

To: The Durham Planning Board

From: Rep. Judith Spang.

July 21, 2022

**Re: Why the Proposed Church Hill Parking Lot Must be Denied**

*I write as a 22-year State legislator on a Committee responsible for Resources, Recreation and Development in NH. This has involved substantial work on laws weighing natural resources and development opportunities. I worked as a land use planner for 7 years, much in economic development. I earned an MBA to better plan for business. I have also served on the Durham Planning Board and Conservation Commission.*

It has been painful to watch the protracted proceedings of the Planning Board on this proposal, which never should have gotten this far. There has been a glaring mismatch with Zoning and Site Plan Regulations and even Conditional Use criteria. From the outset, the project has been rife with (as of yet) unresolved vagaries, poor responses by the developer to requests for clarifying renderings and specs (how can we still not know what the retaining wall & slope combination will look like?), and acrobatics like a toad on a hot griddle.

In response to the plan are dedicated residents and professional experts providing hard factual information on the impacts of the project. These letters are rarely discussed by the Board---so the impression created is that this testimony is either unread or dismissed as irrelevant.

From a zoning perspective, this intrusive parking lot does not belong in our Church Hill Historic District. It violates the stated "purpose" of the District, and it defies at least seven of the eight Conditional Use criteria: Through extensive input you have received details. In contrast, note the District's new residential buildings, which the Town required to be carefully "compatible with the established (*historic*) character of the neighborhood."

Anyone who stands at the rear of the Plaza and sees the softening backdrop of the hillside of trees can imagine that scene with just hard-scape. Anyone walking along the Chesley Marsh and College Brook to the Oyster River will see the destruction of a natural resource of the adjoining District that a large parking lot would cause.

Is a site that requires 14,000 yards of fill really "suitable" for this use? The traffic impact was studied from the questionable assumption that the students who would pay \$1,200 or more for a spot would rarely move their cars onto the congested Main Street. Is this a professional study?

Expert letters you have received document scientifically the inevitable damage to the Chesley Marsh, College Brook, and the Oyster River and Great Bay watershed. As Prof. Wil Wollheim

documents, a parking lot would pollute the watershed in unique ways (failing CUP #2, External Impacts), thus degrading identified resources and failing CUP #5 (This criterion does not ask you to compare this project's degradation to other, permitted uses).

Durham is under an EPA order to control the impact of its stormwater from impervious surfaces like parking lots. As the Chair of the Legislative Stormwater Commission, I would judge this to be a demonstration of poor faith to comply.

Then the questionable economic benefits... Trifling. The Board could have contracted for a professional economic benefit study. A parking lot probably generates a lot less than a well-designed professional building (allowed by right in the zone.) Moreover, as urban forest expert Richard Hallett documents, the negative fiscal impact of deforesting the site are extensive.

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The Planning Board must make decisions based on the word and the intent of our zoning.

Conditional Use Permits are not intended to provide loopholes in the zoning ordinance. Instead, they provide the town with an opportunity to allow a non-permitted use that is particularly beneficial and has no or negligible negative impacts. Meeting each criterion is meant to be taken very seriously. Can this project meet the required CUP standard?

***175-2.3 requires that the Board be specific about how each of the Criteria are met. "A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact shall be deemed not to be in compliance with these regulations."***

I implore you to compare with a clear mind the legal and scientific letters from professionals like Prof. Wil Wollhelm, realtor Joan Friel, assessor Peter Stanhope, forest ecologist Rich Hallett, and others against the fuzzy and evasive statements of the Toomerfs.

Equally important: the input of abutters, heavily invested in their homes, their neighborhood, and their town, deserves to weigh more heavily than that of Massachusetts and Rhode Island based developers, the Toomerfs.

This is an outrageous proposal and should have been discouraged long before it came to this point. Let's be clear-headed about it.

Respectfully,  
Rep. Judith Spang