

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

February 7, 2012

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present: Ralph Begleiter
Patricia Brill
Peggy Brown
Angela Dressel
Edgar Johnson

Commissioners Absent: Kass Sheedy

Staff Present: Roy H. Lopata, Planning and Development Director
Carol Houck, Assistant to the City Manager
Pat Fogg, City Secretary
Stu Markham, Councilman, District 6
Maureen Feeney Roser, Assistant Planning and
Development Director
Mike Fortner, Planner

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE DECEMBER 6, 2011 PLANNING COMMISSION MEETING.

MOTION BY JOHNSON, SECONDED BY BRILL, THE MINUTES OF THE DECEMBER 6, 2011 PLANNING COMMISSION MINUTES WERE APPROVED AS RECEIVED.

VOTE: 6-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON

NAY: NONE

ABSENT: SHEEDY

MOTION PASSED UNANIMOUSLY

2. REVIEW AND CONSIDERATION OF A MAJOR SUBDIVISION, PARKING WAIVER AND SPECIAL USE PERMIT FOR THE 1.079 ACRE PROPERTIES AT 144-150 E. MAIN STREET AND 21-27 CHOATE STREET FOR A FOUR STORY BUILDING WITH 2,760 SQ. FT. OF FIRST FLOOR COMMERCIAL SPACE AND 22 UPPER FLOOR TWO-BEDROOM APARTMENTS, AND FIVE FOUR-BEDROOM TOWNHOUSE APARTMENTS.

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

“On December 1, 2011 the Planning and Development Department received an application from Independent Investors, LLC, for the major subdivision of their

properties at 144-150 E. Main Street and 21-27 Choate Street and ancillary parcels. The applicants have also applied for the BB zoning required special use permit for apartments as well as a 17 space parking waiver for a portion of the site. The applicants are requesting development approval in order to demolish the existing buildings at E. Main Street and replace them with a four story building consisting of 2,760 sq. ft. of first floor commercial space, first floor public parking, and 22 upper floor two-bedroom apartments. At Choate Street, the applicants plan to demolish the existing one-story building at the site and to construct five four-bedroom townhouse apartments. As part of the proposed development plan for these properties, the applicants will be dedicating a .493 acre portion of their site to the City. These parcels are currently leased to the City as part of Municipal Parking Lot #4. Finally, the subdivision plan also calls for the required lot line reconfiguration to effectuate the changes proposed.

Please see the attached Landmark JCM development plans, applicant's supporting materials, and building elevation drawings.

The Planning and Development Department's report on the Kate's Place and Choate Street Townhouses project follows:

Property Description and Related Data

1. Location:

144-150 E. Main Street and 21-27 Choate Street.

2. Size:

Total site 1.079 acres.

3. Existing Land Use:

These are developed properties containing, on E. Main Street, 1 1/2 story retail buildings and adjacent portions of Parking Lot #4, leased to the City. The 21-27 Choate Street properties contain an approximately 7,000 sq. ft. one-story building, previously occupied by the Casablanca Restaurant (and now used for storage) as well as additional Parking Lot #4 leased parking area.

4. Physical Condition of the Site:

These are developed sites containing occupied and vacant commercial buildings and off-street parking facilities.

In terms of topography, the overall site slopes very gradually from high points at the northeast corner of the Choate Street portion of the project to the southwest at E. Main Street. Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service, the Kate's Place and Choate Street Townhouses site consists of Matapeake Sassafras Urban Land Complex soil. The Natural Resources Conservation Service indicates that this is a disturbed soil that has been used for development purposes; no development limitations for the use proposed are indicated.

5. Planning and Zoning:

The Kate's Place and Choate Street Townhouses properties are zoned BB. BB is a central business district zone that permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.

- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

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

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curbside service for other than eating establishments.
- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

Regarding BB zoning area requirements, other than off-street parking, the Kate's Place and Choate Street Townhouses subdivision plan meets or can meet all the applicable BB zoning specifications.

Regarding adjacent and nearby properties, the Choate Street Townhouses properties are adjacent on the north to BB zoned nonconforming small single family detached rental dwellings. The properties immediately to the south on Choate Street are also zoned BB and contain several small single family rental semi-detached dwellings. The parcels across Choate Street from this portion of the site are zoned BB and BLR (business limited residential) and contain a mix of single family detached and semi-detached rental dwellings. The BB zoned Klondike Kate's restaurant is located on the northwest corner of the Choate and E. Main Streets intersection, east of the Kate's Place portion of the site. BB zoned commercial uses fronting on E. Main Street, lie west of Kate's Place. Similarly, BB zoned commercial businesses are located south of the site across E. Main Street, including the mixed use commercial and residential project at the old Newark Diner site (now the home of Cheeburger Cheeburger).

Regarding comprehensive planning, Comprehensive Development Plan IV calls for "commercial (pedestrian oriented)" uses at the site. The Plan defines these uses as:

"Shopping and commercial uses of all types including retail facilities for buying and selling of goods and services as well as administrative and professional offices, personal service establishments, eating establishments, and shopping centers typically included in central business districts with customers, to a lesser extent, relying on the automobile to patronize these businesses. Residential uses, as noted in detail above and in Chapter II, may be permitted under certain circumstances."

In addition, the Plan’s Downtown Economic Enhancement Strategy shows the 144-150 E. Main Street and 21-27 Choate Street site within “District One – Downtown Core District,” which is described as:

“This is the center of Newark’s central business district that is intended as an area to be redeveloped with first floor specialty and traditional retail shops, with a balanced concentration of food and entertainment. Apartments and offices are proposed for upper floors. Any additional apartments, however, must be carefully and closely evaluated in terms of their impact on downtown traffic and parking; the compatibility with existing downtown buildings in terms of design, scale and intensity of development; the contribution of the overall project, including proposed apartments, to the quality of the downtown economic environment; and potential significant negative impacts on nearby established businesses and residential neighborhoods. Beyond that and particularly to encourage owner occupancy downtown, the City may consider reducing the permitted downtown density in the projects in this district for residential projects.”

More generally, concerning downtown residential uses, the Plan includes the comment that:

“Regarding the City’s review of downtown mixed use redevelopment projects with housing components, the intent is to make it abundantly clear that the City seeks positive impacts from such uses. One key positive impact from an individual project, for example, might include the potential at the site for affordable housing for owner occupants. In particular, and perhaps more importantly, to implement this Action Item, Council may need to actively consider density reductions for projects of this type, on a case-by-case basis, depending on the location, other site conditions and the nature of the project. Through the City’s multi-year efforts to limit the proliferation of off-campus student housing in traditional neighborhoods, we have learned that one of the best zoning tools to promote affordable owner occupant housing is to significantly limit permitted density in approved residential project to individual families or to no more than two unrelated tenants, or with similar specifications. For example, in the developments Casho Mill Station, Abbotsford, Country Place and Williamsburg Village, the City has very successfully preserved these communities for primarily owner occupant relatively affordable housing. If this approach worked at these locations, it should also work downtown. This zoning and development approval tool can be packaged with other incentives to encourage owner occupancy. In sum, we want Newark, especially downtown, to become a “destination city” featuring affordable housing for owner occupants, with an emphasis on occupancy for young couples and families, singles, recent University graduates, retirees, and other individuals desirous of making downtown Newark a permanent home rather than a transitory residence.”

Regarding gross residential site density, please note that the Kate’s Place and Choate Street Townhouses plan calls for 25.02 units per acre. By way of comparison, recently approved downtown mixed use projects have the following densities:

Project	Dwelling Units/Acres
Campus Edge	28.24 units per acre
Washington House	36.1 units per acre

108 E. Main Street

14.7 units per acre

129 E. Main Street

34.68 units per acre

Please note, in addition, that in terms of the recent Zoning Code amendments proposed for the apartments in the BB district reviewed by the Planning Commission at the December 6, 2011 meeting and to be reviewed shortly by City Council, the proposed Kate's Place and Choate Street Townhouse project would conform to the density recommendations in these suggested Code amendments. Based on the number of bedrooms proposed and the size of the site, the new Code requirements will, if adopted, permit 57.6 units as determined by the gross acreage of the site and 31.6 units less the land dedicated to the City; as the Commission can see, 27 units are proposed here.

BB District Off-Street Option Procedure

Please note, in this regard, that the BB district off-street parking waiver program, adopted by the City to encourage quality pedestrian oriented development downtown stipulates that the Planning Commission can reduce or waive the off-street parking standards in Zoning Code Section 32-45(a) after considering the following:

- “A. Whether the applicant has demonstrated the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City;
- B. Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character of the development pattern of the central business district;
- C. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business;
- D. That the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property improvements in the vicinity;
- E. The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet) that may be shared by the applicant and an existing or proposed use. In considering this subsection the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the City, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve;
- F. The Planning Commission shall consider the advice and recommendation of the Planning Director.

Please note also that the BB zoning parking waiver procedure permits City Council to review, modify, or deny Planning Commission approval, disapproval, or approval with conditions upon the recommendation of a member of City Council, the Planning and Development Director and/or the City Manager.”

Regarding the requested 17 space parking waiver, our procedure specifies that applicants receiving such approvals must make an “in lieu of spaces” payment to the City to be used to improve parking downtown. The Zoning Code also indicates, however, that the Planning Commission may consider land donations in assessing these payments; the City has typically accepted land donations as a substitute for the parking waiver fee.

In this instance, the applicant's supporting letter and subdivision plan refers to transferring .493 acres of their property, currently leased to the City as part of Parking Lot #4 that is to be reconfigured as publically owned parking within that parking facility.

In addition, the first floor spaces within the Kate’s Place building will, presumably, be leased at no cost to the City. The normally required fee, without taking into account these land donations, based on an estimate of the cost of the construction of surface level parking spaces provided by the Public Works Department (\$5,833), is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 7,291.25 (25% of cost)
Six to Twelve (12)	<u>\$ 52,497.00 (75% of cost)</u>
Total:	\$ 59,788.25

Status of the Site Design

Please note that at this stage in the Newark subdivision and review process for projects fronting on Main Street, applicants are required to show the general site design and architectural character of the project. For the site design, specific details taking into account topographical and other project 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, related exterior features and existing utility lines; and, in addition, contextual color scale elevations showing the front Main Street facades of all buildings immediately adjacent to the property. 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 must be referred back to City Council for further review and approval. That is, initial Council subdivision plan approval means that the general site concept and the 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 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 plan and agreement for the project.

Be that as it may, the Kate’s Place and Choate Street Townhouses project from a site and building design point of view consists of two distinct development plans. The first, fronting on E. Main Street and immediately west of the Klondike Kate’s restaurant building, calls for a four story building with 2,760 sq. feet of retail on the first floor, a 21 space ground level public parking area to the rear of the first floor commercial space, and 22 upper floor two bedroom apartments. The new building is designed with three stories fronting directly on E. Main Street and then with a “step up” to four stories approximately 35 feet from the front of the building. The existing alleyway access to Municipal Parking Lot #4 will continue along the west side of the proposed new facility. The Choate Street portion of the project calls for the demolition of the old Casablanca restaurant and the construction of a three story facility with five townhouse apartments with four bedrooms each. Garages will front on Choate Street providing direct access for each unit’s three car garage. The plan also shows a new combined trash compactor area at the northwest corner of the site proposed to be dedicated to the City.

Please consult the applicant’s submitted elevation drawings and supporting letter for additional information concerning the proposed architectural and site design.

To evaluate the proposed architectural design, the Planning Commission should consult the Design Criteria in Municipal Code Chapter 27, Subdivision and Development Regulations, Appendix XIII(d).

Please note, in this regard, that on a voluntary basis the applicants reviewed the proposed elevation drawings with the Downtown Newark Partnership’s Design Review Committee. As a result, the Committee recommended that the Commission approve both the Kate’s Place and Choate Street Townhouses buildings with several minor design detail revisions.

Fiscal Impact

The Planning and Development Department has evaluated the impact of the Kate's Place and Choate Street Townhouses project on Newark's municipal finances. The estimates are based on the Department's Fiscal Impact Model. The Model projects the overall project's fiscal impact; that is, the total annual municipal revenues less the cost of municipal services provided. In this case, the Model projects annual net revenues of \$13,784 once the project is completed and fully occupied.

Subdivision Advisory Committee

The City of Newark Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the Kate's Place and Choate Street Townhouses development plan and has the comments below. Where appropriate, the plans should be revised prior to their review by City Council. In any case, the Committee's comments are as follows:

1. The Planning and Development Department notes that questions may arise during the Commission's review of this matter regarding the impact of the redevelopment of this site on existing commercial tenants and plans to incorporate their businesses into the redeveloped site.
2. As noted in the submittal and as discussed previously with the landowner, the subdivision agreement will need to include a private trash consolidation plan with, presumably, shared responsibility with adjacent neighbors. As a result, the location of the trash compactors as shown on land to be dedicated to the City will require some form of easement and subdivision agreement stipulation regarding maintenance responsibilities.
3. The Planning and Development Department suggests that the Planning Commission recommend that all leases for the Kate's Place portion of the site specify that no onsite parking will be available and that the City will not provide monthly permits to residential tenants.
4. The Public Works Department indicates the following:
 - All required cross access, parking and drainage easements need to be shown on the subdivision plan.
 - The applicant should review with the Department, prior to the plan's review by Council, access roadway width requirements at Kate's Place.
 - The applicant should meet with the Department, prior to the plan's review by Council, to review the stormwater management approach proposed for the project.
 - Additional stormwater management and drainage details will be required and reviewed through the construction improvement plan process.
5. The Electric Department indicates the following:
 - Service is available from Choate Street for the townhouses and the rear parking lot for Kate's Place.
 - No part of the buildings on Choate Street can be closer than 7.5 feet to the center of the poles on that roadway.
 - On Choate Street scaffolding will be required to fit between the power line and the buildings; the applicant will be required to pay for any line coverings needed during construction.
 - The high voltage line at this location cannot be de-energized.
 - A suitable location, approved by the Electric Department must be shown on the subdivision plan for a padmount transformer for Kate's Place.
 - The applicant will be required to pay for pole rearrangements in the parking lot and for materials needed for transformer installation and for all radio read meters for the apartment building. The Department estimates

the cost at \$20,500; due at the first issuance of a building permit for the site.

- Metering and switch gear must be approved by the Department.
 - The power to the proposed trash compactor site will come from a new padmount transformer to be located on this island.
6. The Code Enforcement Division of the Planning and Development Department notes that any construction improvement and building permit plans for the site must conform to all applicable Building and Fire Code requirements.
 7. The Parks and Recreation Department indicates that through the construction improvement plan process the Department will review landscape requirements with the applicant.
 8. The Water and Wastewater Department indicates the following:
 - Kate's Place will more than likely receive water and sanitary sewer service from Main Street; any utility work for this building will need to be done in the evenings with a DelDOT permit, beginning no earlier than 10:00 p.m.
 - Each dwelling unit will need an individual meter; meters to be located in a central location for apartments. These meters are to be paid for by the applicant.
 - An STP fee is required prior to the issuance of the first Certificate of Occupancy.
 9. The Police Department indicates:
 - That construction should be phased so that work on Choate Street and E. Main Street does not occur during the same time period.
 - The Department notes that issues regarding order maintenance will arise needing additional police presence in light of the number of residential units proposed at the site.
 - Kate's Place will create additional traffic entering and exiting the site.

Recommendation

Because the Planning and Development Department believes the proposed Kate's Place and Choate Street Townhouses project is compatible with recently approved downtown projects in terms of design, scale and intensity; that it will not have a negative impact on adjoining and nearby properties; and that it conforms to the guidelines of Comprehensive Development Plan IV and, moreover, that the proposed dedication of the currently leased portion of the parking area within the site to the City for public parking will make a positive contribution to our downtown parking system, the Planning and Development Department suggests **the Planning Commission takes the following actions:**

- A. Approve the requested 17 space parking waiver for Kate's Place with the condition that prior to the issuance of the first Certificate of Occupancy for the site the .493 acre portion of the site shown on the subdivision plan be dedicated to the City.**
- B. Recommend that City Council approve the Kate's Place and Choate Street Townhouses major subdivision and special use permit plan as shown on the Landmark JCM plan dated December 1, 2011, with the Subdivision Advisory Committee recommended conditions."**

The applicant is here. I am sure they will make a presentation and I will be happy to answer any questions.

Ms. Peggy Brown: Who are the principals in this Independent Investors?

Mr. Lopata: I will let the applicant explain that.

Mr. Begleiter: I have a question about the presumed lease of the parking spaces under the Kate's Place building. Is this the first instance in the City of Newark in which the City would be leasing property under a building that is sort of like an air rights situation where the private owners control the air space but the City controls the land space? Do we have some other facility like that?

Mr. Lopata: The Trader's Alley plan had similar configuration – the plan you reviewed some time ago that has not gone to Council. The Campus Edge plan originally had that. We have leased land, of course.

Mr. Begleiter: But, not under somebody else's property.

Mr. Lopata: No, and that is why this would have to be a long-term multi-year lease. We just lease the land and the subdivision agreement would have to detail the maintenance issues.

Mr. Begleiter: I was concerned about maintenance and I'm concerned about liability.

Mr. Lopata: That would all have to be worked out. The original plan did not include that. The applicants then suggested that as an additional part of their proposal that the land be leased to the City. It provides us more parking.

Mr. Begleiter: In the course of your discussions on this, did you discuss at all the possibility of rather than doing a lease situation doing an air rights situation in which the City actually owns the property underneath and the developer owns the air space.

Mr. Lopata: You know, Ralph, I do play an attorney at work but normally I stay away from that kind of thing. We had discussions like that and I will let the applicant's attorney discuss that in more detail.

Mr. Begleiter: The reason I am asking about it is because I am familiar with properties in New York City, which is admittedly is, perhaps, just a tad larger than Newark in which the City and State own the property under a building and the building itself is the only thing that is on private land. I just wondered if there was any liability.

Mr. Lopata: We will have to work that all out if, indeed, it is approved.

Ms. Lisa Goodman: I am an attorney with Young, Conaway, Stargatt & Taylor. As of last Monday we have a new address which is 1000 King Street (the old courthouse).

I am here this evening representing Independent Investors and principals in that LLC are Allen Berkhardt, who is not here this evening, and Bruce Georgov who is here. Also here tonight is Joe Charma of Landmark Engineering who is the project engineer and Rich Longo of Hillcrest Associates who are the project architects.

Coming down to each of you is a booklet with some exhibits, and I realize that most of the people in this room are not here to hear us so I move along quickly and then be happy to take questions if I don't cover anything that you want to hear.

We are here tonight presenting the plan to redevelop the two buildings that are to the left of Klondike Kate's as you are facing Kate's and I should say that my clients also own and operate Kate's and also the former Casablanca Restaurant building which is around the corner on Choate Street.

The cover of the handout is the rendering of what we are calling Kate's Place, which is the proposed building to replace the two buildings to the left of Kate's. If you turn behind tab 1, you will see an aerial which essentially encompasses the block. As Mr. Lopata indicated, these properties are zoned BB. They are properly zoned and we are not here tonight on a rezoning. We are here tonight on a special use permit and a parking waiver. You can see Kate's in the right-hand corner then the two buildings that are proposed to be replaced and then the alley. And, then along Choate Street, the building

with the white roof is the former Casablanca Restaurant building. So, the total property owned by my clients, and as Mr. Lopata indicated, includes roughly the portion of the parking lot that connects those two buildings, is 1.079 acres. That does not include the parcel that Kate's sits on. It is currently occupied by these two buildings to the west of Kate's and the former Casablanca Restaurant and right now approximately 57 parking spaces in Lot #4 that are leased to the City and have been since at least 2003, essentially free of charge. The City gives them back some permits to use for their tenants and for Kate's.

You will see behind tab 2 a plan that just shows the existing conditions. The brown buildings are the existing buildings that we are talking about replacing and the yellow buildings are existing buildings.

Behind tab 3 are just some photos. The first shows Kate's and then the one building to the left. There is another shot of the two buildings to the left of Kate's and a second shot and then the corner of the Casablanca building, and then a second shot of the Casablanca building, the other corner, and then a shot straight down Choate Street just for comparison.

So, the proposal is to redevelop these five parcels with two buildings and 86 total parking spaces, 71 of which we are proposing to give to the City through a combination of giving them the land or giving them a very long-term lease for nominal consideration. 15 of the spaces are going to be kept because they are inside the proposed townhouses. So, those spaces will go with the townhouses.

I want to first talk about the Kate's Place building which is the building proposed for Main Street. If you look behind tab 5 you will see the overall rendering that is on the front page and you will see just a straight-on rendering that compares roughly the architecture to Klondike Kate's. The idea here is that this building is the same height as the Klondike Kate's building, essentially, along the sidewalk. Along the sidewalk it is retail on the bottom and then two stories of apartments and then two stories of apartments. Then the building steps back 35 feet from the front of the building which is 56 feet from the right-of-way and then goes up an additional story to allow for parking under it and three stories of apartments. It is proposed to have a total of 2,760 sq. ft. of retail, 21 parking spaces under the building and 22 two-bedroom apartments. Its design is done to sort of echo and complement but not exactly copy the Klondike Kate's building. So, you can see it is the same essential shape. We have reviewed the elevations with the Downtown Partnership's Design Committee. They had some minor comments. Revisions which we incorporated into the drawings that are in front of you.

Behind the next tab, you have the two side views. So, you have the view from the west and that shows you better the step up. It allows you to see that in the view from the east.

Behind tab 7 you have the view from the back and you can see the entrance to the 21 parking spaces that are being proposed. You can see that that is not being left open. There is just an entrance there so it is a nice view from the back.

The current building does have some tenants. The Flip Flop Shop, as I'm sure you all know, is closed. The existing tenants have all been spoken with. Bruce has talked with all of them and has discussed with them offering them relocation assistance to both help them to move and to help them bridge the time during which the new building is being constructed. And, they have all been told that they are welcome to come back to be tenants to the new building if they chose to do so. I know we have at least one of the tenants here tonight.

The Choate Street Townhomes are replacing the 7,000 sq. ft. Casablanca building, which is currently used for storage. This is the front view behind tab 8. As Mr. Lopata indicated the plan calls for five townhomes each with a three car garage. So, they are perfectly compliant as to parking. We are really happy with this design because the idea was to try to make this echo a street that had grown up over time. So, to not have them all look alike. If you go into any more established downtown, you tend to get buildings

that are a little different, which is part of the interest, so that was the idea here. They are designed to look like an organic evolution rather than something that was all built at once. Variations in materials – window, door designs, roof lines, color. Behind tab 9 are the two side views and behind tab 10 is the rear view. So, what links these two buildings together other than the common ownership and being in the same block and being zoned the same, is that they both border Municipal Lot #4.

Our thinking in the parking here is, the plan includes a proposal of dedicating almost a half acre, .493 acres, of the current Lot #4 to the City. So, the City would own that forever. The idea being that there is more certainty for the City regarding future parking revenue and flexibility if they ever want to build over it or put a garage up, or whatever the City might want to do with it, the City owns it. We are also proposing to give the City control of the 21 spaces under the building. Our thought really is something along the lines of a 99 or 100 year lease for a dollar. We are really talking about very long term and very nominal consideration. Air rights are possible and you are right, Penn Station and Madison Square Garden are the classic example in New York. But, it is very complicated and it is very hard to finance. I only actually know of one project in the whole state of Delaware (and it is in Wilmington) that has been carved up for air rights. There is some question even about whether Delaware law actually lets you do that. So, what we believe is that we can accomplish the same thing through a lease and that the plan will go through on that with that proposal and then we will work out the terms of liability, maintenance, etc., with the City. Obviously, the City will have to be comfortable with the terms or they won't enter into the lease and we don't get to record our plan. I think we are comfortable that that can be worked out. Why do we think the City should have control of those? It is good for the City in terms of the revenue. That is a lot of revenue, 21 spaces year after year after year. But, also, we don't have the situation of having private tenants having to enter through a public lot. That seems to have some down sides in terms of lot control for the City that we didn't think made much sense, especially in discussing it with Mr. Lopata.

Mr. Lopata mentioned the trash consolidation. Mr. Georgov, until very recently, owned a trash hauling company. So, he is very experienced with that. He has been working with the tenants along Main Street that border lot #4 to try to consolidate all the dumpsters back there. There are a lot of dumpsters and they are trying to get together to reduce that number and put in compacting dumpsters so it will look nicer and be more control. I think he has gone a very long way toward, essentially, getting an agreement. We are going to have to work with the City to figure out how we enter into a contract and pay for it so no one person has to be responsible for running around and making sure everybody pays for it. I think that is doable. We just have to work with the City on that. But, that is the thought on the trash in the back. Obviously, we could not have our development conditioned on anybody else agree to that, but I think it is in everyone's best interest and we think we can get it done.

So, as to the parking waiver, because my client is proposing to, essentially, give the 71 spaces to the City, they are requesting a 17 space waiver because they won't have any parking to count toward parking spaces. The existing buildings are grandfathered so 17 additional spaces are needed to make the new Kate's Place building compliant. We are only talking about Kate's Place. The Choate Townhomes each have three spaces. They are fully parking compliant. We believe that there is, obviously, plenty of parking for tenants and for customers of the retail. Even if there was no grandfathering, the required spaces for the entire building would be 58. So, we would have them but we are giving them to the City, which we think is a better overall result. So, we think we meet the standards for a parking waiver. The use certainly doesn't conflict with the Comprehensive Plan. It is commercial pedestrian oriented in the downtown core. It conforms and is in harmony with the character of the development pattern in the central business district. And it is exactly the kind of development that is sought in the central business district. It is not highway oriented. Certainly, we believe it has no adverse effects, actually good impacts by redeveloping the old buildings which are not the prettiest buildings in the City, and to have two new buildings that are fully compliant with the City vision and the City getting 71 spaces. We certainly believe as to the next standard availability of off-street parking see Lot #4. There will be a ton of it. We have the recommendation in favor from the Planning and Development Department.

Briefly, as to the special use permit, which we need for the apartments above the retail, again, no adverse effect, not in conflict with the Comprehensive Plan, exactly the type of development the City is encouraging, and as Mr. Lopata pointed out, Ordinance 12-02 which is the ordinance that will change the BB zone relating to apartments and a couple of other things. We will conform to that even though we don't have to. We will be in conformity with that in large part because we are building two bedroom units, which we think there is a market for in the marketplace. Certainly, we are less dwelling units per acre than Campus Edge (28.27), Washington House (36.1), 129 E. Main (34) and we are 25. So, we think we fit very nicely within what is already being done. So, we think we meet the standards for both the special use and the parking waiver. We are happy to answer any questions but we would hope that you would grant the parking waiver and recommend in favor of the special use permit.

Mr. Begleiter: Lisa, are you essentially breaking one property into two distinct properties as a result of this plan?

Ms. Goodman: No, currently these properties are five different parcels. So, we are actually consolidating parcels. They are currently on separate parcels.

Mr. Begleiter: Into two distinct ones or will they be connected by the alley between what is now Kate's and what is to be Kate's Place?

Ms. Goodman: They will be connected but only in the sense that it connects the parking lot to be owned by the City. The parcels are totally separate.

Mr. Begleiter: If I park in the public parking lot under your building and my car alarm goes off while I am enjoying lunch at Kate's who does the resident of the apartment on the first level above the parking lot call to deal with that problem. My car is sitting on your property in a space leased by the City.

Ms. Goodman: That is a good question and I think the answer is that it is no different than if there was car parked on the street right under your window on the street owned by the City.

Mr. Begleiter: But, that is pretty clear. On the street is the City's responsibility. You don't own the property in the street.

Ms. Goodman: But, if the City has leased those parking lots then the City has full control over them for purposes of that.

Mr. Lopata: You have to remember that most of our lots are leased now. In terms of the fact that there is a building above it may cause some additional difficulties but from the standpoint of operations, we will operate it just like we operate any of our lots.

Mr. Begleiter: And if my car, instead of having an alarm, is on fire, what happens? You say the same thing, call the City and the City deals with it.

Ms. Goodman: Actually you are better off. If your car is on fire under our building, our building is sprinklered. So, we are going to put the fire out, but we are going to call the Fire Department to help.

Mr. Begleiter: Behind Tab #9 you noted the end views of the Choate Townhouse buildings. As I look at these pictures, they seem to show the buildings at the corner of a street. As I understand the property lines, however, both of those ends would be adjacent to private residential properties. There would be no street. There would be no sidewalk with anybody walking a dog on it or anything like that. Is this correct?

Ms. Goodman: That is right. This is just a cut-away so that you can see the ends. You are absolutely right.

Mr. Begleiter: There is no public access there. It's adjacent to somebody else's back yard.

Ms. Angela Dressel: I have a question based on the picture of the Choate Street behind Tab #8. You said that they are each three car garages?

Ms. Goodman: Yes.

Ms. Dressel: I am looking at this and see five double doors and two single doors. The three in the middle, are they triple?

Ms. Goodman: No, there is one car in the front and two in the back.

Ms. Dressel: For the three middle ones.

Ms. Goodman: For all of them. The smaller doors that you are seeing are entrances.

Mr. Edgar Johnson: Lisa, you are turning over .493 acres to the City. How many parking spaces can we fit on .493 acres.

Ms. Goodman: That is a good question. Totally we will be turning over 71 spaces. Newark currently leases space that is stripped for about 57. There will be some reconfiguration because we have to consolidate the parcels and move things around a little bit. Our calculation is that in the land that we give to Newark, you will get about 50 spaces and you get an additional 21 under the building.

Mr. Johnson: How many spaces will the City lose in Lot #4?

Mr. Lopata: It will be a net gain.

Mr. Johnson: A net gain with the 21 under the building?

Mr. Lopata: Yes.

Mr. Johnson: Lisa, looking at your Choate Street front view, how wide is the sidewalk there? When you walk down Choate Street on garbage day, you can't walk on the sidewalk. So, is trash collection going to be in the front or is it going to be in the dumpsters in the back?

Ms. Goodman: The sidewalk is about five feet there, and I think we anticipate trash collection being in the front just as with everyone else on the street.

Mr. Lopata: The difference is they will have garages where the cans can be pulled inside.

Mr. Johnson: But, when it is collection the cans are out.

Mr. Lopata: In some cases on Choate Street they are out all the time where they don't have garages, collection or no collection.

Ms. Pat Brill: On Choate Street instead of four or five bedroom townhouse apartments, did you consider owner occupant housing like Washington House?

Ms. Goodman: The answer is yes. These are built so that they can easily be converted to condominiums. We did consider that and we just don't think the market is there right now for that, but we are certainly building with an eye toward if the market is there in the future, they certainly could be converted.

Ms. Brill: Instead of answering the student market, how would you do a trial balloon for the baby boomer demand? You would have to build it in order for it to be an option.

Ms. Goodman: That is an interesting question. I think what happens in a market and it happens no matter which end you are coming from is when a property gets so rundown,

the owners start to get offers because it is worth it to buy it and replace it. When a property is really nice if there is a market to turn it into condominiums, they will start to get inquiries from realtors or from people who say, hey, can I buy one of those? I think it is a practical matter. That is how it works. Plus, these gentleman are experienced real estate folks and they are always looking at the market.

Ms. Brill: So, then you use the same materials for noise reduction and things that owners would demand and maybe students wouldn't be as picky?

Ms. Goodman: I think it is interesting, the market right now in the student market for very nice units. Newark is very fortunate, the new building that is going on is very beautiful and people are building with an eye toward maybe the market will change and these will be owner occupied. So, they are building very nice units and in order to compete with those, these units have to be very nice, too. I think you guys have actually created a good climate in that way – a competitive climate on the upside.

Ms. Peggy Brown: After having read the January City Council meeting, I have a couple of considerations. The first one is, how many apartments would you have in that third step back story on the Kate's Place?

Ms. Goodman: Are you asking me how many apartments on the top floor?

Ms. Brown: Yes.

Ms. Goodman: Six two-bedroom apartments.

Ms. Brown: So, that is 12 occupants, ideally.

Ms. Goodman: Approximately, yes.

Ms. Brown: In the Choate Street had you considered, because we are talking about the Comprehensive Plan, and ideally we would like to have owner occupied housing, I think a four bedroom unit would not be ideal. I think, however, a three bedroom unit might be more marketable with a two car garage. Have you considered that?

Ms. Goodman: We did. We looked at everything from four units, which were bigger and we determined were too big. This plan seems to be the sweet spot both for the current market and allowing for the future market. If you have a family with two children. Four bedrooms equals a bedroom for mom and dad, a bedroom for each of the kids, and an office or playroom. I think four bedrooms is not uncommon that even a smaller sized family would want. I think we are pretty comfortable with that as a market for single families in the future. My understanding right now is that most of Choate in this area is rentals. Even the single family homes are rentals. Some nice construction on Choate with the market coming back up may very well get that ball rolling. Hopefully, this may help that push.

Ms. Brown: Have you considered restricting the number of unrelated people in either unit?

Ms. Goodman: Yes. We have. Sometimes projects like this Council has not been restricting and sometimes they have. I think we will have that conversation with them. We have certainly talked it over. It is easier for landlords when they have an overall number rather than a number per unit. So, yes, we have thought about it and I think we have numbers that are in line with what other projects have done, if Council wants to go in that direction.

Ms. Brown: While I like the renditions of both of these, I still think I like the two-car garage with three bedrooms. And, I don't like that peaking over thing in the back. I think it's too tall. The Choate Street project is great looking, but the other thing on Main Street looks like it is peaking over. I would prefer that you took off that third story and got rid of the six apartments.

Ms. Goodman: I certainly hear you. I think the economics of the project, especially keeping it at two bedrooms which is our understanding of what the City wants to do, don't really work without that story. And, it is Code compliant. We are not asking for a height variance.

Ms. Brown: I am basing some of my comments on things that happened in the January City Council meeting. The other question I have is, I see a lot of alleyways, for instance, behind the Choate Street project, is there going to be a walking space back there?

Ms. Goodman: Yes.

Ms. Brown: How are you going to address the safety issues? I just see in the renditions a little light up at the top, but what about the safety of these alleyways.

Ms. Goodman: I think the answer is you light them, you keep them in good repair and nicely landscaped or controlled; but, it is good to have access from all side both for fire reasons and also for maintenance reasons.

Ms. Brown: I understand that, but are they going to control that access with more security lighting but not invasive to the units and residents. And, are they going to install cameras because alleyways are not generally visible on a straight line from the street? I am concerned about the safety of those.

Ms. Goodman: We haven't talked about cameras, but we certainly could talk about that and see if that is doable.

Ms. Dressel: Lisa, On the Choate Street townhouses as they are attached to the parking lot, will there be a fence back there?

Ms. Goodman: (inaudible)

Ms. Dressel: So, really, it will be the responsibility of the City with the lighting we have put in for the parking lot for the safety because it is not a closed alleyway there, it is open to the parking lot. So, at this point we have a parking attendant there and whatever other security measures we have within the parking lot.

Ms. Goodman: Very true.

Mr. Johnson: The distance between Klondike Kate's (looking at tab 5) and Kate's Place, what is that distance?

Ms. Goodman: At its closest point, which is the back corner of the Kate's building, it is eight feet and about 15 most of the rest of the way.

Mr. Johnson: So, on the Main Street side, it would be 15 feet wide?

Ms. Goodman: Yes.

Mr. Johnson: And on the back, it will be eight feet.

Ms. Goodman: Right, where the point of that building is.

Mr. Bowman: We will open this item for public comment. We will take public comments in the order that I received written requests first.

Ms. Kay Snelling: Owner of Gecko Fashions, 146 E. Main Street. I have several questions. The 2,760 sq. ft. of retail translates into how many retail stores. In other words, we were given the square footage but it didn't say how many stores. I have seen the plans and I think they are gorgeous, but as someone who sits inside the building, I still have some questions.

Mr. Bowman: If we may, let's get that answer on record, so if someone from the group would answer that, that would be helpful.

Ms. Goodman: It could be carved up into approximately four, but it is really flex space. So, if a tenant comes along and wants more space, it might be three. It could be two. It depends on what tenants. And that is normally the way that it is done.

Ms. Snelling: As a current tenant that is in there now, I would like the same footage as I have now. What does that translate to in terms of dollars and cents to a gorgeous building now?

Mr. Bowman: Ms. Snelling, I'm going to cut you off there because it is really not relevant to the discussion as to the merits of the project. That is for you and the folks who own the building to work out separately. We are not going to get into discussions of rental issues here tonight.

Any other members of the public who wish to comment on this particular application? Seeing none, we will bring it back to the table. Is there any further comment or discussion from members of the Planning Commission?

Ms. Dressel: I would like to say that you have done a commendable job on the design of this building. It looks like it will be an asset to the City of Newark. I like the idea that you have reduced the number to the two-bedroom apartments rather than all four bedrooms. So, I think that the applicants have taken into consideration the comments that have been made over the last several months. The look of the buildings on Choate Street I think are definitely going to be a bonus to that street. Thank you for explaining the parking situation for the Choate Street. I couldn't figure out where those cars would be going.

Mr. Begleiter: I think this is a masterful proposal. It strikes me as something that really does take into account all of the discussions about unit density, about the need to develop owner occupied style housing on a street like Choate Street. Choate Street can use this kind of improvement, Main Street can use this kind of improvement, and I think the developers have done a great job. I am worried about the liability and the trash and maintenance issues. I understand that they can't be resolved now and they need not be resolved now, but for the record, I think it is important that City Council and the Planning and Development Department take into account the need to resolve those issues in a way that is lasting so that we don't have multiple trash companies dealing with multiple compactors and things like that.

Mr. Lopata: Mr. Begleiter, for you and the Commission and the public, those items will need to be included in the subdivision agreement which will be drafted before this goes to Council. So, this is not going to be left hanging. The various issues are too important. The air rights is something different, as you noted. The trash situation is something that we have been discussing for quite some time in this lot for other unrelated reasons. So, this is a chance to solve a problem.

Mr. Begleiter: I guess my concern was, your report talks about presumably having an agreement on this and an agreement on that.

Mr. Lopata: I don't presume anything in this business.

Mr. Bowman: The Chair will entertain a motion.

MOTION BY DRESSEL, SECONDED BY BEGLEITER THAT THE PLANNING COMMISSION:

- A. APPROVES THE REQUESTED 17 SPACE PARKING WAIVER FOR KATE'S PLACE WITH THE CONDITION THAT PRIOR TO THE ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY FOR THE SITE THE .493 ACRE PORTION OF THE SITE SHOWN ON THE SUBDIVISION PLAN BE DEDICATED TO THE CITY.

- B. RECOMMENDS THAT CITY COUNCIL APPROVE THE KATE’S PLACE AND CHOATE STREET TOWNHOUSES MAJOR SUBDIVISION AND SPECIAL USE PERMIT PLAN AS SHOWN ON THE LANDMARK JCM PLAN DATED DECEMBER 1, 2011, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS.

VOTE: 6-0

AYE: BEGLEITER, BRILL, BOWMAN, BROWN, DRESSEL, JOHNSON

NAY: NONE

ABSENT: SHEEDY

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF A COMPREHENSIVE PLAN AMENDMENT, THE REZONING FROM MI (GENERAL INDUSTRIAL) TO RH (SINGLE FAMILY, DETACHED) OF THE 20.62 ACRE PROPERTIES ON THE WEST SIDE AND SOUTH END OF MCINTIRE DRIVE IN THE NEWARK INTERSTATE BUSINESS PARK AND THE MINOR SUBDIVISION OF THE SITE FOR THE CONVERSION OF THE EXISTING BUILDING TO A NEWARK CHARTER JUNIOR AND SENIOR HIGH SCHOOL FACILITY.

Mr. Bowman: There are a couple of ground rules for this item. We are going to limit the public comment to three minutes. That public comment will address the issues regarding the zoning issues only. We are not going to discuss the relative merits of private vs. public education. Do I make that clear.

Ms. Dressel: Can I make a clarification? It is public vs. public.

Ms. Bowman: Pardon the slip. In any case, we are not going to argue the relative merits of charter schools vs. non-charter schools. If the Chair feels that the comments are becoming redundant, I will ask you to make your point and please sit down because, obviously, with the number of people here, we are not going to be here past midnight, and that is what these things can drag into.

Ms. Dressel: I have to make a statement, please. I have checked with the Planning and Development Director and the City Solicitor because I am employed by the Newark Charter School and I have checked on whether I need to recuse myself, but because I will not have any financial gain from this proposal, I have been advised that I do not need to recuse myself. So, I leave it to the Planning Commission.

Mr. Bowman: I think we can accept the opinion of the Solicitor.

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

“On December 22, 2011, the Planning and Development Department received applications from Newark Charter, Inc., for the rezoning and minor resubdivision of the 20.63 acre properties in the Newark Interstate Business Park that were occupied in part by the now vacant Lear Seating Manufacturing facility, off-street parking areas, and adjoining vacant previously subdivided parcels. The applicants are requesting rezoning from MI (general industrial) to RH (single family, detached), to permit a proposed Newark Charter upper school with classroom facilities for junior and senior high school students and accessory outdoor playing fields. Accompanying this rezoning request, the applicants have asked for an amendment to the City’s 2008 Comprehensive Development Plan IV that would change the existing Plan’s land use guideline for the site from “manufacturing office research,” to “single family residential (low-medium density).”

Please see the attached Landmark JCM rezoning and minor subdivision plans and supporting letter.

The Planning and Development Department's report on the Newark Charter School project in the Newark Interstate Business Park follows:

Property Description and Related Data

1. Location:

West side and south end of McIntire Drive, south of Elkton Road.

2. Size:

20.628 acres.

3. Existing Land Use:

The 100,000 sq. ft. vacant Lear Seating Manufacturing facility and accessory surface parking lots occupy the 12.79 acre northwest sector of the site (tax parcel #18-054.00-012). The remainder of the site at the end of the McIntire Drive cul-de-sac is vacant.

4. Physical Condition of the Site:

The Newark Charter School building site is a developed property containing a large industrial facility and accessory parking areas. The proposed outdoor playing fields are largely cleared old farmland sites with scattered areas of small trees and scrubby underbrush. The Newark Interstate Business Park's stormwater detention facility occupies the parcel at the extreme southern corner of the park, south and west of the playing fields properties. The Northeast Corridor Railroad right-of-way lies south and east of the Interstate Business Park parcels.

In terms of topography, the Newark Charter School building site slopes very gradually from high points at the south and west toward the northeast. The playing fields site slopes more steeply from north to south to a drainage swale at the stormwater management basin south of the site.

Regarding soils, according to the Natural Resources Conservation Service, the Newark Charter School properties consist primarily of Chester Loam soils. According to the Natural Resources Conservation Service, such soil has "moderate" development limitations for the uses proposed. Please also note that portions of the south and southeast end of the Charter School properties have been used for storage of soils from the DelDOT Elkton Road construction and from previous construction in the Newark Interstate Business Park.

5. Planning and Zoning:

The Newark Charter School properties are currently zoned MI. MI is a general industrial zone that permits the following:

A. Any process involving cleaning, distribution, manufacture, processing, production, warehousing, or testing except manufacture of corrosive acids, gelatin, paint, oils, fertilizer, linoleum, cork products, alcohol, bleaching compounds, or soap; tanning or curing of hides, crude oil refining; rubber treatment of manufacturer; ore smelting; blast furnace; garbage or offal reduction or dumping; asphalt manufacturer or refining; abattoir; junk storage; automobile wrecking; and animal rendering.

B. Oil storage for wholesale purposes.

- C. Railroad and railroad classifications, freight or storage yard, and all appurtenances thereto.
- D. Public transportation facilities, stations and depots, repair garages and storage areas for busses or related public transit vehicles.
- E. Subsidiary retail sales with special requirements.
- F. Warehouse sales with special requirements.
- G. Accessory uses and accessory buildings.

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

- A. Tower, broadcasting and telecommunications, subject to special requirements.

Regarding the requested RH zoning, this zone would permit the following:

One-family detached dwelling.

- A. The taking of non-transient boarders or roomers in a one-family dwelling by an owner-occupant family resident on the premises.
- B. The taking of nontransient boarders or roomers in a one-family dwelling by a non-owner occupant family resident on the premises.
- C. Churches or other places of worship, with special requirements.
- D. Public and Private Schools.
- E. Municipal Parks and Playgrounds; non-profit community centers for recreational purposes.
- F. Municipal utilities; street rights-of-way.
- G. Public and private swimming pools.
- H. Temporary construction and real estate buildings.
- I. Private garages as accessory uses.
- J. Other accessory uses and accessory buildings, excluding semi-trailers and similar vehicles for storage of property.
- K. Cluster development subject to Site Plan Approval as provided in Article XXVII.
- L. Public transportation bus stops.
- M. Bed and breakfast, with special requirements
- N. Student Homes, with special requirements

RH zoning also permits, with a Council-granted special use permit, the following:

- A. Police, fire stations, library, museum, and art gallery.
- B. Country club, golf course, with special requirements.
- C. Professional offices in residential dwellings for the resident-owner of single-family dwellings, with special requirements.
- D. Customary home occupations, with special requirements.
- E. Electric and gas substations, with special requirements.
- F. Day care centers, kindergartens, preschools, with special requirements.
- G. Public transportation bus or transit shelters.
- H. Swimming club, private (nonprofit).

Regarding RH zoning area requirements, the Newark Charter School minor subdivision meets or can meet all the applicable Zoning Code specifications.

Regarding adjacent and nearby properties, the residentially zoned Stone Gate Apartments lie immediately west of the site in Cecil County, Maryland. The MI zoned Interstate Business Park's stormwater management facility is located south of the site and a similarly zoned warehouse facility lies southeast of the property across McIntire Drive. Several vacant MI parcels are located east of the Charter School property across McIntire Drive. The RR (row and townhouse) and AC (adult community) zoned Twin Lakes townhouse and adult community subdivisions are

located further to the east and northeast of the site. Small BC (general commercial) zoned parcels, including a Dunkin Donuts, are located north of the property across Elkton Road.

Regarding comprehensive planning, the requested amendment of the City's Comprehensive Development Plan IV would call for "single family residential (low density)" uses at the site. Please note in this regard that Plan IV indicates regarding "residential" uses 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 services and facilities."

Status of the Site Design

The Newark Charter School minor subdivision plan at the Newark Interstate Business Park calls for the renovation of the existing old vacant Lear Seating Manufacturing building to establish a new Charter School educational facility, including classrooms, resource centers, a "cafetorium," lab space, music rooms, and related facilities. School bus and car parking areas will be provided at the existing large surface parking lots on the site. Access to the school site will be through the existing curb cuts from McIntire Drive and, further to the north from Elkton Road where a "flashing" traffic signal is in place. The vacant south end of the property will be used for soccer, field hockey and lacrosse fields.

Traffic and Transportation

At the request of the Planning and Development Department, the State Department of Transportation (DelDOT) reviewed the Newark Charter School plan for the Newark Interstate Business Park and noted the following:

- Prior to the issuance of a building permit for the site, that the applicant should complete an analysis of morning peak hour conditions at the Elkton Road and McIntire Drive intersection to determine whether the left turn lane on westbound Elkton Road will be adequate to handle the expected traffic to the site and, if not, to require the extension of this left turn lane.
- Prior to the issuance of a building permit for the site, that the applicant should complete a "signal justification study," to determine the extent of the need to modify the existing traffic signal at the Elkton Road/McIntire Drive intersection flashing to fulltime operation and complete related DelDOT recommended traffic analysis for the project.

Departmental Comments

The City Management, Planning and Operating Departments have reviewed the Newark Charter School plan and have the comments below. Where necessary, the plan should be revised prior to its review by City Council.

1. The Planning and Development Department notes that the proposed rezoning and Comprehensive Plan amendment for the Newark Charter School follows the same process and site conditions when the original grade school Newark Charter School was approved at properties further to the east on Elkton Road, in 2002.
2. The Department also notes that the DelDOT suggestions for the site should be incorporated into the required subdivision agreement.
3. The Public Works Department indicates the following:

- General note #18 needs to be revised to reflect Newark Charter School responsibility for all onsite storm drainage systems and stormwater quality and quantity facilities. The City's responsibility begins within the public right-of-way at McIntire Drive. The stormwater management pond at the end of the site is not to be maintained nor be the responsibility of the City.
 - The plan should show all existing drainage easements and landscape buffers.
 - Drainage easements will be required to be graded to facilitate access for maintenance.
 - Grading at the Northeast Corridor Railroad right-of-way will need to provide a swale/buffer combination to direct runoff to the existing stormwater pond at the south end of the site.
 - A vehicle supportable maintenance path is required at the south end of McIntire Drive to provide access to the stormwater pond.
 - Metes and bounds need to be shown along Elkton Road.
 - Regarding stormwater management and drainage details, the applicant should review additional requirements and specifications with the Department, through the construction improvement plan process.
4. The Electric Department indicates that services can be provided to the site. Any changes to the existing electrical distribution system will be paid for by the applicants.
 5. The Water and Wastewater Department indicates the following:
 - Existing and proposed water and sanitary sewer lines need to be shown.
 - Water will be provided to the site by United Water.
 - Sanitary sewage capacity at the site's lift station will need to be evaluated; depending upon this analysis, capacity at the force main will also need to be examined.
 6. The Code Enforcement Division of the Planning and Development Department indicates that the plan must meet all Building and Fire Code requirements.
 7. The Parks and Recreation Department indicates the following concerning the landscape plan:
 - The note regarding the Warranty should be revised to read as follows, "Warranty all plants and materials from a period of two years from City of Newark inspection and approval."
 - Additional landscape plan comments will be provided during the construction improvement plan process including proposed landscaping for the athletic fields portions of the site.
 8. The Police Department indicates the following:
 - The subdivision plan shows adequate access and egress for the new Charter School for staff and students off McIntire Drive. As noted above, a plan will need to be developed regarding activating the Elkton Road signal, especially during school hours.
 - The Department also notes that we currently have an officer assigned to the Newark High School. This officer may be required to spend time at the Charter High School.
 - The Department also suggests that general note #19 be revised to include, in addition to fencing between the Northeast Corridor Railroad right-of-way on the site, fencing separating the site from the adjoining properties in Cecil County, Maryland.

Recommendation

Because with the proposed Comprehensive Plan amendment, the Newark Charter School rezoning will conform to the requirements of Comprehensive Development Plan IV,

because the proposed use at the vicinity corresponds to a similar City approval for the existing Charter School buildings to the east on Elkton Road, and because the proposed Charter School development plan, with the Departmental recommended conditions, will meet all City standards and specifications, the Planning and Development Department suggests **that the Planning Commission consider the following:**

- A. Recommend that City Council revise the existing Comprehensive Development Plan IV land use guideline for this location from “manufacturing office research,” to “single family residential (low-medium density);” and,**
- B. Recommend that City Council approve the rezoning of the 20.63 acre old Lear Seating and adjoining parcel sites from MI (general industrial) to RH (single family, detached), as shown on the Planning and Development Department Exhibit A, dated February 7, 2012; and,**
- C. Approve the Landmark JCM Minor Subdivision Plan for the Newark Charter School properties in the Newark Interstate Business Park, as shown on the plan, dated December 22, 2011.”**

Mr. Lopata: I will be glad to answer any questions and, of course, the applicant will be making a brief presentation.

Mr. Bowman: Are there any initial questions from any members of the Planning Commission for Mr. Lopata?

Ms. Brill: Since the current property is zoned MI, has there been a soil analysis for possible contaminants at the site?

Mr. Lopata: I will let the applicant answer that.

Mr. Joe Charma: I am with Landmark JCM. Tonight with me are Greg Meece, the director of Newark Charter School; Alan Silverman, the project facilitator for Newark Charter School; and, David Grayson, the construction manager with GG & A.

First, I would like to answer Ms. Brill’s question. This site has been used as a light manufacturing type facility. A Phase I investigation has already been done, there was no evidence of any type of contamination. They assembled car seats there, so nothing came up in any of the preliminary environmental reports to indicate that we have any soil issues.

Tonight is it my pleasure to present a project that represents the culmination of an idea that began in 2001 – a Charter School that sprang from humble beginnings in modular classrooms on leased property on Barksdale Road that grew to a new elementary school and middle school on Elkton Road and now with the proposed high school at this location off Elkton Road. The former Lear Seating facility was forced to close along with the Chrysler Plant more than four years ago will now be repurposed and developed into a Charter High School. The site is located in Newark Interstate Business Park totals 20.63 acres of land. The existing 100,000 sq. ft. manufacturing building will be retrofitted with engineering science labs, music rooms, a cafetorium, and many other amenities that are appropriate for a high school for approximately 1,140 students and 62 facility administrators. The new school will also feature 7.84 acres of open land which will be developed as soccer, hockey, and lacrosse fields. This site is very desirable for redevelopment as all the major infrastructure is in place. No additional impervious surface is required as existing parking, loading and truck storage areas will be retained as is or reconfigured to accommodate 517 cars and 30 bus parking spaces. In fact, the redevelopment of the 12.8 Lear parcel will decrease the impervious cover by almost 20,000 sq. ft. Stormwater from the site will be conveyed through existing drainage systems into two wet ponds – one located on the northeast portion of the site and one on the southwest portion of the site. Additional stormwater quality enhancements will be added to the site by the creation of attractive, environmentally friendly rain gardens developed in portions of existing parking lots. Existing sanitary sewer, water distribution and electrical distribution systems will be designed to accommodate the previously approved 500,000 sq. ft. of industrial

manufacturing site, which will easily accommodate the proposed school service demands. DelDOT has reviewed the proposed site transition and has indicated that the daily traffic associated with the school would be less than that associated with the previously industrial site. However, a traffic count and operational analysis of the existing intersection of Elkton Road and McIntire Drive will be performed in order to evaluate morning traffic volumes, the existing signal operation parameters and the left turn adequacy from Elkton Road.

Overall this project will have a tremendous positive impact on the community by not only repurposing a large vacant building and site and providing nearly eight acres of open recreational area but by completing the mission of Newark Charter School to provide a high quality K-grade 12 education at an institution consistently ranked among the highest in the nation for test scores. I will entertain any comments you have.

Mr. Begleiter: The idea for this began in 2001?

Mr. Charma: Yes.

Mr. Begleiter: The plant became vacant just four years ago. The idea was for a school somewhere but not necessarily on this site?

Mr. Charma: The idea was for the Charter School started in 2001 with the modular units on the IRA property on Barksdale Road. That is what I was referring to.

Ms. Brown: You have talked about wet ponds. Do you have fencing around this?

Mr. Charma: The ponds are very beautiful if you go out there and look at them. There is currently no fencing around the ponds. They are more like farm ponds and they are constructed in a fashion where they do have safety benches and in accordance with State regulations. Currently, ponds are not required to be fenced anywhere in the State. Actually, if you fence them, you incur liability.

Ms. Brown: Okay, because you are dealing with high school students that are different than younger kids.

Mr. Charma: I believe the Charter School will probably fence the ponds as appropriate. They will probably fence off the athletic fields there and that fence will probably run along the top of the bank of the pond and probably up into this landscaped area.

Ms. Brown: Is this an adjacent property to Twin Lakes?

Mr. Charma: Yes, it is.

Ms. Brown: How are you going to prevent these high school kids from traipsing through Twin Lakes?

Mr. Charma: I don't have an answer for that.

Ms. Brown: This something you need to address with fencing or something.

Mr. Charma: There are probably no attractive nuisances in Twin Lakes. Mr. Lang is in the audience tonight. I don't anticipate any issues.

Ms. Brown: They are high school kids.

Mr. Lopata: Peggy, that is kind of the opposite of the traditional thinking because you want schools and neighborhoods integrated. The children at the old Charter School on Barksdale Road traipsed through my back yard to get from Briar Lane, which I actually encouraged because it made me feel less old.

Ms. Brown: But, not everyone will appreciate it. The other question I have is about the income to the City. Currently, we are getting taxes, I assume, for this non-used industrial area. As a school, we will not get taxes. Is that correct?

Mr. Charma: That is correct, but you will sell a lot of electricity.

Mr. Johnson: What was the tax base that the City was getting?

Mr. Lopata: When the Lear Seating was there, we were certainly drawing revenue from the industrial site which would be appraised at industrial rates. Property taxes in Delaware are relatively low. As everyone here in the room knows, our key revenue source is electric. In terms of revenue from property taxes, it would go down to zero.

Mr. Johnson: But, what was it?

Mr. Lopata: I don't know off-hand, Ed.

Ms. Brill: I am still concerned with the soil analysis? Do you know what company was there previous to Lear Seating.

Mr. Lopata: This was vacant farmland.

Mr. Charma: This was built for Lear.

Mr. Bowman: We will open this topic up for public comment. To reiterate the rules, this is not an education discussion. This is a discussion of the merits of this project based on the zoning and code compliance from the applicant.

Mr. William Hurd: 115 Lovett Avenue. I am a parent of four students at Newark Charter School and I wholeheartedly support the proposed rezoning. The school is a great asset to the community and its growth and continued success should be encouraged. Having spent the last few months applying to high schools for my son, we found few suitable schools in any of the neighboring districts. Having a high school option will allow us to give our children the rigorous and well regarded education they currently receive at Newark Charter in this new and convenient location.

Dr. Mugtedar Khan: Professor at the University of Delaware. I have two children at Newark Charter School. You must have seen my son on television or in the newspaper. He is being labeled as the future Steve Jobs, but if this school doesn't become a high school I promise you, I am leaving Delaware within the year or he is moving to the Red Clay District. I read all the opposition letter to this project and I am amazed. The first thing that we have to understand is that education itself is America's best industry. We export education. We bring international students here. So, to see education as something competing with industry and rezoning that area for a school, for which from all indications is going to be one of the best high schools in the State if not the country, would really be shooting ourselves in the foot. Especially, since in the future the economy is going to be based more on knowledge than industry. From the predictions of your population, 2000 number increase by 2030 suggests that you really don't expect any major industry to move into the that area in the near future. That is why the projections for Newark's population is 2000 in the next 18 years, which is probably the kids that we are going to have in the next 18 years. We have a major problem in the State with high schools particularly. If you notice, all those people how said that Newark Charter would be a problem, did not sing the merits of any other high school. Nobody said we have these great high schools, why do we need another high school. So, we do need a good school. Right now it is like sending your kids to Newark Charter School is like sending your kids to Harvard for two years and then pulling them out and sending them to a community college. So, we do need a good high school. And, my last point is that I know a lot of people who are buying houses in this area so that their kids might be able to go to Newark Charter Elementary and middle school. So, I think a high school will attract more people to the City, increase the property values, increase the revenue. Our kids study very hard, which means they stay up late and they will use a lot more of your electricity.

Mr. Matt Doyle: 15 West Ridge Court. I think the land should be rezoned RH so that the Charter School can expand. It seems to me that Newark still has plenty of unused general industrial space available. Therefore, I don't see value in keeping the land the way it is. A

lot of people here have an opinion about this whole situation and might not get to stand up here and talk to it. So, I would just like to ask all the people in the audience that support the rezoning of the land to RH just raise your hand so everybody knows what is up.

Ms. Annalisa Ekbladh: 37 Lynn Drive. I have been a resident of Newark for 13 years. I submitted my comments prior to the meeting with the regard to the impact on my City with regard to jobs and tax losses associated with the proposed rezoning and my opposition to the rezoning. But, I would like to speak for a minute about what Newark High School means to my family and why it is so important to protect its future. I have stood by while the Newark Charter School opened an elementary school and saw the polarizing and negative affects it has had on our community skimming off the top students from traditional public schools and creating a system that is highly segregated white and black, low income and (inaudible). We cannot stand by and let this happen to Newark High School. Newark High School has served our community for 118 years. It is ranked among America's top high schools by Newsweek magazine. It boasts the second highest average SAT scores in Delaware, offers the second highest number of APP courses in the State and shows the highest rate of growth among honors and AP students on DECASS in the State. Newark is the cornerstone of our community as it has educated some of the best and brightest in Delaware. My daughter is among them. My daughter is the recipient of the Michael C. Ferguson Award which means she is among the top 150 students in DECASS in the State. She is an honor student, active civic volunteer and athlete. Newark provides her an outlet for each and every part of her life. She loves Newark High School and we are so very proud to be a part of this high school community. When our traditional public schools like Newark can meet the needs of all of our children why would we squander our resources on a new school. Before agreeing to build a new school here in Newark we must answer a few questions. Will Newark High School provide programs and opportunities to students that do not already exist in Newark? No. Will the Newark Charter School provide educational opportunities.

Mr. Bowman: Your time is up. Thank you. Now, you have heard from both sides on that issue. We will not entertain any more comments on either side of that type.

Mr. Lopata: If I might reiterate to help the Chairman out and the Commission so that everybody here understands. Many of you are new to Planning Commission meetings. This is a land use decision. The Chairman quite rightly indulged some folks and let them let off some steam on both sides of the issue of whether or not a charter school is a good thing or a bad thing. All of us have individual opinions on that. That is not the issue before the Commission. And, certainly, the Commission should not to make a recommendation based on anything other than land use. They are charged with looking at whether or not this is a good land use. Now, by-the-way, that is a debatable question that is perfectly reasonable to discuss this evening. So, I think the Chairman is saying, if we could refrain from remarks about the pros and cons of charter schools and stick to, is this a good land use or not, I think we will have a more productive discussion.

Ms. Karen Zalewski: 119 Timberline Drive. I do believe to some degree the issue of whether or not a charter school is needed does apply to this land use issue because we are deciding whether or not to give up a future revenue from tax piece of property. We are a city of 31,000 residents and we have an excellent public high school. I would really asked those who have only truly looked into Charter to open your mind a little and maybe give it a look. The City of Wilmington has 71,000 residents. More than double the number of residents that we have in the City of Newark. They have no public high schools. So, to use resources and to give up land that can generate revenue in the City of Newark for a second public high school using public dollars is, in my opinion, unethical.

Ms. Marylee Dichiaro: 45 North Pond Drive. The state and local governments are looking to add jobs especially in hi-tech fields. There is a great desire to bring companies to the former Chrysler site. Companies with well educated employees are less likely to move to an area with a struggling feeder public school system where student ratios are out of balance and schools are up to a 60 percent low income students. In order to attract individuals and businesses to Newark, we must make a commitment to improving the feeder schools first. This will benefit the whole community and make Newark a place people want to move.

Ms. Ann Paris: 268 Campfield Road. I speak as a parent of a child at Newark High School. My youngest child, I chose to choose into Red Clay School District. In my hand I have a copy of a letter that I get every year for the last year from Christina School District letting me know that Newark High School is a failing school. They have had five years. If we had not gotten my youngest son into a different school, he would not have been in Christina, we would have moved. I think this is a good land use because if we had a better high school, we would attract people into our district who would want to stay and bring money, bring jobs, bring in tax revenue and the property values. So, I think it is a good use and I think that you will see people, as Red Clay closes their Choice Program to outside of the district, you will see more people leaving the Newark area because they don't have choices for their children's education.

Ms. Elizabeth Sheinberg: I am a board member in the Christina School District. I am a board member who has both a child in Charter and a child in the district, although not Newark Charter. I was not going to speak. I came to listen tonight, but I did not to share one piece of information with you. You asked about the revenue loss to the City. Specifically, I cannot speak to the City but I did pull the taxes for 2011 for the three parcels in question when I was looking at the information. The grand loss to both the school district and the County is slightly more than \$50,000 a year. I grew up in Newark. I live just outside the City limits. My parents still live in the house I grew up in. I speak to my dad a lot and he is a pretty wise guy and his one thought on this whole debate tonight is that this is putting the cart before the horse. It is our understanding that Newark Charter's application is still before the Department of Education and State Board of Education and they have not ruled to approve it yet. So, the concern is the Planning Commission getting this decision too soon.

The one other piece of information that my father asked me to offer to you is that there is already a building in the Christina School District which is in Newark although outside the city limits that is within an industrial park. It is zoned for a school. It is empty. There is excess property. It could have been possible at some point for negotiations to happen that would have allowed an existing building in industrial zoned for a school to actually have a school there by meeting both Newark Charter's needs as well as taking an excess property off the market. That is what I offer to you - \$50,000 in lost revenue in the way of school taxes.

Ms. Lisa Diller: 182 King William Street. I have been a resident of Delaware on and off for about 30 years. I'm addressing this issue strictly from the land use and from the zoning. I'm basing my comments on comments by Mark Waterhouse who was the City of Newark's consultant on the Economic Development Plan from Garnett Consulting. I had the opportunity to speak with him after a presentation on the development plan and one of the issues I asked him, because I am also the County Council Representative for the Greater Newark area, I said to him specifically when I spoke with him during the summer, one of the things that I am extremely concerned about is what I see as this flipping of industrial zoning to something else. In the County, industrial zoning refers to as much the outside storage of materials. So, you could have a lab that required outside storage. You could have all kinds of things in an industrial zone that simply required outside storage as opposed to a place where you do manufacturing. So, that is the first thing. Industrial zoning is bigger than just manufacturing.

The next point I want to raise is that those 21 acres – and this is what Mr. Waterhouse said – when you rezone industrial land, you never get it back. You never get the opportunity to have anything on that land that will produce jobs. So, you flip this zoning, you are giving up the opportunity for jobs.

The next point is the issue that I am looking at here is that we have already given up a great deal of income with the Chrysler Plant. Please don't do it again. The area in which this is based has some residential but it is almost entirely commercial and industrial zoning. This is in Planning Area II. I am referencing pages 114 and 115 of your Comp Plan. Frankly, looking at this zoning from the beginning, I think the original placement of a school in this area was a bad decision. Why are you doing it twice?

The other issue is that quite frankly you are looking at a very modest projection of people in this community the population to rise. You are putting more resources into yet another school where there will not be the children to fill it. I'm out of time. Thank you.

Mr. Steve Dressel: 8 Wynclyff Lane and I am, in full disclosure, the Chairman of the Board at Newark Charter School. I think having a high school as the anchor to the end of Elkton Road is a fabulous idea from a planning perspective. I see a lot of business development taking place, Suburban Shopping Center, etc., and what better draw to draw people into that end of what may soon be called "South Main Street or West Main Street" I forget which one. I think it is a great opportunity. The land there is currently not being used. It is not producing. We already heard that the school will produce jobs. I don't know where Ms. Diller gets her information but teachers actually do get paid and they pay taxes. So, there are jobs that will be created. So, I think it is a wise choice for this project to move forward.

Mr. Andy Hegedus: 258 Beverly Road. I have been a resident of old Newark for 17 years and I am finally feeling like a Newarker now. I am here tonight to speak in opposition to the proposed rezoning of land to support the expansion of the Newark Charter School to include the high school grades. I have only two points to make tonight. It seems that the issue that forced this discussion tonight is Section 2-89(d) of the Municipal Code that requires issues that request rezoning classifications and changes the Comprehensive Plan that come before you. Actually, it is Section 2-89(b) that interests me more, which is that you are supposed to review the best methods of financing and assessing the cost of public improvements and civic development within the City. Regarding financing, I believe that we need to continue to maintain all the options that we have for revenue generation for our city long-term since all public schools whether traditional or charter are tax exempt organizations with the rezoning and construction of charter schools. Newark is permanently losing over 20 acres that will generate income if the current zoning is maintained from both taxes and electricity when they are rebuilt. For long-term financial reasons alone, I am opposed to the proposal.

Second, on civic development, based on the Code and the definition of civic development, I believe you are to consider plan and recommend to City Council those things that you believe are going to advance or make Newark a better community when you make decisions about zoning or buildings. That thread needs to be throughout the decisions you make. When it comes to schools like charter schools, the Department of Education is not charged to care about our community. They care about financial viability of the Charter School and its academic performance. They have no formal interest in our community and its long-term health and advancement. You do. No one else is charged by the Municipal Code to do that besides you. You need to understand that this decision is huge, really huge, like monumentally huge. This decision will have repercussions for years and years to come. Trust me, I am not exaggerating on this. To build our community, you know and I know the good public schools that literally educate all kids well is what we need. There is a way to build community. One way is to have civic institutions that bring us together, not divide us. This town already struggles with a divisiveness that has come with the existing Newark Charter School. In my neighborhood at parties and barbeques, we can't even talk openly about education. It arouses too many passions, too many emotions. My wife even asked me to go easy tonight with my comments because of what it might mean to some friendships.

Rezoning RH to allow anything residential to be built there with MI zoning on either side of it, if the Newark Charter School isn't approved, would allow homes to be built in an industrial place. So, why is that a good decision. So, I say that the City of Newark is now and should remain one community with one great school and continue to be one great place for all of us and our kids.

Mr. Punith Venkatesh: We are talking about 20.62 acres. We have thousands of acres in Newark. Sacrificing 20.62 acres to get one of the best schools in the country is nothing compared to the loss of revenue of \$50,000 a year. There is no comparison at all because you are going to produce such good students from the school.

Second, is the jobs. Somebody already pointed out that there will be teachers. There will be employees and there will be construction going on. There will be immediate jobs, so this would be a great opportunity to give jobs during the time of decision. So, I would very strongly support the uphold of this request.

Mr. John Hundley: 12 Timber Creek Lane. Each of you, I think, are in receipt of a letter from several opponents of the project and several of the arguments of the letter address the property value question. The letter specifically references a study by the UCLA and Dartmouth College that found that, one student level standard deviation difference in a school's mean test scores was associated with a 10 percentage point difference in house values. While that is a very impressive statement, I think that it is important to note that the study was titled "School Quality, Neighborhoods and Housing Prices and the Impacts on School Desegregation." It was related to a study done on housing prices and schools in Mecklenburg County, North Carolina, which I think you would agree that is not Newark, Delaware. So, I just want to be aware that fact is not relevant to Newark's housing prices.

The other issue is there are several references to population. I think if you look at the U.S. Census statistics from 2010, you will see that we are far exceeding the pace of population growth that would outlined in the letter provided by several of the opponents.

Another comment was made that as average test scores in traditional public schools decrease, so do property values. And, I would argue that the exact opposite is true as well, that as scores increase property values also increase and there is a study from 1999 that indicated that parents are willing to pay 2.5% more for a home for a 5% increase in test scores.

And the last point that was made by one of the opponents tonight was that if you have industrial property and you convert it to any other use, you never get it back. I think you only need to look at the Newark Chrysler Plant to see that it is no longer there and we are changing the use of the formerly industrial property.

Mr. Bowman: If there is no other public comment, I will let you speak Mr. Meece, and you are representing the applicant, as I understand it, and I am going to hold you to three minutes.

Mr. Greg Meece: School Director at the Newark Charter School since 2001. Our address is 2001 Patriot Way. Newark Charter School has operated in the City of Newark for the past 11 years, originally at Barksdale Road and for the past nine years at 2001 Patriot Way. Over the years we have served the educational needs of almost 3,000 students. All of these students were accepted by a lottery without regard to ability, disability or income as is referenced in Delaware's Charter School Law and the Neighborhood Schools Law, we do give a preference to families living local. Currently, 1,338 students are enrolled in kindergarten through grade 8. We are preparing to expand our program which will include grades 9 through 12. We need additional space. The proposed location for this expansion is 200 McIntire Drive in the City of Newark. Since this site is currently zoned industrial, our request is to have it rezoned residential in order to permit the operation of a public school there. This is the same request that we made on two previous occasions when you rezoned the property currently in use for our elementary and middle schools.

I want to say why Newark Charter School's Board of Director's made this decision to expand. This high school is designed for our students so they can continue to grow academically in our program. In most cases, these will be students who are already enrolled in our school and have been there for as many as nine years. Some will try to frame this in terms of stealing students from other schools. The opposite is true. These are our students. They have been with us for almost a decade. 98% of our parents said that they would prefer to stay with our program after 8th grade. Even now, only 4% of our 8th grade students apply as their first choice to the local school district. 96% apply to other public charter schools, non-public schools, votech schools or other choice schools. Unfortunately, many of them can't gain access to these schools. For example 50% of our 8th graders apply to the Charter School of Wilmington. This week we learned that only one student from our school was accepted there. The reason most of our students fail to get into that school is because they live in Newark. There is only one high school in the City of Newark – public or private or charter. Yet, we are in a State that gives parents parental choice. Our parents are not the only ones who wish us to expand. And, this is important in light of some of the discussion about taxes and income. The local business community has asked us to do this because they feel that it is in Newark's best interest economically. Our formal application to the Delaware Department of Education includes letters of support from the President of the

New Castle County Chamber of Commerce, the Delaware Technology Park, W.L. Gore, the DuPont Company, the Greater Newark Economic Development Group, the Mayor and others. Private foundations have pledged nearly \$1 million to help us get started. The economic viability of our city, the ability to attract businesses here, the value of our properties and our homes and the quality of life depend on having excellent schools and this is what Newark Charter School is. In New Castle County last year our school finished number one on the State Test in every subject and in every grade. We were cited by the Delaware Department of Education as a superior school every year that we have been in existence. We were cited by the United States Department of Education as a Blue Ribbon School. Our school was named the top work place in Delaware in the News Journal two different times. And an international study published by the George Bush Presidential Center lists the Newark Charter School as the number two school in the nation in reading. Our school is thriving in every category and our waiting list has been as high as 2,000 to 3,000 students in recent years. Many more families would love to be part of our school, but for every open seat in our school there are 12 students mostly from Newark who are waiting for a chance to come. Our expansion is simply to give our parents the ability to keep their children in the school of choice beyond eight grade. We need a rezoning to give them that option.

Mr. Bowman: We are going to bring it back to the Planning Commission. Does the Planning Commission have any other questions for the applicants or Mr. Lopata? Hearing none, the Chair will entertain a motion.

Mr. Begleiter: I would like to make the motion of approval tonight. The City has tons of vacant or unutilized industrial land. Zoning can be changed at any time as it has on this particular site and many other sites. If this school doesn't get built and the land remains vacant, the same Commission and Council can change the zoning the next time around. One of the things that we struggle with at almost every meeting is trying to find ways to create a market in Newark for single family owner occupied homes. One of the strongest beacons for that kind of influx of development to a city the size of Newark with its 9,000 or 10,000 permanent residents is the provision of high quality education and that means both high quality education at Newark High School as well as other schools like Charter. So, in my mind, there is no reason not to recommend that City Council revise the existing Comprehensive Plan land use guideline for this location from manufacturing research to single family residential and to recommend that City Council approve the rezoning of the 20.63 acre parcel from MI to RH and to approve the Landmark JCM minor subdivision plan for the Newark Charter School properties in the Newark Interstate business Park as shown on the plan of December 22, 2011.

MOTION BY BEGLEITER, SECONDED BY BRILL THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS:

- A. RECOMMEND THAT CITY COUNCIL REVISE THE EXISTING COMPREHENSIVE DEVELOPMENT PLAN IV LAND USE GUIDELINE FOR THIS LOCATION FROM "MANUFACTURING OFFICE RESEARCH," TO "SINGLE FAMILY RESIDENTIAL (LOW-MEDIUM DENSITY);" AND,
- B. RECOMMEND THAT CITY COUNCIL APPROVE THE REZONING OF THE 20.63 ACRE OLD LEAR SEATING AND ADJOINING PARCEL SITES FROM MI (GENERAL INDUSTRIAL) TO RH (SINGLE FAMILY, DETACHED), AS SHOWN ON THE PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED FEBRUARY 7, 2012; AND,
- C. APPROVE THE LANDMARK JCM MINOR SUBDIVISION PLAN FOR THE NEWARK CHARTER SCHOOL PROPERTIES IN THE NEWARK INTERSTATE BUSINESS PARK, AS SHOWN ON THE PLAN, DATED DECEMBER 22, 2011.

VOTE: 6-0

AYE: BEGLEITER, BRILL, BOWMAN, BROWN, DRESSEL, JOHNSON
 NAY: NONE
 ABSENT: SHEEDY

MOTION PASSED UNANIMOUSLY

Respectfully Submitted,

Elizabeth Dowell
 Secretary to the Planning Commission