

December 2, 2021

To: The Durham Planning Board & Todd Selig

From: Diane Chen, 12 Oyster River Road, Durham, NH

Re: Ignoring Conditional Use Criteria & Public Input (Mill Plaza & Church Hill)

I want to echo the concerns raised by Carol Birch. I have closely followed the Mill Plaza & Church Hill site-plan review processes over the past several years, and I continue to be disturbed about the Planning Board's application of Conditional Use criteria or, more specifically, the Board's *lack* of application of what is explicitly written in our Conditional Use Zoning.

The Conditional Use criteria state that a proposed project must have "a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the town." How is the Board to determine all that? The answer is also stated in the zoning article: "The Planning Board shall make findings of fact, based on the evidence presented by the applicant, Town staff, **and the public....**"

This reference to "evidence presented by...the public" is why I and scores of others in Town have written letters and made spoken comments at Public Hearings – and signed a petition with a record number of names – detailing how the current Plaza plan does *not* comply with our Zoning (negative environmental & social impact) and requesting that, in the absence of significant improvements and compliance with our zoning, this terrible project be denied. This is input that the Planning Board is required to consider.

Although we all want an improved Mill Plaza, virtually no one in town wants the Mill Plaza project and interrelated Church Hill parking to go forward as currently designed. They do not comply with our zoning, nor with common sense regarding the redevelopment of these unique downtown properties.

The expectations of the Public are represented in our Zoning Ordinance. They are also in our Master Plan, which is also highlighted in the applicable Conditional Use Zoning: "approvals shall be subject to appropriate conditions where such conditions are shown to be necessary **to further the objectives of this ordinance and the Master Plan.**" Yes, contrary to the Planning Chair's repeated misdirection to the public and Planning Board, a Conditional Use project is required to further the objectives of the Master Plan.

I was long confused and troubled over why it seemed that my and others' letters and meeting comments weren't having any impact, or even being discussed. Then, I watched the October 20, 2021 Planning Board workshop and was stunned to hear the Planning Board Chair "educate" other Board members on how they should ignore public input, because it is all factually inaccurate and not even worthy of attention or response. Even though I have not devoted as much time on my input as is seen in the extraordinary detail and documentation in some other residents' submitted documents, I have spent a lot of time and have gone back to the Master Plan and also the Zoning requirements to ensure that my comments and letters are accurate and pertinent. For public input, our zoning, and the Master Plan to be *intentionally* ignored, when

their key role is explicitly referenced in the Conditional Use criteria, is a huge flaw in the review process and is personally infuriating.

I reiterate that almost no one wants these projects to be approved as they are currently designed. From my point of view, CDA and Toomerfs have been in charge, and have escaped proper review scrutiny. I hope that the Board will immediately rethink its approach and acknowledge that the members of the public in Durham are a well-informed, thoughtful, and engaged group of individuals whose letters are, for most part, well-reasoned and accurate. Public input, per our zoning, is an essential component of the review process.