

January 15, 2022

Dear Members of the Durham Planning Board,

I thought I would put my oral comments from the last meeting into a more coherent form. Below, I have organized and expanded upon my comments, sharing some of my outstanding concerns about the current Mill Plaza Proposal.

- ***Is it really possible to place enough conditions on the project to avoid obvious and blatant negative impacts to the neighborhood?*** Sally Tobias' suggestion to have an "after-hours entrance" at the rear of the property is a good one and would help to keep late-night partiers from Main Street away from the neighborhood. But it would do nothing to keep late-night partiers who live at the Plaza from roaming the Faculty Neighborhood late at night as they return home from parties in the neighborhood. As documented on numerous videotapes shown to you by Joshua Meyrowitz, young people can be loud and boisterous when inebriated. While some late-night disruption in the neighborhood is already an issue, it would become many times worse by housing 258 young people so close to the neighborhood. What conditions can you possibly place to mitigate these disturbances? I fear, once built, this project would destroy our largest in-town family neighborhoods.
- ***A 9:00 PM close time for restaurants at the Plaza is a good idea and should be held firm.*** Did you notice that there is a 22-foot concrete pad outside the proposed restaurant? That signals **outdoor seating**, which could be a very nice amenity during waking hours. Yet, it should signal trouble for noise issues given the population living in proposed Buildings B and C during evening hours. There are folks at Brookside Commons and along Faculty Road and Chesley Drive who deserve to have a good night's sleep. There are school children living along the brook who also deserve not to have their sleep disrupted. Any restaurants should close by 9:00 PM as one or more PB members suggested. Additionally, Building B should be pushed as far north as possible (as stated in Settlement) to move the noise further from the neighborhood and Brookside Commons.
- ***A landscaping guarantee in perpetuity is essential given the long history of neglect at the Plaza.*** Yet with the stated concerns by John Parry, whose career at the USDA Forest Service has focused on urban landscapes, and the well-researched concerns of Robin Mower, why not request a third-party independent review? It can only help ensure that the community is getting a viable landscaping plan given concerns raised by those with expertise.
- ***Will 6-foot islands, reduced from existing 9-foot islands, really support the growth of healthy, tall trees?*** Under Conditional Use, the PB has every right to set conditions above and beyond old, outdated site plan regulations of 2015 and insist on requiring today's Durham's site plan regulations of 2019. I urge you to require 9- or 10-foot median strips. Tall, healthy trees will be critical to hiding the out-of-scale 4-story building that would be

there only because of a loophole in our regulations. The argument against bringing islands up to current code stated by CDA—that the Plaza will end up with fewer parking spaces—is irrelevant since we have already determined they have 41 spaces above and beyond what is required by our regulations. And we know that they need 150 fewer spaces than are there today, since those spaces are rented and not available to Plaza customers. We need tall healthy trees to hide the unsightly buildings that do not conform to our regulations. Tall, healthy trees would soften the hardscape.

- ***The plan is out of scale not only with the adjacent residential neighborhood but also within its own site.*** In the beginning, we were promised a visually attractive, *unified plan* with the three buildings working together as a whole unified “Village Center.” Our design regulations do not allow for more than a 1.5 story difference between adjacent buildings. Why? Because ***the current 3-story difference between Buildings A and B will look ridiculous.*** If not for a loophole in our regulations regarding one-story buildings (which were assumed would be torn down and redeveloped in the near future (which does not seem to apply to the Hannaford building), this eyesore would not be allowed. Loophole aside, the buildings are clearly out of scale both within the Plaza and with the adjacent residential neighborhood—something is not allowed per our CU Criteria.
- ***A 75-foot buffer from College Brook will not only meet our ZO regulation and the Settlement agreement, but also, it would help protect the brook, create more room for planting a decent vegetative buffer to help dampen sound and block visual impacts.*** Keep in mind the amenity to the community suggested by Dennis Meadows of creating a pedestrian walkway and park along the brook. The PB is being asked by the developer to reduce the *required* buffer. Why? So they can have more parking spaces, something that is, again, proven to be unneeded by past space-rental practices.
- ***Snow plowing into or along the brook should end immediately.*** It shows bad faith on CDA’s part to continue this long-running practice up until the day they would be approved for a major new site plan. And what makes us think these bad practices would stop then? They certainly have had plenty of notice that this is an ongoing concern of the community.
- ***Our police, under new leadership, should be consulted about the current plan. Why not?*** It will only serve either to reassure PB members or make clear that we should take public concerns seriously. Ari Pollack’s displeasure with this idea should signal a potential problem. Please do your due diligence and ask the Durham PD to review this revised plan (which I do not believe they have commented on).

**CDA continues to put off making a commitment to honor suggestions by PB members by saying they will write it into the plan AFTER they get approval. This is one of their many strategies “to get the most and give the least.”** With so many details for the Board to keep track of, CDA is hoping the PB, and those in the Planning Department, will forget most of your requests. And CDA has positioned itself to refuse to comply after-the-fact of a

potential overall sit-plan approval. As we have observed before, Ari Pollack is a master at defending his client's plan and at limiting and controlling your discussion.

**Please keep in mind: "Conditions of Approval. Conditional Use Permit 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,** or which would otherwise allow the general conditions of this article to be satisfied. Conditions of approval shall be stated in writing in the issuance of a permit. The conditions shall, if applicable, include, but are not limited to, the following:

1. Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.
2. Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.
3. Landscaping in excess of any minimum requirements of this Ordinance.
4. Modification of the exterior features of buildings or other structures.
5. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.
6. Footprint or lot coverage less than the allowed maximum of this Ordinance.
7. Limitations on the number of occupants and methods and times of operation.
8. Grading of the premises for proper drainage.
9. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
10. Off-street parking and loading spaces in excess of, or less than, the minimum requirements of this Ordinance.
11. Other performance standards as appropriate."

I know you are all exhausted. We all are. This process has gone on much too long. Yet, as Kay Morgan stated that is because CDA has refused to submit any plan that complies with our carefully developed regulations.

Please muster the energy and will to do your due diligence so as not to place the final nail in our downtown coffin.

Thank you.

Beth Olshansky