nick Kostis)

Hi Michael,

Please feel free to share the below with the Planning Board and/or read at the meeting.

As the owner of 13 Jenkins Ct, we have been asked to comment on the newly proposed sewage plan for Jenkins Ct. I would first like to say that we are in support of Doug's effort to open a new restaurant on Jenkins Ct and feel it would be a great addition to the town.

However, I cannot say with any confidence that we are comfortable with the new plan as proposed.

Back in the spring, Doug called to inform of us of construction work of a new sewer line on Jenkins Ct. Doug's call was appreciated, and it was understood that construction would be completed before the students return to minimize any impact on all businesses in the area.

Some months later, we received a phone call from Mike Sievert alerting us to a new plan and requesting a meeting as the new plan involved us. We met on site at our property of 13 Jenkins Ct, asked several questions, most of which could not be answered at the time, and planned a follow up meeting with the contractor on site.

A few days later, we met on site for a further explanation of the plan, the process, and to express our concerns. Our concerns from day one, which continue to be, the tenants of our property and their ability to run their day to day operations, both during construction as well as in the future. Some of these concerns were addressed in the follow up meeting, but due to the fact that the sub contractor that would be completing the work was not at the meeting, most of our questions and concerns were not addressed. We were also informed during this meeting that construction had already been scheduled to begin within a day or two, which we were not comfortable with until our concerns were addressed. As you can imagine, we were quite

frustrated with the lack of communication and coordination involved. However, we did not at the time, nor do we currently feel, that the work could not or should not be completed.

In light of all the above, we kindly request the following in order to best protect our commercial tenants:

1. A report from a certified engineer that the existing line can handle the additional flow proposed.
2. A report from a certified engineer that the proposed plan will not have a negative impact on the existing sewer line.
3. Written assurances that if something were to go wrong during construction or damage occurs to our property, Doug's group is responsible to remedy the problem/damage at their sole expense and in timely manner (including the use of emergency equipment if needed to control the situation until any issue is fixed).
4. Written assurance that our tenants will be reimbursed for loss of business and we, the landlord, will be reimbursed for loss of rent
5. Written assurance that should any problem now arise in the future with the sewer line, the property owner of 60 Main St will be responsible for the cost associated with fixing the problem.

I believe it goes without saying we would rather this type work be conducted in the summer. We also understand the difficulty in trying to complete a renovation project and that time is important. Again, we support Doug's effort to open his planned restaurant. However, without the above addressed, we cannot support the proposed changes to the sewer plan.

If you have any questions, please do not hesitate to reach out. I am available via email at nick@kostisenterprises.com or by phone at 603.652.1104.

Thanks,
Nick

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