

January 6, 2022

Dear Members of the Durham Planning Board,

My name is Andrew Kun. Since 2003, I have lived with my wife Jennifer in our house at 22 Faculty Road. We have two kids who attend Oyster River Middle School.

I draw here on my professional expertise to highlight grave deficiencies in the review process for the proposed Mill Plaza Redevelopment.

I am an electrical engineer by education. I received my PhD at UNH in 1997 and started a job at a small oceanographic instrumentation company. The company manufactured and sold instruments to collect data on ocean currents, temperature, and salinity. Then in 1999, I returned to UNH as a professor. Currently, I study how to design interfaces between people and computing devices. Thus, I conduct experiments and studies with people – these include lab studies, studies conducted in people’s homes, as well as surveys. All of these efforts, from my days in industry, to my current job, have one thing in common: my colleagues and I collect a great deal of data in order to evaluate hypotheses. Without data we cannot evaluate anything. With data, we can try.

I gave this brief introduction to my professional background, and the centrality of collecting and processing data in my work, to underscore my concern regarding current deliberations about the proposed changes to the Durham Plaza. These deliberations do not adequately utilize data to allow the Planning Board to determine if Conditional Use criteria would be met by the proposed changes to the site. I will focus on three examples of the lack of a data-based approach by the Planning Board. I find these examples to be unacceptable in decision-making.

1. **There is no clear understanding if there will be worse flooding due to the proposed development.** A question was raised recently about the timing of newly delayed stormwater from the plaza reaching College Brook just as stormwater from upstream of the Plaza arrives. This clear logical argument suggests that the long-existing downstream flooding would become worse if the proposed changes are implemented, even if the plaza’s stormwater output, in isolation, is about the same as it is now. The response to this question by the HW peer reviewer at the December 8 Public Hearing was something along the lines of “Yes, that’s a possibility, but it’s very difficult to measure precisely.” As an engineer, I can fully appreciate that the difficulty might very well be true – perhaps it is very hard to tell. But, that is not a good argument to dismiss a well-founded question. If it’s hard to tell, then someone needs to spend the time to find out. Or, if that’s not possible, then the Planning Board needs to deny the application based on the assumption that a well-reasoned argument is likely true. Note that the burden of proof

is on the applicant, not the Planning Board, or the public. If the applicant cannot definitively tell us that flooding will not be worse, than their application should be denied.

2. **There is no noise study.** No noise study has been undertaken by acoustics experts to evaluate the noise implications and to discuss what forms of noise mitigation are possible, such as in building materials, landscaping, management policies. Conditional use means the changes cannot have adverse impacts on our neighborhood beyond what we already experience from existing and permitted uses in the Central Business District. It is quite difficult for me to believe that noise will not change in our neighborhood from moving 258 tenants (and additional guests) into a site that has never had any housing. But we could find out with a noise study. If the applicant cannot prove that the noise level in and surrounding the Plaza will not be negatively affected, then the application should be denied.

3. **There is no understanding of pedestrian traffic on the Plaza and around it with 250+ beds.** If there are 258 new tenants, and no new parking, how will the residents get to and from their buildings? Will the residents in the proposed buildings have guests? How many additional pedestrians (and skateboarders, bicyclists, etc.) does that mean on Thursday, Friday, and Saturday nights (these are popular times for UNH students to get together)? How will my Faculty Road be affected? I live a few feet from a special wooded path that connects Faculty Road to the College Brook Footbridge and the foot/bike path extension of Chesley Drive. This is the path that my kids take when going to school in the morning and returning in the afternoon. How will this path be affected by pedestrian traffic to/from the Plaza? If the plaza's tenants, as proposed, will not be able to use the Plaza parking lot, then surely Faculty Road and Chesley Drive will be frequent car pick-up and drop-off spots. Will we have a lot of foot traffic (and noise – see my point above) at night from students returning home or leaving parties at the proposed Plaza buildings? Furthermore, will there be beer cans and bottles and other garbage along the path in the morning? (Please give special attention to the input on such issues in West Virginia University Professor Karen Weiss' expert-input letter.) If the applicant cannot tell us that this won't happen, then their application should be denied as a violation of Conditional Use. Again, the burden of proof is on the applicant, per our zoning.

Dear members of the Planning Board – thank you for working on behalf of Durham residents. I know that all of you take this service very seriously. This is the reason that I am asking you to please make sure that your deliberations are based on data and well-reasoned argument. I ask you to please stringently rely on data when you look for evidence that conditional use criteria are met, such as regarding the issues above. Please do not accept excuses such as “this is too hard,” “this is not what we looked at,” “that’s not what is usually defined as traffic,” and “this matter is in the eye or ear of the beholder.” These are not valid excuses. If you accept such excuses, then you will not have the necessary data to make an informed decision.

When I was an engineer at the oceanographic instrumentation company, customers often asked us technical questions about one of our instruments. How would the instrument work under a particular set of circumstances? How long would it work underwater if we changed a setting? What if we tweaked something in the code? I can assure you that we couldn't respond by saying "we didn't look at that." Had we done that, our customers would have become the competition's customers. Similarly, as a professor, when I write a research paper or ask for funding, I cannot dismiss issues by saying "that's too hard to figure out." My papers and grant applications would be rejected. So, I can say with complete certainty that, when you act to protect the interests of Durham residents, you cannot accept such responses either. In the absence of proof of no negative external impacts, you must deny the application.

Thank you,

A handwritten signature in black ink that reads "Andrew Kun". The signature is written in a cursive, slightly slanted style.

Andrew Kun