

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

April 3, 2007

7:30 p.m.

Present at the 7:30 p.m. meeting were:

Vice Chairman: James Bowman

Commissioners: Ralph Begleiter
Angela Dressel
Chris Hamilton
Joe Russell

Absent: James Soles (Chairman)
Mary Lou McDowell

Staff Present: Roy H. Lopata, Planning Director

Vice-chairman James Bowman called the Planning Commission meeting to order at 7:30 p.m.

1. THE MINUTES OF THE MARCH 6, 2007 PLANNING COMMISSION MEETING.

Mr. James Bowman: Are there any additions or corrections to the March 6, 2007 Planning Commission minutes?

Mr. Ralph Begleiter: Mr. Chairman, I have one very minor technical correction. On page 14, just about exactly halfway down the page, it says, "Does you seven year lease include any rent provisions?" It should say, "Does your seven year lease include any rent provisions?" Thank you Mr. Chairman.

The minutes of the March 6, 2007 Planning Commission meeting were accepted as corrected.

2. REVIEW AND CONSIDERATION OF THE REZONING FROM BL (BUSINESS LIMITED) TO RR (ROW AND TOWNHOUSE) AND MAJOR SUBDIVISION OF THE 1.16 ACRE PROPERTY AT 711 BARKSDALE ROAD FOR A PROPOSED TWELVE-UNIT TOWNHOUSE CONDOMINIUM DEVELOPMENT TO BE KNOWN AS "SUTTON PLACE."

Mr. Lopata summarized his report to the Planning Commission which reads as follows:

On December 7, 2006, the Planning Department received applications from Eddan, L.L.C. for the rezoning and major subdivision of their 1.16 acre property at 711 Barksdale Road. The applicants are requesting rezoning of the property from BL (business limited) to RR (row and townhouse) and major subdivision in order to construct 12 townhouse condominiums on the site. If the project is approved, the existing small office building on the site will be demolished and the current office subdivision will be vacated.

Please see the attached Hillcrest Associates, Inc., rezoning and subdivision plan, building elevation drawing and supporting materials.

The Planning Department's report concerning the Sutton Place project follows:

Property Description and Related Data

1. Location:

South side of Barksdale Road, approximately 600 feet west of the Barksdale and Apple Roads intersection.

2. Size:

1.16 acres

3. Existing Land Use:

2,100 square foot office building and associated parking area; 1982 approved two-phase "Sutton Place" subdivision called for a total of 9,216 square feet of office space.

4. Physical Condition of the Site:

The Sutton Place site is a partially developed property containing a small office building fronting on Barksdale Road. Two small paved parking areas are located on either side of the building with a small gravel parking area to the rear of the facility. The remainder of the site consists of a grassed lawn, two stands of trees along the property's east and west borders, and another stand of trees located just south of the site within the CSX Railroad right-of-way.

In terms of topography, most of the site is quite level. The eastern side of the property slopes down from west to east toward the nearby Barksdale Professional Center office building.

Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service the Sutton Place site contains Keyport Silt Loam. According to the Natural Resources Conservation Service, these soils have "moderate" development limitations for the use proposed.

5. Planning and Zoning:

The Sutton Place site is zoned BL (business limited). BL is an office type zone that permits the following:

- A. Churches or places of worship
- B. Schools
- C. Parks and playgrounds
- D. Municipal utility uses
- E. Public transportation bus or transit stops
- F. Social club, fraternal, social service, union and civic organizations
- G. Accessory uses
- H. Hospitals
- I. Residences limited to one apartment unit provided in conjunction with any one non-residential use
- J. Offices for professional services and administrative activities
- K. Finance institutions, banks, loans companies
- L. Undertakers
- M. Barber shops and beauty parlors
- N. Medical clinic
- O. Bed and breakfast, with special requirements

BL zoning also permits, with a Council granted Special Use Permit, the following:

- A. Police and fire station, library, museum and art gallery

- B. Golf courses and country clubs
- C. Electrical and gas substations
- D. Day Care Centers
- E. Drive-in and curb service for other than eating establishments

RR is the City's row or townhouse zone that permits the following:

- A. One family row and townhouses, with special requirements.
- B. Garden apartments, with special requirements.
- C. Accessory uses.
- D. Churches or other places of worship, with special requirements.
- E. Public and private schools.
- F. Municipal parks, playgrounds, and community centers operated on a noncommercial basis.
- G. Municipal utilities.
- H. Street rights-of-way.
- I. Public and private swimming pools.
- J. Utility transmission and distribution lines.
- K. Public transportation bus and transit stops.
- L. Nursing homes and related uses with special requirements.
- M. Day care centers with special requirements.
- N. The taking of nontransient boarders or roomers in one family dwellings by a family resident on the premises, with special requirements.
- O. One family detached and semi-detached dwelling.
- P. Student Homes, with special requirements

RR also permits, with a Council granted Special Use Permit, the following:

- A. Physicians and dentists offices with special requirements.
- B. Parking for adjacent business or industrial uses.
- C. Police, fire stations, libraries, museums and art galleries.
- D. Golf courses and country clubs with special requirements.
- E. Customary home occupations with special requirements.
- F. Electric and gas substations.
- G. Public transportation, bus or transit shelters and off-street parking facilities.

Regarding the RR zoning area requirements, the Sutton Place plan meets, or can meet, all the applicable specifications. Please note, in this regard, that to ensure full RR zone compliance, the applicants have included a "lot line" exhibit required for condominiums of this type under the specifications of Zoning Code Section 32-7(d). Because of the proposed condominium ownership, these "lot lines" will not be recorded to establish separate parcels.

In terms of adjoining properties, the land immediately east of the site is zoned BL and contains a small professional office facility. The MI (general industrial) zoned CSX Railroad right-of-way lies immediately south of the site. RR zoned Madison Drive townhouses are located southwest of the property beyond the CSX Railroad right-of-way. Several RS (single family, detached) zoned single family homes, fronting on Barksdale Road, are located west of Sutton Place. The BL zoned Barksdale Plaza office complex and parking area is located north of the site across Barksdale Road.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for office uses at the Sutton Place location. Because the Plan also stipulates that: ". . . professional, administrative and medical offices, churches, schools, nursing homes, funeral parlors, community centers, daycare centers, police and fire stations, office research facilities and similar light industrial uses may be accommodated very satisfactorily along with or adjacent to residential areas depending upon the specific use involved, site design considerations, proposed site amenities and the availability of adequate service," the Planning Department believes the proposed rezoning and use with the site amenities and architectural design proposed does not conflict with the purposes of the Comprehensive Plan.

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural features must be included in the construction improvement plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting and related exterior features. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, the rezoning and major subdivision plan, building elevations and supporting material call for the replacement of the existing Sutton Place small office building and parking area with a new Sutton Place 12-unit townhouse condominium development. The site plan shows the elimination of the existing dual curb cuts on Barksdale Road with a new central access way. Two sets of three units each are shown facing each other perpendicular to Barksdale Road and one group of six units is located at the southern portion of the site, running parallel to Barksdale Road.

In addition to two paved parking spaces, each unit will contain one two-car garage. The units will be three stories in height. A stormwater management facility is located at the southern end of the property adjacent to the CSX railroad right-of-way. Although the plan shows a stockade fence separating the property from the railroad, the attached project description indicates that the applicants are now proposing a chain link fence at this location.

For landscaping details and other site design information, the Planning Department suggests the Commission review the landscape plan.

To evaluate the proposed architectural design, the Planning Commission may wish to consult the design review criteria in Municipal Code Chapter 27, Subdivision and Development Regulations Appendix XIV, Section (d).

Please note that there are no utility poles or aerial lines in front of the Sutton Place site.

Subdivision Advisory Committee

The City Subdivision Advisory Committee consisting of the Management, Planning and Operating Departments, has reviewed the Sutton Place rezoning and subdivision plan and has the comments below. Any required revisions should be made prior to the plan's review by City Council.

1. The Planning Department notes that the proposed use does not conflict, in general, with the development pattern in the area or with the land use guidelines in the City's Comprehensive Plan.
2. The Planning Department notes that a subdivision identification sign should be shown on the plan.
3. The Planning Department suggests that the Planning Commission recommend as subdivision site design conditions, the following:

- A. The architectural design of the proposed design shall be consistent on all building elevations visible from public ways and within the site (plan note #24 should be revised accordingly).
 - B. Storage areas, mechanical and all utility hardware shall be screened from view from all public ways in nearby properties in a manner consistent with the proposed architectural design.
4. Because of the proximity of the active railroad right-of-way to the rear of the site, the Planning Department suggests that a substantial stockade-like fence with associated landscape screening be installed at the southern portion of the property; the reference to a chain link fence should be deleted from the supporting letter. Also in this regard, appropriate noise buffering should be installed within the units in light of this proximity to the railroad.
 5. The Planning Department notes that the subdivision plan includes a limitation on numbers of unrelated rental tenants (maximum of two) that has been used effectively by the City to ensure that townhouse developments intended for owner occupancy, by and large, continue to function as proposed.
 6. The Electric Department notes that City electric service can be provided to the site. The Department indicates, however, that in order to ensure that no trees higher than 18 feet at maturity are installed on the site, the proposed “Sugar Maples,” “Canadian Hemlocks,” and “Giant Green Arborvitae” must be removed from the Landscape Plan. The Department notes that the appropriate electric fees are shown as note #18 on the subdivision plan.
 7. The Water and Wastewater Department indicates that the Department has reviewed the required sanitary sewer capacity study and concluded that the addition of the proposed units would not adversely impact the system. The Department also notes that water service is available to the site. Finally, the applicant should review with the Department a series of minor technical corrections to the subdivision plan prior to the plan’s submittal to City Council.
 8. The Building Department indicates that any building permits for the site will be required to meet the International Residential Building Code, including the requirement for fire suppression systems within this facility. The Department notes that the proposed townhouses will need to have fire rated separation walls between each unit and adds that the center landscape island near unit #10 may be required to be relocated or redesigned to accommodate fire emergency equipment. The Department indicates that the fire hydrant shown within the landscape median adjacent to Barksdale Road needs to be relocated. The Department adds that prior to its review by City Council the existing six inch water line needs to be evaluated to ascertain whether it should be upgraded for adequate domestic and fire protection requirements.
 9. The Public Works Department indicates that on a preliminary basis the proposed stormwater management plan is acceptable. Prior to its review by City Council, however, the applicant should provide to the Department soil boring information for the proposed infiltration system; some changes in site design may be required based on this data. The Public Works Department also notes that because of the narrower access ways shown, the parking space lengths should be increased to 20 feet for the first two front groups of units (units 1-3 and 10-12). The Department indicates, as mentioned above under Building Department comments, that the landscape island near unit #10 may need to be redesigned or relocated. Finally, prior to its submittal, the applicants should review construction improvement plan details with the Department.
 10. The Parks and Recreation Department indicates, as noted above under Electric Department requirements, that the Canadian Hemlocks and Sugar Maple trees should be replaced; the applicant should review with the Department suggested tree species replacements. The Department also indicates that the two Sweet Gum trees

should be removed. The Department notes, in addition, that the subdivision plan should be revised to add to the tree and evergreen tree planting detail the requirement that, “tree stakes and guy wires are to be removed after one full twelve (12) month period.” Finally, the Department notes that a tree management plan will be required through the construction improvement plan process.

11. The Police Department has raised a concern about the need for additional visitor parking spaces. If the Commission agrees, the applicant should examine the possibility of some side reconfiguration to accommodate additional off-street spaces.

Recommendation

As noted above, the Planning Department believes that the proposed rezoning of the Sutton Place site and the major subdivision for 12 townhouse condominiums does not conflict with the land use guidelines in the Newark Comprehensive Plan, nor does it conflict with the residential development pattern to the west and southwest of the site. The Department also believes that, with the Subdivision Advisory Committee recommended conditions, the Sutton Place rezoning and major subdivision will not have a negative impact on adjoining and nearby properties. The Department also believes based on the submitted building elevations, that Sutton Place will be an attractive addition to Barksdale Road.

The Planning Department, therefore, suggests that **the Planning Commission make the following recommendations:**

- A. That City Council approve the rezoning of the 1.16 acre property at 711 Barksdale Road from BL (business limited) to RR (row or townhouse), as shown on the attached Planning Department Exhibit A, dated April 3, 2007; and,**
- B. That City Council approve the Sutton Place major subdivision plan as shown on the Hillcrest Associates, Inc., dated November 17, 2006, as further revised, with the Subdivision Advisory Committee recommended conditions.**

[Secretary’s note: Members of the Planning Commission and the public referred to visuals brought by the applicants for their presentation to the Planning Commission].

Mr. Begleiter: Roy, would you mind explaining the lot lines. I am new enough that I just do not understand that. Is it just to ensure that the right number of square feet is allocated for each unit?

Mr. Lopata: Correct. That is essentially what it amounts to. Townhouse developments are required to have a certain lot coverage and lot area requirement per lot, meaning per individual lot. A condominium by definition is only one lot officially. We adopted this regulation in 1978 because we were concerned that condominium applicants would say that they meet the coverage requirements, they meet the side yard requirements, they meet the lot area requirements because they have their, let’s say, fifteen buildings on a “lot” and, therefore, it meets the Code. The engineer has put in artificial lots that will not be recorded. That is just for our review purposes.

Mr. Begleiter: The square footage that is listed in that little chart on the left really is part of the artifact.

Mr. Lopata: Each lot is required to be 2,725 square feet, as I recall and that is really a very important statistic.

Mr. Begleiter: Does it make the individual units more or less valuable? In other words, when they are sold, does the developer say that your lot has twice as many square feet as the one next to you?

Mr. Lopata: No, what it does do is result in fewer units on this property. That is really what it does.

Mr. Longo: I am general counsel with Hillcrest Associates. Our office is 1760 Flint Hill Road, Landenberg, Pennsylvania. Hillcrest is the engineers, surveyors and architects for this project. I am also here tonight with Ed Sobolewski, who is the site owner and developer, Dan Kandra who will be building the units and Rick Longo who is our owner at Hillcrest and the lead architect for the project.

As stated by Mr. Lopata the property is 1.16 acres, located along Barksdale Road. We have a 200 foot frontage. We are proposing a rezoning from BL to RR for the construction of 12 townhouse units with condominium style ownership in three separate building groups.

[Secretary's note: Mr. Longo presented a PowerPoint display of the site and project for the Commission and the public.

There is the existing building. It is a 2,100 square foot office building. That is the view from the front from Barksdale Road. We are proposing for the removal of that structure. Here is an existing conditions plan. You will see that there are two parking areas – one on each side of the building. There are two access points currently from Barksdale Road. There is also a gravel parking area in the back of the building. The rest of the site is a lawn with some trees along the east, west and south borders. The site is mostly level. There is about a two foot drop from side to side and about a three foot drop from Barksdale Road to the back of the property at the CSX right-of-way.

There is the adjoining property to the right as you are facing the project from Barksdale Road. It is a single family detached dwelling zoned RS. There are several more of these single family dwellings in the same direction if you go to the right of the project also zoned RS.

Again the view from Barksdale Road. This is the adjoining property to the left of our project. It is a small professional office building zoned BL. Across the street to the north of the project is the BL zoned Barksdale Office Plaza.

Just to touch on the existing conditions, the CSX right-of-way is at the back of the property. Right here is the railroad. Southwest from the project is the RR zoned Madison Drive townhouses. In reference to the actual railroad tracks, our proposed units range from anywhere from 100 feet to 280 feet from the railroad tracks.

Here is our proposed layout for the 12 townhouse units. A single new central access drive is designed. Two sets of three-unit buildings and a six unit group in the back. Each unit will have a two or three car garage with two exterior parking spaces, also. The boulevard entrance, here, will have planting islands at the start and end of it to provide some green relief. It will also have a brick paver median, which you can see there in an orange, burnt red color. Again, a brick paver median. It is eight feet wide. It allows a nice aesthetic feature for the entrance. It also allows ease of vehicle movement if someone is backing out of their driveway.

The east, west and southern borders of the project are going to be planted with a mix of deciduous and evergreen plantings. There are also some ornamental trees; just to provide some buffering between the groups of units. There are also some small open areas along the perimeter of this site for some recreational area for the unit owners. Stormwater management is designed at the rear of the facility. It is a bio-retention design, which is what is currently requested by DNREC and the Public Works Department here at the City of Newark. The bio-retention is planted with a mix of emergent wetland plantings and water tolerant species of plants.

A chain link fence is currently proposed along the southern border and up the sides for approximately, what I believe is – 50 feet up the sides. Again, it is a chain link fence. Previously it was a stockade fence. We would like some direction from the Planning Commission on that. It does not matter to us either way. I think the stockade fence is more aesthetic. Chain link has a longer design life. It is definitely something we should talk about in a couple of minutes.

This is the front elevation of the three-unit group. It is what you will see to the left and the right when you enter the development. The proposed architecture is very attractive English Tudor style with some steep roof pitches. The exteriors are mostly stone and stucco with some brick borders around the windows. The colors are muted grays and browns. There are some overhangs proposed with metal roofs. They are shown here in black. Each unit will have about a half flight of steps up to the front door. End units will enter from the sides and the interior units; you can see that the steps, of course, will be in the front of the building. Here is the six-unit group – the same classic English architecture proposed for this as well. The balconies on the second floor overlook the boulevard entrance. You can see it a little better on the three-unit.

These are 2,000 square feet per unit, approximately, timber construction. My client can touch more on the marketing. I believe they are going to market to adult and professional buyers that are interested in being close to town with a maintenance free ownership. Since it is condominium style, there is not going to be any responsibility for upkeep of grounds. It should be very pleasant looking from Barksdale Road and a great addition to the City. I will be happy to answer any questions from the Planning Commission or the public.

Mr. Bowman: Are there any questions from the Commissioners?

Mr. Begleiter: Mr. Chairman, the stormwater management easement. There is a dotted line between the stormwater management and the houses. What is that line? Is that just to let us know where the stormwater management easement begins or is there something there?

Mr. Longo: It is an easement line. The stormwater facility actually ends where you see that row of plantings. But, Public Works said that they wanted an eight foot wide access clear of plantings, but still included in the easement so that they could get around this facility. We originally had 14 units on there, and due to a combination of the City's artificial lot lines bringing us down to 12 units. That not only brought us to 12 units, (inaudible) so that brought the back six up and gave us plenty of room to create that access way from Public Works.

Mr. Lopata: The maintenance is going to be done privately.

Mr. Longo: Yes.

Mr. Lopata: Public Works wants to be sure that access can be gained easily. It is not for us to have access.

Mr. Begleiter: The grading between the dotted lines that represents the easement area and the railroad track looks to me – and I just want to verify that – as though it starts at about 154 feet near the houses and returns to 155 feet at the tracks but goes down to 152 feet in-between. So, what you have is a bowl at the back of the property.

Mr. Longo: It is but it is a very gentle bowl. From berm to invert it is two feet. You have 24 inches. Along the back it should look like a bowl.

Mr. Begleiter: The elevation of the actual track, which, I realize does not have to be shown on your drawing, do you know what that is? One of your first photographs seemed to indicate that the track is quite a bit higher than the level of the land on this property.

Mr. Longo: Actually, from the southeast corner the elevation goes down. So, we can have good drainage for stormwater management outfall. Then as you get into the right-of-way, yes, it berms up to the tracks, of course, which is a standard railroad design. But, there is still plenty of fall from our rear property line to the end of the right-of-way.

Mr. Begleiter: I was just curious more than anything. I don't know that it is anything you can do anything about, but it looks to me as though if we had a picture of the rear elevation of those six units at the back of the property, right at about their living room level, they

would be looking out those nice sliding glass doors that you probably have in the design in the back, and they would be right at the train level. Is that about right?

Mr. Longo: No the train tracks are lower at that location.

Mr. Begleiter: So, the train is not above the 155 feet.

Mr. Lopata: Ralph, the tracks are on a small berm but the right of way is down in a hole.

Mr. Longo: From the rear property line, it goes downhill quite a bit. It is not until you get near the edge of the tracks that it berms up. Even the ground level will be above the tracks for those back units.

Mr. Begleiter: We should look at the fence. I was the one that raised that question about the fence with the previous property. My feeling is that we don't need to worry that much about aesthetics in this property. Nobody is going to be looking at it from the railroad side, presumably, except people riding on the train, and there shouldn't be any. On the other side you have this beautiful stormwater management area which will be beautifully landscaped, so, I guess a more secure barrier rather than one where the nails are going to rust and the boards will fall out would, actually, be better, even if less aesthetic. I don't think you will be looking at it any place except the houses, and they will have those plantings.

Mr. Longo: With either material that fence should be well screened from view. To look at something like chain link which has, not only a longer design life, but is much more difficult to crossover or breakdown. For a kid, a chain link is a good idea.

Mr. Begleiter: As you pointed out, the Madison Drive neighborhood is right across the tracks from this location. So, a chain link fence seems like the right thing to do there, and I would suggest that.

Mr. Lopata: I was thinking of the wall that the University and the City and the State built along the same railroad line just further to the north and east near Frazier Field. It is a nice, heavy duty cinderblock wall because of the problems we have had with access. But, you are right; I don't feel that strongly about it. I was thinking somewhat of aesthetics and also permanence. When I said stockade like, I was thinking of a more substantial wall. But, it is up to the Commission. On the other hand, Ralph is correct; you are not likely to see that back there.

Mr. Begleiter: I would agree with the idea to go with something more substantial. I am not an expert and I am not an architect, but I do not think a stockade is appropriate.

Mr. Lopata: That University cinderblock wall has been broken through, unfortunately, with sledge hammers.

Mr. Bowman: Are there any other questions for this developer from the members of the Commission?

Ms. Dressel: I like the idea of the cement block, and I stated that in the last meeting as well. I think making it as secure as possible in preventing anybody from getting through – and I know you can get through with a sledgehammer, but something substantial like that would be serving the community better.

Mr. Bowman: You show those two circular islands at the entrance and coming back into the parking area, right now, your drawing up there looks like it has trees planted on either end of that. I think in the comments we have here that suggest that you may want to eliminate the one closest to the six-unit building for better emergency vehicle access.

Mr. Longo: I don't recall if the comments said to eliminate it as much as shift it or make it smaller.

Mr. Bowman: One suggestion that I would make to you would be not to plant any trees on those – 18 foot trees. 18 foot trees sprout limbs that may well have a radius well beyond.

And while they might be trimmed back to accommodate cars and other vehicles; fire apparatus does not typically accommodate tree limbs very well. So, I would restrict those to low plantings maybe no more than two or three feet high. And your entrance sign, I guess, will be somewhere up in that vicinity.

Mr. Longo: The same thing, Mr. Chairman, for the front of the northern lane?

Mr. Bowman: If you are going to put plantings there, make sure they are low groundcover type plantings as opposed to sticking trees in there because trees will obstruct vision and also, as I say, if they are trees that are going to stick limbs out three times the radius of that circle, you are going to have a problem with vehicles hitting them eventually.

Mr. Bowman: The other question I have is that I noticed on one of your drawings a notation for a water meter for a remote readout. Being condominiums are these units going to have individual water meters or are they going to have a communal water meter?

Mr. Longo: That is a good question. I was under the impression that they would still be individual customers of the water service.

Mr. Lopata: That is what we would assume.

Mr. Longo: Unless Roy Simonson tells me different.

Mr. Bowman: I would just make sure that that is the case because having experience myself with condominiums and one that was built many years ago that has communal water meters for sections of buildings like this where there would be one meter for the six-unit building and maybe one for the other two creates nothing but headaches, not only for the City, but for the owners. I know at this stage the cost of the meters can be passed along to the builder, which it should be. Just make sure they are individual meters just like for electricity and gas.

Mr. Chris Hamilton: Has there been a recommendation for the height of the fence in the back?

Mr. Longo: Six foot. I don't know if that was ever in a letter.

Mr. Lopata: I think that is something we could review as we go forward. The Frazier Field one is higher than that.

Mr. Hamilton: I am not as young as I once was, but a six foot chain link fence would be more of an opportunity for me when I was younger than a challenge. I am just concerned about the fence as well.

Mr. Longo: I don't think my client would mind putting in a wall. That would, actually, be a little easier to hop.

Mr. Bowman: If there are no other questions from the Commission, we will open the discussion to members of the public who wish to comment on the item.

Mrs. White: 103 Radcliffe Drive. First I have a question for the Planning Director and then a question or two for the developer. In the report on page five for this project, the Planning Department report states, "please note that there are no utility poles or aerial lines in front of the Sutton Place site." And, that may be the case now, but are there plans to put wires across because I see in the remarks of the Parks and Recreation Department which comment on the landscape plan that they are proposing that the Sugar Maples, which are the six trees fronting Barksdale Road be replaced with something under wires. I am a little confused because it said there are no wires. Are there now going to be wires in the future?

Mr. Lopata: No, that was their standard comment about the size of trees and wires. There will be an underground connection to the site.

Mrs. White: Okay, but if that is the case, then the recommendation to take out those Sugar Maples no longer is a recommendation. Is that correct?

Mr. Lopata: Correct.

Mrs. White: They will be very pretty. It is getting at the southern range of Sugar Maples but if they do well, they will be quite beautiful.

Second question, I think you have answered it, but it was for the developer. Will the electric lines for this project be underground?

Mr. Longo: Correct.

Mrs. White: The garages are entered, obviously, at the level of the land. Are there any rooms behind those garages or is the whole first floor, so to speak, other than where the stairway goes up, is it all garage or is there any basement room behind them?

Mr. Longo: The garage does not take up the whole bottom floor. It takes up about half of it. These are 35 feet in length, so there will be some finished area beyond the garage. It may be something like a lower level den. Something with a walkout, so it does not take out the entire bottom floor.

Mrs. White: Therefore, does that mean that there is a door out the back from that room or is it accessed by the stairway up.

Mr. Longo: Yes, access out the back.

Mrs. White: In your description I believe it talked about two-car garages, and in your elevation, the three and the six, they all look like two-car garages, but when you got up and spoke you said that some of them would have three-car garages, so I am a little interested in whether that is a change or whether people contract if they want more. It looks very nice with two, but where are you going to fit in a third one is basically my question. How would some of these become a three-car garage?

Mr. Longo: The developer wanted that option to market a three-car garage in case that was what someone wanted. It would be in the length direction not a change in the width. So, if you could picture that. The cars would form an L shape inside the garage. Of course, that finished den would be much smaller or not exist in that unit if some wanted a three-car garage.

Mrs. White: I am just going to weigh-in on the back fence issue. Whatever this site should be developed as, I feel that it should not be a stockade fence. You can go all around Newark in many different places and see even where relatively new stockade fences have some of the individual slats have had to be replaced or are falling apart. A chainlike fence is much more solid and lasts longer. Of course, if you build a solid wall – and that is up to you to decide instead – but short of that, I think that a chain link fence would be fine. I think that this property would be one that people will be cutting across. The railroad is below the service at that point, and I don't see it particularly as a cut-off area. You wouldn't want a situation with no fence, but it seems to me with the landscaping one does not have a problem with the look of it at all.

The last thing that I wanted to address was that in spite of the fact that these are very attractive, it looks to me and described nicely by Mr. Longo and look very nice on the elevations and pictures before you, I want to look at a larger issue. I don't think that this site is appropriate to have RR zoning. I feel that the back units are too close to the train, even with the train tracks depressed from that level. I think that we shouldn't be putting residential areas right next to the train tracks. Now, I could be convinced differently if the six units that have been seen by the stretch of the back, if they were put at the front on Barksdale Road and then you had the rest of the area in the back that was further away from the track area as is the case if you look at the zoning map that you all have gotten, you see that it is right close to Apple Road, it is narrower and then as one goes further down Barksdale Road, the properties get longer and deeper and the houses along there are close to

Barksdale Road and then have deep properties. There are not houses all behind them. In the cases where they are close such as Madison Drive on the other side of the tracks and Cherry Hill Manor, the part that is next to the tracks, those are very old developments that were done before people were sensitized to the idea that it is not a good idea to put housing next to tracks, either for noise, vibration or any kind of danger. So, one can't really cite Madison Drive and the back of Cherry Hill Manor as good examples of what we should emulate. I think that when one looks at this, we have the Barksdale Professional Building, which is zoned business limited; across the street it is the shops that are also business limited; and this property is immediately across from that BL. I think this was very good planning on the part of the City to have all these business limited; and I am, therefore, urging the Planning Commission not to change the zoning but to keep it business limited and some other kinds of development that would maybe add buildings such as you see at Barksdale Professional Building where they have a part in the back would be better. I want to say that I think the design itself is very nice, I just think that this is not the place for it. It would be an excellent addition some other place in the City. But, I am looking at a larger issue of whether it should remain business limited, which I think is the best idea. Thank you very much for considering my comments.

Ms. Linda Bankoski: In regard to the train, I do think that the units all the way at the back are going to be very noisy. Whether you put a stockade fence or a chain link, I think that a noise barrier might be more appropriate to worry about.

Mr. Lopata: We are calling for a noise buffer in our recommendation.

Ms. Bankoski: Because it is going to be noisy that far back on the lot.

Mr. Ed Sobolewski: 678 Katemore Lane, Naples, Florida. The first comment: in reference to the fence, we will do anything the Commission wishes. However, if we do put a flat masonry wall up next to a railroad, next to what is already there on the other side – I am thinking about graffiti, and how someone will always be repainting and replanting. I think a substantial six or seven foot fence which is well hidden as it is planted toward Barksdale Road would be a lot better solution to the problem. However, whatever the Commission thinks is fine. But, I do think you have to ask how the fence will be maintained on the railroad side. The second comment is that it is too close to the railroad. Well, Barksdale Road is a well traveled road in the morning and in the evening. There are obviously noisy trains in the back and a noisy road in the front. We went through about three designs. This is the best design we came up with except for the fourteen units, which we can't do.

Mr. Bowman: If there are no more comments from the public, we will bring the item back to the table.

Mr. Begleiter: Mr. Chairman, just a thought on the noise issue. I think that is one of the things that the market plays to. I don't know what the developer intends to sell these units for, but if they have trouble selling the back units because of the noise problem, then they will have to lower the price. They will find someone to deal with that or they will have to do some more buffering to get the higher price. So, I think that is a market driven issue, in my view. What is the graffiti situation with the University's cinderblock wall?

Mr. Lopata: There hasn't been much that I am aware of, but typically the University cleans it off very quickly.

Mr. Begleiter: On the railroad side?

Mr. Lopata: I have no idea what they do on the railroad side. I know what they do on the city side.

Mr. Begleiter: Would it be a good idea to check that question? There must be other places, too, where there are walls. There is one at the cemetery at S. Chapel.

Mr. Lopata: That is the Frazier Field wall that I was talking about. There has not been much of a problem with graffiti as far as I can tell.

Mr. Begleiter: It wouldn't matter on the railroad side because the railroad is higher than the level of the fence. In this location it might matter since we have been told the railroad is actually below the level of the fence.

Mr. Bowman: I would like to make a comment on that issue. In that general area, we have significant problems. I think that what happens is that the side facing the railroad becomes a challenge for the graffiti artists and draws people to trespass on the railroad right-of-way. I think the chain link fence going as high as eight feet, and I am dead serious about putting barbed wire on the top of it. Nobody is going to see it anymore than they will the chain link. That does discourage quickly people climbing over.

Mr. Begleiter: Mr. Chairman, with respect to that, I would just say that we don't have a responsibility as a Planning Commission to worry about how the railroad handles its security on the tracks except if it becomes a safety issue then the City has demands to make upon the railroad. Putting up the fence on non-railroad property and then assuming it is going to be an attractant to people to trespass on railroad property, which is an issue that the railroad has to deal with.

Mr. Bowman: They certainly do, but I think we have to be real about what the situation is -- it will draw graffiti artists. In any case, do we have a motion?

MOTION BY BEGLEITER, SECONDED BY HAMILTON THAT THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

C. THAT CITY COUNCIL APPROVE THE REZONING OF THE 1.16 ACRE PROPERTY AT 711 BARKSDALE ROAD FROM BL (BUSINESS LIMITED) TO RR (ROW OR TOWNHOUSE), AS SHOWN ON THE ATTACHED PLANNING DEPARTMENT EXHIBIT A, DATED APRIL 3, 2007; AND,

D. THAT CITY COUNCIL APPROVE THE SUTTON PLACE MAJOR SUBDIVISION PLAN AS SHOWN ON THE HILLCREST ASSOCIATES, INC., DATED NOVEMBER 17, 2006, AS FURTHER REVISED, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, AND WITH THE ADDITIONAL CONDITION THAT THE CHAIN LINK FENCE SHOWN AT THE SOUTHERN BOUNDARY OF THE PROPERTY BE REPLACED WITH A MASONRY WALL OF SUFFICIENT HEIGHT TO DETER ACCESS TO THE RAILROAD RIGHT-OF-WAY.

VOTE: 5-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, RUSSELL

NAY: NONE

ABSENT: MCDOWELL, SOLES

MOTION PASSES

3. REVIEW AND CONSIDERATION OF THE ANNEXATION WITH RT (SINGLE FAMILY, DETACHED) ZONING OF A .15 ACRE PARCEL ADJOINING AND EAST OF THE PROPERTY AT 13 SPRING WATER WAY.

Mr. Lopata summarized his report to the Planning Commission which reads as follows:

On February 28, 2007, the Planning Department received an application from Jeffrey Lang for the annexation of a .15 (6,534 sq. ft.) acre property adjoining his .43 acre parcel at 13 Spring Water Way (lot #7 in Stone Spring). Stone Spring is located north of Church Road at the intersection of Church and Valley Roads. The applicant is requesting this annexation so that an existing "scenic easement" on the east side of his property can be relocated and an in ground pool constructed to the rear of his home on Spring Water

Way. If annexed, the RT (single family, detached) zoning in Stone Spring will be assigned to the annexed parcel. The annexed land will, of course, be incorporated into the existing single-family home lot at 13 Spring Water Way.

Please see the attached Landmark Engineering annexation plan. The Planning Department's report concerning this annexation follows:

Development Proposal

Mr. Lang intends to add a pool, deck and accessory structures to the rear of his 13 Spring Water Way home in Stone Spring.

Existing Conditions in the Area

The Lang property and all the other single-family home parcels in Stone Spring are zoned RT. RT is a City zoning category that permits, in general, single-family dwellings on lots with a minimum size of 15,000 square feet. The property in New Castle County from which the .15 acre parcel is intended to be conveyed to Mr. Lang (the "Roger/Bolen" property) is zoned NC 15. This property and the adjoining NC 15 zoned parcels to the east and west on Nottingham Road contain single-family homes. NC 15 is a County zone that permits, in general, single-family homes on lots with a minimum size of 15,000 square feet.

Planning Studies

The Newark Adjacent Areas Land Use Plan portion of the City's Comprehensive Plan calls for "single-family residential (low density)" land uses in New Castle County north and east of Stone Spring.

Departmental Comments

The City's Planning and Operating Departments have reviewed the proposed annexation plan and have the comments below. Any required revisions should be made prior to the plan's review by City Council.

1. The Planning Department notes that the existing City "scenic easement" was originally recommended by the Department in its March 6, 1989 report to the Planning Commission with the intent of providing a buffer, with the existing plantings, between the homes in the City and County adjoining the Stone Spring development. As indicated on the annexation plan (note #12), landscaping, approved by the Parks and Recreation Department, will be required to be installed in the new relocated scenic easement. This landscaping will be reviewed through the building permit process for the proposed pool; no existing vegetation will be permitted to be disturbed within the current scenic easement until the issuance of a building permit.
2. The location map should be revised to show only the .15 acre area and the parcel at 13 Spring Water Way as the "site."
3. The existing rear property line notation regarding its removal should be printed on the plan.
4. The Parks Department notes, as mentioned above, that it will need to review the required new plant material in the relocated "scenic easement."
5. The Public Works Department indicates that through the building permit process an approved grading plan will be necessary to ensure that adjoining parcels are not impacted by any construction at the 13 Spring Water Way site associated with the relocation of the scenic easement and the installation of the pool.
6. There are no other Departmental comments.

Recommendation

The Planning Department notes that the proposed annexation does not conflict with the land use guidelines in the City's Newark Adjacent Land Use Plan portion of the Comprehensive Plan. The Department adds that with the City Departmental recommended conditions, the proposed relocation of the scenic easement will not have a negative impact on adjacent and nearby properties.

The Planning Department, therefore, suggests that the Planning Commission recommend that **City Council approve the annexation of the .15 acre parcel adjacent to the east side of the property at 13 Spring Water Way, as shown on the attached Planning Department Exhibit A, dated April 3, 2007, with the City Department recommended conditions.**

Mr. Lopata: Let me reiterate, if the applicant decides not to build the pool, the landscaping would stay as it is even with the annexation. It is important to understand that.

Mr. Begleiter: He can move it when he applies or he can move it when it is granted?

Mr. Lopata: When the building permit is approved.

Ms. Dressel: Thank you for clarifying that last point because I read that section a couple of times and I did not really understand it.

Mr. Lopata: The building permit must be issued before any clearing can be done, which is typical. You cannot do the work until you get the permit.

Mr. Bowman: Does the applicant have anything to say?

Mr. Jeff Lang: I actually looked at my property and was thinking about putting a pool in. A pool vendor came out and looked at my property. We looked at the survey which had a 20 foot scenic easement on it. I called Roy and asked what I could do with it. Mr. Lopata told me that I could not put a pool there because it was a scenic easement. My house actually backs up to the back yards of all the houses that front on 273. So, the house that my back yard backs up to is 500 feet up the hill. These are a number of yards that are maybe one hundred feet wide by five or six hundred feet deep. So, I actually look through this group of back yards. So, the buffering theory of the development makes sense when you have house next to house. I, actually, have house next to five back yards. I asked Roy if I could come to Council, get this amended or get a variance. I started talking to the gentleman that lives behind me, and we started to think about this option and came up with this small sliver which, actually, maintains the size of his property at an acre. He needs an acre for the County because he has a well and septic, where in the City it still gives me the opportunity to relocate this easement, still have the buffer between my house and his property and also increases a buffer between my house and the house that is directly adjacent to us on Panorama. The buffering actually works better with our design plus it squares my backyard up. If you can tell, my backyard property line is now parallel with the back of my house. I am sitting on a cul-de-sac so I have an odd shaped back yard. That is why I am here tonight.

Mr. Begleiter: Someday you will be happy to have that scenic easement because someday Hillcrest will come in and put 16 very beautiful houses whose property will abut yours exactly 20 feet away – not an inch further. So, I only say that semi-facetiously because those kinds of easements do have future value.

Mr. Lang: It makes a lot of sense from a community perspective.

Mr. Lopata: Intent was primarily to buffer the houses that were already in the City because these County properties are so deep.

Mr. Bowman: We will now open the item for public comment.

Mr. Olen Boyce: 11 Spring Water Way. I saw the drawing and it shows the water running off of this property as splitting and going across the new property and down in mine. The way it is now, all the water comes down to me and the property of Jeff Lang has a hill three foot high, so there is no way he can get drainage on that part of it the way it is supposed to be. The only way I can see is have it graded down to the original level that they had so it would split the water coming down. We have a lot of water running across our property.

Mr. Lopata: I did not mention it here, but in our report, Mr. Lang is going to be required that any construction not cause any increase in the runoff from that site.

Mr. Boyce: We want a decrease.

Mr. Lopata: If Mr. Lang is able to do that that is fine. We cannot require him to decrease it, but we can require that he not increase it. I think you have spoken to Public Works already. They are aware of it. They are the ones that recommended the comment in the Planning Department report. I can assure you that that is a requirement that we will insist on.

Mr. Boyce: The landscaper always puts plants on top of mounds. We really saw an increase in water in the last couple of years.

Mr. Begleiter: Will the impervious surfaces that are added here – the bituminous driveway and so on – affect that runoff issue?

Mr. Lopata: Mr. Lang's engineer is here. Maybe he can talk about that.

Mr. Joe Charma: 711 Harvard Lane. I am also one of the owners of Landmark Engineering. I am here tonight representing Mr. Lang. There is a computation of the impervious surfaces pre and post development on the plan. There is a 20% maximum coverage for the built house itself. That number can go to 44% which includes pools and things like that. With the addition of this extra property, it actually gives him more green space. I think it ends up being about 63% post development.

Mr. Lang: The concern that Olen brought up is that in the piece of property that I am acquiring, the gentleman that owned that piece of property is a landscaper and what he had done is pile a bunch of dirt in the back corner that didn't allow the proper drain across my property into his property. It actually forced some water, across my property and down onto their property. So, we have been proposing – and you can look at the grading plan – eliminating a lot of the hills down here in the corner, which are in the little bottom sliver of the left side of the parcel we are acquiring. You can see how Joe has regraded that, so the grading runs back to the back corner instead of back across their property. I think that is the major concern that Sandy and Olen have. Some of the things that Kevin has done in the County have been unregulated because he is not a City resident. The City cannot come out and say that he cannot pile the dirt up. We have to regrade it in conformance with the proposed plan.

Mr. Charma: If you go by the book, the Code maximum is 44% and we are at 63.8%. We are not meeting the Code, we are exceeding the Code. Jeff brought out a very good point that the grading plan – if you studied the annexation plan – has proposed contours that flatten that out and more evening distribute the flow. Right now it is pretty concentrated and comes down to a swale. Those berms block it and direct it right over to his next door neighbor, whereas, this proposal is to try to spread this drainage out as sheet flow and get it to go back into the ground rather than concentrated and run off.

Mr. Bowman: If no one else would like to comment, we will bring the item back to the table. Do the Commissioners have any more comments or questions for either Roy or the applicants?

MOTION BY DRESSEL, SECONDED BY RUSSELL THAT THE COMMISSION RECOMMENDS THAT CITY COUNCIL APPROVE THE ANNEXATION OF THE .15 ACRE PARCEL ADJACENT TO THE EAST SIDE OF THE PROPERTY AT 13

SPRING WATER WAY, AS SHOWN ON THE ATTACHED PLANNING DEPARTMENT EXHIBIT A, DATED APRIL 3, 2007, WITH THE CITY DEPARTMENT RECOMMENDED CONDITIONS.

VOTE: 5-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, RUSSELL
NAY: NONE

ABSENT: MCDOWELL, SOLES

MOTION PASSES

The Planning Commission adjourned at 8:45.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission