

Please also consider viewing the [video](#) & [minutes](#) of the Jan 8, 2020 Planning Board meeting where the initial version of the Church Hill proposal (10' shorter retaining wall) was critiqued by the public and Planning Board in terms of incompatibility with Conditional-Use zoning.

January 7, 2021

To: Durham Planning Board

From: Joshua Meyrowitz, 7 Chesley Dr, Durham

Re: Church Hill Conditional-Use Parking Proposal

Thank you for welcoming public input on pending applications before the Planning Board. I write here about what is described as a **“Conditional Use” “parking lot proposal” at “19-21 Main Street.”**

Misleading labels: Labels often help to simplify complex issues. Yet, labels can also distort and confuse when they are a bad match for the subject at hand – as is the *mismatch of two of the three labels above for this proposal.*

<> Not really “19-21 Main Street”: Yes, “19-21 Main Street” is the technical address, and thus the required formal Planning Board label. Still, it distorts what you need to consider to evaluate the application in total. That street address is only the entrance to the front house lots of the 4 contiguous lots purchased by Toomerfs a few years ago. The bulk of the parking expansion proposed is on lots that have no street address and are distant from Main Street. A more accurate, if cumbersome, label for the primary site would be something along the lines of: **“1.3 acres of woods that slope steeply toward the Chesley Marsh Wetland and the College Brook flood zone.”**

<> Not simply a “parking lot”: Similarly, referring to what is proposed as a “parking lot” conveys the false image of a plan merely to compact, pave, and paint spot stripes on a piece of relatively level ground. Instead, what is being proposed is, more accurately, the construction of a **massive 22-foot high football-field size mound with 16,000 cubic yards (normally 16,000 tons) of fill encased in a 25-foot tall retaining wall and made taller still with a 30” aluminum fence atop the wall and lighting poles that would extend another 11-15’ above the retaining wall.**¹ That citadel-like structure would be built up on a hillside that is already, at its lowest point, more than two stories above street level at Chesley Drive, thus impacting adjacent homes and neighboring foot/bike paths in a manner akin to a **looming 5-story tall fortified citadel.** Yes, that massive mound would be asphalt-topped and striped, but not much else about the nature of the project relevant to your review is captured in the bland term “parking lot.”

¹ At around 8:26pm at December 16, 2020 PB meeting ([video](#)), Engineer Mike Sievert estimated needing between 1,100 and 1,200 10-wheel truckloads of fill, plus those for the retaining wall pre-cast blocks, paving, and stormwater system.

↔ **Certainly subject to “Conditional Use”**: There is no other massive mound parking structure like this in the zone or beyond, and its negative impacts on the surrounding environment are clearly far greater than the negative impacts of any permitted or existing parking lots on Church Hill. This proposal, then, stands firmly in violation of the only term of the trio in my opening paragraph that is accurate: The application is, indeed, subject to **“Conditional Use” (CU) restrictions**. Indeed, the proposed parking mound seems to be a poster-child for almost all that is forbidden under CU.

Model for what is forbidden under Conditional Use: Yes, there are, as the applicants have said, existing parking lots on Church Hill. Yet, not only are the other parking lots further from abutting family homes and from the Faculty Neighborhood, but the proposed parking mound citadel would have extreme new negative impacts beyond any existing or permitted uses in the zone.

Out of scale & overly intense use: Durham’s Conditional Use criteria require that **“the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment....”**

The height and mass of the proposed structure is wildly out of scale with the setting, and you have received a number of resident letters regarding the adverse effect on the surrounding environment (e.g., [Nancy Lambert 12-10-20](#), [Katherine Morgan 12-10-20](#), [Maura Slavin 12-11-20](#)). Also, the use would be a hundred-fold or more “intense” than what is there now and in the zone.

In contrast, the parking lot for Church Hill apartments is a ground-level accessory use for senior households, and it has only 35 or so spaces, about the same number as the *existing* spots for the tenants of 19-21 Main Street housing. The parking lot for the Community Church is large, but it is on the natural grade of the site, and, more significantly, it is almost always empty, except during religious services, Church events, or Church meetings. **Neither of those existing lots looms over adjacent residential houses or adds other significant negative impacts to the surrounding environment. Neither of those existing lots entails intense 24-hour a day use.**²

² For comparison scale, note that the ceiling in the Town Hall Council Chamber is “only” 12’ 4” high, and that the average height of the intimidating Berlin Wall was “only” 11.8 feet. The “Mike Sievert Wall” for the Church Hill parking mound would be more than 100% taller than those. And that’s *before* the added height of vehicles, drivers, lampposts. All told, there will likely be new structures about 40’ high – about 50% taller than the maximum height of the [Israeli/Palestinian Separation Barrier](#), and close to 100% taller than the height of the soaring Atrium ceiling when one enters Durham Town Hall. And remember that what is proposed is to build up a 22’ mound starting on ground that is already about 30’ above the level of the Chesley Marsh and College Brook downhill from it. Also, the parking mound would be as wide as a football field, about six times wider than the 29’-wide Council Chamber room, with almost no buffer to adjacent properties.

Destroys natural & scenic resources: To meet CU criteria, projects must “**preserve identified natural...and scenic resources on the site and shall not degrade such identified resources on abutting properties**” including “**significant wildlife habitat...mature tree lines...scenic views, and viewsheds.**” The proposed parking plan would have precisely those forbidden destructive effects on the Church Hill wooded site.

Durham has for over 40 years been designated as a “[Tree City, USA](#),” and even in bare winter months, the targeted-for-destruction Church Hill trees comprise an important part of the greenway buffer for the entire Faculty Neighborhood. Indeed, that buffer helps to *create* a bounded Faculty Neighborhood, separate from the hubbub of the Central Business District and the already very dense traffic up on Main Street at Church Hill. Yes, the Faculty Neighborhood’s downtown greenway is not much compared to what people on more distant, larger parcels have, but it’s important to us because of the compactness of our lots (many only about ¼ acre in size). This proposal would be very destructive to that bit of valued neighborhood-defining greenway. Small animals and birds, including rare species, also enjoy the area. The plan not only violates Conditional Use, but also is in opposition to a key Master Plan ([LU-16](#)) goal: “**Reduce the trend of continued loss of forestland and other natural areas, and increase the quantity and quality of existing forest cover in developed areas.**”

You have letters from both of Durham’s internationally recognized urban forest specialists ([Richard Hallett 12-9-20](#) and [John Parry 12-11-20](#)), who detail the negative impacts with regard to this Conditional-Use criterion. Similar concerns are echoed in other letters, including [Robert Russell 12-9-20](#) and my earlier design-review comment with a Google-map image of the forest cover on Church Hill, [Joshua Meyrowitz 1-6-20](#).

Other negative impacts:

Our Conditional Use criteria also state that “**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.**”

Increased Traffic: Expanding the existing parking on the subject lots from about 40 spaces for on-site tenants to about 180 spaces (140 additional spaces) would increase traffic not only at the crowded crest of Main Street at Church Hill, but also in the Faculty Neighborhood. Indeed, the applicant has admitted as much. Project engineer Mike Sievert confessed to that fact at the November 10, 2020, Technical Review Group (TRG) meeting (see 1:18pm in [video](#)). As he explained: since a left turn out of the lot on Main Street would be very difficult, the parking lot’s users would likely exit right and turn right again onto 108 and right again onto Mill Pond Rd, onto

Faculty Road, etc. to reach their in-Town destinations.

The Toomerfs' submitted traffic analysis (which initially under-reported the added number of spaces by more than 40%) explicitly claims that the new spots would be for tenants of Mill Plaza. That's a *strategic stance* to attempt to support the implausible argument that the student spot-renters (as opposed to commuters tied to downtown businesses) would not move their cars very much, thus not adding to the already congested traffic on Church Hill.

Yet, Peter Murphy admitted on January 8, 2020, that even if his spot renters are UNH students, they would, in fact, be moving their cars quite a bit. He said that “**Most of the students who have cars have jobs; they are the ‘doers.’**” (See 10:08:21 pm in [video](#).) He asked for pity on the frequent travel needs of the kids with cars who are balancing school, jobs, and internships and should not have to walk to/from UNH Lot A to access their vehicles. In short, Mr. Murphy conceded that even student-space renters would add a significant amount of traffic to Church Hill and beyond, in violation of Conditional Use. (Interestingly, this conclusion is also reinforced by Tighe & Bond's traffic-impact analyst, Christopher Granatini, who admitted on October 14, 2020, that the traffic model T&B employs would have significantly underestimated the actual current traffic at Mill Plaza because the 100~ student parking-spot renters move their cars more than the traffic model would have predicted. See 9:57:27p+ in [video](#). Moreover the Church Hill lot would have significantly more rental spaces than the Plaza.)

In any case, the Planning Board must not assume that the Mill Plaza site plan, with 258 proposed student tenants, will actually be built, and thus the Board needs to assess traffic impact from the Church Hill parking proposal in terms of *any* and *all* the possible renters of these proposed 140 extra spots *over the foreseeable future*, including **downtown business owners and workers**, that is, those who would clearly add to the commuting-time traffic jams on Church Hill. Peter Murphy also admitted to this at the November 10 TRG meeting (see 11:22:32p in [video](#)). As you know, [Dennis Meadows 12-20-20](#) presents significant omission and deficiencies in the submitted Traffic Report.

Significantly increased noise: Currently, Church Hill and surrounding homes are very quiet at night. With this proposal, there would obviously be significantly more **noise/vibration** for adjacent properties. The added noise would come from vehicle engines, car and truck horns, vehicle alarms, music from vehicle stereos, slamming car and truck doors, and noise from snow plows, as well as from people talking to each other or on their phones when walking to and from their cars in the lot. And, for the youth of Durham, what is being proposed is the [ideal 3% grade for a skateboard park](#), with the resulting sound of spinning wheels – and the especially annoying clanks at the end of each skateboard run.

Moreover, the acoustics in this setting are such that sounds from the hill echo within the Chesley Drive, Chesley Marsh, and College Brook “valley” that sits between the higher Faculty Road and

Church Hill. At the present time, however, there are very few such sounds on the targeted hill and none after dark, while an asphalt-topped football-field sized parking lot would obviously create a massively increased noise and echo chamber 24 hours a day, 7 days a week. Finally, as engineer Mike Sievert admitted at the recent site walk ([Site Walk Minutes 12-2-20](#)), he has no current plans for any sound-baffling features for the massive asphalt expanse of the proposed structure.

New and significant odors and fumes: Clearly, the addition of 140 vehicles to what is now a wooded lot would bring odors that currently do *not* waft into abutting homes, including gas fumes and exhaust from cars, trucks, snow plows, and the planned snow melters. Again, the size and intensity of use of the proposed lot would dwarf the impact from the 35 spots in Church Hill senior-housing apartments and low use of the Community Church parking lot, both of which are, in any case, distant from Faculty Neighborhood homes.

Significantly more light pollution: Toomerfs propose 14' to 18' foot tall lampposts on the parking surface that would be constantly illuminated at night, contributing to a dramatic **negative impact of increased external light and glare to adjacent properties**. In contrast, the Church Hill Apartments parking lot is illuminated only by the lights on the apartment buildings; similarly, the Community Church parking lot is illuminated only by the lights on the Church building. There are no lampposts in those parking lots. The proposed lot's impact would be far greater.

In addition to on-all-night lampposts, the new looming-over-the-neighborhood massive football-field size structure would bring car and truck and plow headlights to what is now a dark-sky site. (An alternate Board Member raised the importance of looking at dark-sky concepts at the December 11, 2019 preliminary design review meeting, see [minutes](#), p. 12.)

Increased hours of operation: Adding 140 vehicles to a quiet wooded lot would certainly significantly add to hours of operation. The existing parking lots on Church Hill have more restricted patterns of hourly use and are distant from family homes.

The limits of technological stormwater systems: On December 11, 2019, Mike Sievert admitted to the Planning Board not only that a technological stormwater system to manage a large parking field cannot outperform the job being done by the trees on the wooded site, but that the human-made system would need regular cleaning and maintenance. His promise, instead, is to provide a technological system that is *calculated* (though not guaranteed) to not make worse the discharge of stormwater toward the Chesley Marsh and College Brook flood zone – at least for a (now quite frequent) 25-year storm. Yet, even if the proposed stormwater system is upgraded for a calculated “100-year flood,” that would also be another *mis-labeling* surrounding this project, given that, with climate change, [100-year storms are already close to annual events in Northeast](#).

How will the proposed stormwater system handle larger storms? How will an artificial system for an asphalt-topped parking mound compete with tree leaves and roots and soil for a wooded lot? The water from the Sievert system is still planned to exit through a 24" diameter pipe and head down toward a flood zone.

I described the frequent flash flooding of College Brook in my earliest email on the Church Hill proposal (with pictures and links to videos): [Comments from Joshua Meyrowitz 11-4-19](#) and have now set up a YouTube channel of [College Brook flooding videos](#). Additionally, the UNH Water Systems Analysis Group ([WSAG](#)) test equipment (as presented recently to the Conservation Commission), has documented 132 storm events resulting in College-Brook stage-height rise of 12" or more between April 2013 to Nov 2019 (1.7/mo avg), 44 of those events exceeding "bankfull depth" (that is flooding, at .6/mo avg). WSAG Co-Director Wil Wollheim describes College Brook as flooding with much more frequency than other Town waterways. College Brook water quality is also seriously impaired. In the long-run, if not sooner, the proposed structure before you would likely make the flooding worse, as nature outruns the currently planned stormwater technology. Additionally, the trees there now are not dealing with salt and sand and oil and other car fluids and gas, which would almost certainly add negative environmental impact to the Chesley Marsh wetland and College Brook flood zone.

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In summary, the Church Hill proposal before you is not adequately described as "parking lot" and the site for the massive structure is not 19 and 21 Main Street. The plan is for a towering terrain-altering structure. The project would take a natural wooded 1.3 acres site that is currently always quiet, always dark at night, is free from salt and sand and oil and gas and other fumes and hazardous waste and transform it into something very much the opposite. **Indeed, the Conditional-Use ordinance almost seems to have been written to prevent what is being proposed here.**

Thank you for your focus on ensuring that Durham's Zoning Ordinance is enforced.