

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

June 5, 2007

7:30 p.m.

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

Vice Chairman: James Bowman

Commissioners: Angela Dressel
Chris Hamilton
Mary Lou McDowell

Absent: Ralph Begleiter
Joe Russell

Staff Present: Roy H. Lopata, Planning Director

Acting Chairman James Bowman called the Planning Commission meeting to order at 7:30 p.m.

1. THE MINUTES OF THE MAY 1, 2007 PLANNING COMMISSION MEETING.

The minutes of the May 1, 2007 Planning Commission meeting were accepted as received.

2. REVIEW AND CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE THAT WOULD EXEMPT CENTER STREET FROM THE STUDENT HOME ORDINANCE.

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

“The Planning Department has received the attached letter regarding a request that the Zoning Code Student Home Ordinance list of “exempt” streets be amended to include Center Street. The attached tax parcel map shows the properties that front on Center Street for which the Building Department has issued rental permits.

If the Student Home Ordinance list of exempt streets is amended to include Center Street, single family detached dwellings on this roadway could be rented to up to three students; without this Zoning Code change no more than two students can occupy such dwellings.

Please note, in this regard, that the Police Department has recommended that Center Street not be added to the list of exempt streets under the Student Home Ordinance.

Recommendation

The Planning Department suggests that following its review of this request and its consideration of public comment, the Planning Commission make a recommendation to City Council on this matter. If the Commission wishes to recommend in favor of including Center Street as a street exempt from the Student Home Ordinance, the Commission should **recommend that City Council amend Zoning Code Section**

32-4(a) Definitions, sub-section 123.1, Student Home, by adding the words, “Center Street.”

Mr. Bowman: Do any Commissioners have questions for Mr. Lopata? My only question is that, in essence, what would the impact be to other properties?

Mr. Lopata: There are a handful of other single family dwellings on the street, and it would add one additional tenant to all of those, if they are rented to students.

Mr. Bowman: We will now open the item to the members of the public.

Mr. Niles Norton: 27 Center Street. I am a resident of Center Street and also rental property owner on Center Street. Not only am I in favor of it being exempt, the street was once a single family residence, now it clearly is not. With the University being allowed to build a stadium in our backyards and with stadium lighting in our backyards several families have moved out in the past five years since I have been a resident there. I think it only fair to be given an opportunity to rent to students since everyone else does. I am just looking for the same option as everyone within a quarter mile radius of our street does. We have a very odd little dogleg shaped RS zoning where we are. I am not quite sure why that is even there surrounded by RM, which is residential multi-family.

Mr. Mark Sharnoff: 43 Winslow Road. I have resided in Newark for 43 years. This is a new matter to me, so I am reacting very spontaneously to it. My question is, if we grant this change in zoning, how many more similar changes are likely to be petitioned?

Mr. Lopata: Mr. Sharnoff, we have about 15 to 20 exempt streets where the ordinance was originally adopted, including some near your area, that were included based on the fact that those streets were primarily student home streets. This was a street that at that point could have been included in that listing – it was not. The City has had at least three or four petitions to add to the list. My recollection is that at least two of those have been turned down. So, it really depends on the community input that we get from area residents. We contacted all of the area residents, and so far, other than you (not a resident), we have had one person speak. So, I think what we try to do is get a sense of what people in the immediate area feel and then make the decision accordingly.

Mrs. Jean White: 103 Radcliffe Drive. I first have a general question. There are only four Commissioners here tonight, and I wondered if it were true that something had to be passed with four.

Mr. Lopata: An ordinance must be passed by Council with four members if there are only four members. A Planning Commission operating under normal Roberts rules, they would need a vote of 3:1 if there is opposition to recommend in favor of a project. A quorum, of course, is here otherwise we would not be talking.

Mrs. White: Thank you for clarifying that for me. I do not live on Center Street and I do not own property there, so my remarks are general. First, I was going to say that the purpose of the Student Home Ordinance as those here and at the table are aware of is to space student homes – and it has been done effectively in a number of different places. One particularly notable example is State College, Pennsylvania, which has Penn State with a large number of students. So, they have the idea to get spacing so that you don’t have complete streets with student homes, but it is felt that it preserves neighborhoods better.

Mr. Lopata: Except for the exempt streets.

Mrs. White: We have exempt streets. Some of the other communities that have done this don’t go that route. I am not speaking one way or the other. I did just want to point out that the letter from the agent of the owner of the property at 21 Center Street says that, “the house is limited to two unrelated students and because of this the sale would be limited to an owner occupant.” As has been implied or said already by the Planning Director. That last part is not true that it would be limited to an owner occupant because you can have a landlord owning this who rents to families or rents to three unrelated people who are not students. For example the so-called upscale professionals that

developers are always saying (inaudible). Anybody who is not a student, you can have three of them in a rental property in this property or others. So, this letter from the applicant is not correct in that manner. As it is now, the owner or future owner could not rent to college students but they could rent to a family or they could rent to three unrelated people who are not college students.

Miranda Wilson: 329 Orchard Road, so I am not in the neighborhood that is affected by this. This is a fairly new issue for me as well. You mentioned when the meeting started that the law enforcement in the City had a particular attitude towards this. I wondered if you could elaborate on that.

Mr. Lopata: We always send requests like this to the Police Department and the Building Department. The Chief has said in his memo of May 9th, the following: “After considering the request, I am opposed to granting an exemption to the ordinance and/or adding Center Street to the exempt list. I believe the City is promoting conversion of the excess rentals stock back to owner occupant status. Adding Center Street to the exempt list would not aid that initiative.”

Ms. Wilson: Since this is a new issue for me and my husband and I are new to the area can you explain that for me?

Mr. Lopata: Since 1999, we adopted the Student Home Ordinance, which has been the most effective off-campus student housing regulation that we ever adopted. It by and large stopped the spread of the, so called, student homes to the traditional neighborhoods like where you live. One of the keys to it, though, is a safety valve where there are certain areas in the spirit of fairness, we said, for example, Wilbur Street or Cleveland Avenue or North Street, there are streets that are almost one hundred percent student rentals and, if we had applied this ordinance across the board in those areas there was certainly an inherent unfairness. – In addition, of course, any Zoning Code ordinance can be amended. So, that is really what is going on here. I think we have had four requests to add to the exempt streets list. At least two of them have been turned down. In each instance we notified the neighbors, as I said, and we try to get a sense of the community.

Ms. Wilson: One last comment or clarification. So, the comment by law enforcement, I am just wondering if it implies that the Police in the City feel that reclassifying this section would create certain problems in terms of . . .

Mr. Lopata: I read the Chief’s memo so I would not have to characterize it. You have to just take it a face value. Obviously, they do not think we should do this. The Planning Department is not making a recommendation on this one because we never do. This is the kind of thing that I think we should defer to the community and let the Planning Commission hear from the community, take into account staff comments, and then make a recommendation.

Mr. Norton: Just real quickly, based on what the Police said, I just want to let you know that I have two rental homes there, which are both rented to families and after numerous complaints from them about the lighting and whistles, I had gone to the police and asked what we could do. The Noise Ordinance said 9:00 p.m. Apparently, nothing could be done and they, basically, told me their exempt from all ordinances.

Mr. Lopata: The people in the community have asked for a change and now we have a resident who is explaining better than I can what has happened out there. I knew about the whistles because we were getting complaints about it. We met with the University and we were not able to resolve it, as far as I know.

Mr. Norton: Basically what has happened is now we have lights shining in our bedroom windows at 10:30 at night, even when the students are finished playing at 10:00 p.m. From what I understand, they don’t even have control to turn the lights off. I think they are controlled by a panel.

Also, we have the Saturday afternoon events where all of a sudden Center Street has become the parking lot for these events. Residents can’t find anywhere to park.

They are parking illegally along the cemetery along New Street. Even when we call the Police to come and ticket these people – two Saturdays ago I called them twice in a six hours period – not one single person came out.

Mr. Angela Dressel: Mr. Norton, you said that you live at 27 Center Street. I do not have numbers on here. Can you just show me which properties you own on this schematic?

Mr. Norton: I am at 27 Center Street right here. I own this one, this is an empty lot and I own this one. Basically, I am the most effected by this whole change.

Mr. Chris Hamilton: You virtually own this whole block except for the first one. As far as I know, these six properties right here are the only ones affected by that. There are actually only five homes because one is an empty lot.

Mr. Bowman: Are there any more comments or questions from the public? If not, we will come back to the table for questions.

Mr. Hamilton: I do not have any questions but I do have a comment for the audience who did not see that. This gentleman owns all but two properties on that street.

Mr. Bowman: The west side of Center Street.

Mr. Hamilton: Do you know the owners of the other two properties at all?

Mr. Norton: One is for sale.

Mr. Lopata: One is the petitioner.

Ms. Dressel: Mr. Norton seems to be the only voice we have heard from of the immediate neighborhood and he seems to be the most negatively impacted by the situation behind him and appears to be in favor, and I almost wish we had someone from the Police Department to further explain their position against this to help me to understand it.

Mr. Lopata: I think the Chief's position is sort of a general one, not so much focused on this street, that they prefer not add more. So does the Planning Department, by and large. We typically agree with that. It depends on the circumstances.

Ms. Mary Lou McDowell: I understand that but I am actually surprised to learn that it wasn't already part of the zoning.

Mr. Lopata: Right, it is the kind of thing you might think that street was already exempt. Like I said before, at the outset it could have been included because there are so many rentals there anyway.

MOTION BY DRESSEL, SECONDED BY MCDOWELL, BY THAT THE COMMISSION RECOMMENDS THAT CITY COUNCIL AMEND ZONING CODE SECTION 32-4(A) DEFINITIONS, SUB-SECTION 123.1, STUDENT HOME, BY ADDING THE WORDS, "CENTER STREET."

VOTE: 4-0

AYE: BOWMAN, DRESSEL, HAMILTON, MCDOWELL
NAY: NONE

ABSENT: BEGLEITER, RUSSELL

MOTION PASSES UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF THE REZONING OF THE 2.38 ACRE PROPERTY AT 29 W. PARK PLACE FROM RS (SINGLE FAMILY,

DETACHED) TO AC (ADULT COMMUNITY) AND BL (BUSINESS LIMITED) AND SUBDIVISION APPROVAL OF THE AC PORTION OF THIS SITE FOR A SIX UNIT CONDOMINIUM ADULT COMMUNITY, TO BE KNOWN AS BODEN MANOR.

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

“On March 29, 2007, the Planning Department received applications from South College Properties II, L.L.C, for the rezoning and major subdivision of their properties fronting at 29 West Park Place. The applicants are requesting rezoning of a 2.23 acre portion of the site from the existing RS (single family, detached) to AC (adult community) and subdivision approval to add a six-unit adult community condominium building behind the existing single family dwelling on the site. The project is to be known as Boden Manor.

As part of the subdivision and rezoning, the property line between the existing home site fronting on West Park Place and the parcel to the rear, which extends to the west of the site, will be extinguished. In addition, the rezoning and subdivision plan also calls for the rezoning from RS to BL (business limited) of a .15 acre portion of the eastern edge of 29 West Park Place to be added to the adjoining BL zoned health spa and office center at 318 South College Avenue. Additional parking for the 318 South College Avenue facility is proposed for this to-be-conveyed parcel.

Please see the attached Boden Manor rezoning and subdivision plans; color building elevations; and supporting project description.

The Planning Department’s report on the Boden Manor project follows:

Property Description and Related Data

1. Location:

29 West Park Place home site, property to the rear and portion of 318 South College Avenue.

2. Size:

To be zoned AC: 2.23 acres
To be zoned BL: .15 acres
Total Site: 2.38 acres

3. Existing Land Use:

The front portion of the property contains a single family dwelling, a garage with deck, a swimming pool, and other miscellaneous outbuildings. The rear parcel contains a small children’s play area previously used by the Jewish Community Center and YWCA (prior owners of this portion of the site).

4. Physical Condition of the Site:

The front portion of Boden Manor is a relatively large residentially developed property containing a 2½ story stone house and several accessory buildings and facilities. This area also contains several large trees at various locations. The rear (and separate tax parcel) property contains a vacant lawn area and an abandoned small playground.

In terms of topography, the Boden Manor property is very level with a slight fall in elevation from north to south.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the Boden Manor property consists of

Matapeake-Sassafras Urban Land Complex soil. According to the Natural Resources Conservation Service, this is a developed soil that does not have limitations for the use proposed.

5. Planning and Zoning:

The Boden Manor site is zoned RS. RS is a single family residential zone that permits the following:

- A. One-family detached dwelling.
- B. The taking of non-transient boarders or roomers in a one-family dwelling by an owner-occupant family resident on the premises, provided there is no display or advertising on the premises in connection with such use and provided there are not more than three boarders or roomers in any one-family dwelling. An owner-occupant taking in more than two boarders, however, must apply for and receive a rental permit.
- C. The taking of nontransient boarders or roomers in a one-family dwelling by a non-owner occupant family resident on the premises, is not a use a matter of right, but is a conditional use, provided there is no display or advertising on the premises in connection with such use, provided there are not more than two boarders or roomers in any one-family dwelling, with special requirements including the requirement for rental permits.
- D. Churches or other places of worship, with special requirements.
- E. Public and Private Schools.
- F. Municipal Parks and Playgrounds; non-profit community centers for recreational purposes.
- G. Municipal utilities; street rights-of-way.
- H. Public and private swimming pools.
- I. Temporary construction and real estate buildings.
- J. Private garages as accessory uses.
- K. Other accessory uses and accessory buildings, excluding semi-trailers and similar vehicles for storage of property.
- L. Cluster development subject to Site Plan Approval as provided in Article XXVII.
- M. Public transportation bus stops.
- N. Bed and breakfast, with special requirements
- O. Student Homes, with special requirements

RS 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).

The requested AC zoning is the City's adult community zone that permits the following:

- A. Adult community garden apartments, with special requirements.
- B. Nursing homes and related uses with special requirements.
- C. Hospitals
- E. Accessory uses
- F. Municipal utilities
- G. Parks, playgrounds, and community centers operated on a noncommercial basis.
- H. Street rights-of-ways.
- I. Utility transmission and distribution lines.

- J. Public Transportation, bus and transit stops.
- K. Physicians and dentists offices with special requirements.

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

- A. Adult community high rise apartment dwellings (above three stories and not to exceed seven stories), with special requirements.
- B. Electric and gas substations.
- C. Police, fire stations, libraries, museums and art galleries.
- D. Public transportation, bus or transit shelters and off-street parking facilities.

The requested BL zoning for the strip of land to be conveyed to the 318 South College Avenue site permits the following uses [less the “asterisked” uses that will be restricted by deed as per the prior requirements of the 318 South College Avenue subdivision].

BL is primarily an office zone that permits the following:

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

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

- A. Police and fire station, library, museum and art gallery
- B. Golf courses and country clubs
- C. Electrical and gas substations
- D. Day Care Centers
- E. * Drive-in and curb service for other than eating establishments

Regarding the requested AC zoning area requirements, the Boden Manor plan meets or can meet all the applicable specifications.

Regarding adjacent and nearby properties, the Boden Manor site is adjacent on the east to the BL zoned 318 South College Avenue health spa/office facility. RS zoned and very deep rear yards of homes fronting on South College Avenue are located south of the site. RS zoned single family parcels are located west of the northern portion of the site, fronting on West Park Place. An RS zoned rear yard of a single family home property fronting on Orchard Road lies west of the lower or southern portion of Boden Manor. A large vacant RS zoned parcel lies across West Park Place from the site. The trustees of the Protestant Episcopal Church of the Diocese of Delaware recently purchased this property. The RS zoned Christian Scientist Church lies west of the site across West Park Place at the West Park Place/Indian Road intersection.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for “single family residential (low density)” land uses at the Boden Manor location. The plan defines “single family residential (low density)” as areas appropriate for residential uses with densities ranging from one to three dwelling units per acre.

Please note, in this regard, that the Boden Manor plan calls for a total gross density (including the existing home) of 3.14 units per acre.

Status of the Site Design

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

Be that as it may, as you can see from the Boden Manor subdivision plan, supporting letter and color building elevations drawings, the applicants propose to add a 2½ story U-shaped, six unit condominium building at the rear portion of the Boden Manor site, south of the existing home site. Each of the proposed new units will contain a two-car garage. At the existing home site, the accessory buildings and pool will be removed and the two-car garage with upper rooftop deck will be retained.

Access to the site is shown at a widened driveway that connects the property to the existing home and the U-shaped condominium facility. The new parking area at 318 South College Avenue will be accessible through the driveway at the west side of that property.

As described in the applicant's supporting letter and illustrated in the building elevation drawings, the new condominium building at Boden Manor is intended to match the existing home in terms of façade design and materials. The new building is also situated on the site so as to minimize impact from the garages and access way on existing homes to the west. A new stone wall is also shown on the west side of the access driveway.

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

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of representatives from the City Manager's Office, Planning and Operating Departments – has reviewed the Boden Manor project and has provided the comments below. If necessary, the plan should be revised prior to its review by City Council.

1. The Planning Department believes that the proposed rezoning to AC (adult community) will permit a land use category that is appropriate at this location, and consistent with the City's use of this zoning category at other locations in Newark.
2. The Planning Department also notes that, while the use category may be appropriate and compatible with the nearby community, the proposed Boden Manor subdivision slightly exceeds the density suggested for the area in the Newark Comprehensive Plan. Moreover, and perhaps more importantly, the addition of six units to the site, with the resulting overall density of 3.14 units per acre, is considerably higher than the current density of the nearby RS zoned single family lands west of the property.

The Department, therefore, to establish a neighborhood template that might help the Planning Commission and Council ascertain what would be the most appropriate land use density for the area, has calculated the actual density of the lands containing existing homes (and one subdivided, vacant home site) for the properties west of Boden Manor fronting on West Park Place, to the Orchard Road intersection, and fronting on Orchard Road, within the area north of the line extending from the southern property line at Boden Manor. The Planning Department, as a result, calculated a density of 1.85 dwelling units per acre within this 3.78 acre area. The Department notes that the same density applied to Boden Manor would create a development with 4.13 units. The Department, therefore, suggests that the Boden Manor subdivision be revised to call for a maximum of three new units on the site [one existing home plus three new units = 4.0 units].

3. The Planning Department suggests that the proposed AC zoning portion of the site be voluntarily deed restricted so as not to permit the following:
 - Nursing homes and related uses
 - Hospitals
 - Physicians and dentist offices
 - Adult community high-rise apartments
 - Police, fire stations, libraries, museums and art galleries
4. The Planning Department suggests that the applicant voluntarily agree to deed restrict condominium lot #1 to require that the existing exterior architectural façade of the single family dwelling at this location be preserved under the terms and conditions of Municipal Code Section 7-16, “Historic Buildings.” Essentially, this will mean that while the property is not listed as one of our historic buildings, in this case the exterior of the structure will not be able to be substantially changed (impacting more than 50%) without a Planning Commission reviewed and City Council issued “Certificate of Economic Hardship.” Routine maintenance, of course, would be permitted.
5. The Planning Department suggests that the Planning Commission recommend as subdivision site design conditions the following:
 - A. The architectural design of the proposed new structure shall be consistent on all building elevations.
 - B. Storage areas, mechanical and all utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with a proposed architectural design [General Note #6 should be revised in this regard].
6. As indicated in Data Column notes #12 and #14, and as recommended by the Planning Department, this site will be deed restricted to limit any rentals to families or to no more than two unrelated individuals. The proposed new structure (condominium lot #2) will also be age restricted under the proposed AC zoning, while the existing structure (condominium lot #1) will not be limited to occupants 55 years of age or older.
7. As indicated in Data Column note #5, and as recommended by the Planning Department, the open area in condominium lot #2, west of the proposed new structure, will be deed restricted so as not to permit any aboveground construction.
8. The Electric Department indicates that a service can be made available to the new units at Boden Manor. General Note #14 includes the Departmental requirements regarding tree height, underground conduits and padmount transformer location. The Department adds that the applicant will be required to pay the cost for any utility pole relocation and contribute a fee of \$4,300 for onsite facilities.
9. Regarding water service, the Water and Waste Water Department indicates that the applicant will be required to pay for all meters and related equipment. The Department also indicates, regarding sanitary sewer service, that the applicant will

be required to participate in a “downstream” University of Delaware study of sanitary sewer capacity and to share in the cost of any study mandated improvements.

10. Regarding landscaping, the applicant has incorporated previous Parks Department requested changes into the landscape plan for the site.
11. The Building Department indicates that any building permits for the site will be required to meet all applicable specifications in the City Building and Fire Codes, including the requirement for sprinkling the new dwelling units.
12. The Public Works Department has approved the proposed stormwater management and drainage plans on a preliminary basis. Detailed calculations and related information will be required through the construction improvement plan process.
13. As recommended by the Police Department, Data Column note #16 has been included to ensure that overflow parking from the residential units will be available in designated areas on the adjoining 318 South College Avenue site.

Recommendation

The Planning Department believes the proposed rezoning to AC and BL, with the conditions noted above, conforms to the City’s comprehensive planning for the area. The Department also believes that the Boden Manor project, with the Department’s suggested conditions, corresponds to the development pattern of the adjacent and nearby community. Moreover, we also believe this project, again with the recommended conditions, will not have a negative impact on neighboring properties. The Department also notes that the proposed Boden Manor project, in addition to preserving an existing attractive and traditional Newark home, will add additional units to the City’s stock of homes available for older Newarkers. As a result, the Planning Department suggests **that the Planning Commission recommend that City Council:**

- A. Approve the Boden Manor rezoning from RS to AC and BL as shown on the attached Planning Department Exhibit A, dated June 5, 2007, with the conditions suggested by the Subdivision Advisory Committee;**
- B. Approve the Landmark Engineering, Inc., Boden Manor subdivision plan, dated April 27, 2007, with the conditions suggested by the Subdivision Advisory Committee.”**

Ms. Dressel: I did not understand that the property that is fronting on S. College Avenue was owned by the same organization.

Mr. Lopata: It may come under a different corporate structure but it is the same – Mr. Lang and his partners.

Mr. Bowman: If there are no further questions from the Commission, the applicants are here to give their presentation.

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

Mr. Jeff Lang: 13 Spring Water Way. As Roy noted, we purchased the JCC project about two years ago and started working on the redevelopment of that property. The gentleman who lived in what we now call Boden Manor, Leland Crist, we had conversations with him prior to his untimely death, and his trust came to us and asked us whether we would be interested in acquiring the house. Due to the fact that we owned the parcels here and the house sat here there was some logic to the thought. At the time we started investigating some alternatives with my crew here (Joe Charma, Chris Locke, Dan Hoffman). We investigated a couple of different scenarios upon which we thought were realistic reuses of the house. We wanted to maintain the house in its form and possibly add some different type either dwelling units or commercial uses. We talked to the Planning Department, Mr.

Lopata, and we tried to see what would be a realistic use for the house because we had not at that time acquired the house. I thought the house would be a great commercial use given the fact that it has a beautiful large footprint, about 5,000 square feet, not as practical for a house as you might think anymore. People don't like heating and cooling a 5,000 square foot house. It has a great footprint for an office. The ultimate thought process was to try to create a nice age restricted community here using the front acre that the house sits on and the back acre for a total of 2.3 acres for a nice age restricted community. We have been working on some age restricted communities and know there is a tremendous demand.

What we did next was, unfortunately due to our timing, we purchased the house thinking that it was a great opportunity, so about a year ago purchased the house and then started moving forward with community meetings to try to see what the temperature of the community was. At the request of Councilman Athey, we set up a number of community meetings. At the first meeting we discussed a road coming on this side of the house with a little courtyard in the back and a structure larger in nature but, basically, a structure that is buffered entirely by the house and trees that exist on the site. So, we originally proposed a 14-unit condominium project with the thought of taking the house and turning it into three additional units for a total of 17 units. We had a meeting with the community and it wasn't as warmly received as we would have liked for it to be. The discussion at that meeting was that the density was too much. I have lived directly adjacent to this on the corner of Sunset and Beverly and the majority of houses on the westerly side of this property are on bigger lots as Roy mentioned. This is obviously the point in the road where W. Park turns into E. Park and the lots on this side of the road become measurably smaller and is kind of one of those transitional areas, where there is a commercial piece on the corner that acts as a community center. At that point, we thought that the community was giving us the direction that six or seven units might be reasonable, so at that point we redesigned our project again, and moved the road from this side over here to directly abutting the adjacent property that really maintains the existing driveway, put a nice walkway with a nice stone wall. This is going to be a stone structure back here with six units in it.

Mr. Lopata: By the way, that is one structure. A lot of people have asked me. The way it is designed, it is hard to tell width.

Mr. Lang: Basically, what we have here is the existing house, which is 5,000 square feet and this sits back here and you are looking at it this way. It is one large structure which houses six units. Whether it houses three units or six units it is somewhat immaterial. One of the discussions we always get into in these meetings is density. Age restricted density is not like I am having six families live there with four kids each. I am having one or two residents in each residence. Typical AC houses are one or two people. If this was three regular single family houses, you could have a family with six kids; you would have eight people living in each house. With six units, you would have maximum of twelve. We talked about that and thought that this made logical sense for the reuse of the site. We have had a tremendous amount of demand and interest – professors who are empty nesters now, professionals (a doctor who would love to live here). Our feeling is that this is actually an asset to the community and we feel that it is going to allow us to maintain the house in its form. We have a potential buyer for the house to reuse and renovate the house – mostly cosmetically – because it is in somewhat disrepair on the exterior. The interior has a great footprint, beautiful hardwood floors but it needs some care. What we are trying to do, obviously, is a project that will make sense in the community.

The other minor point that Roy was discussing is that we are obviously swinging a road through here. We are adding a couple of parking spaces adjacent to this drive path for the benefit of this building which sits in the community as far as keeping parking on site so people won't have to park remotely in order to get to the facility.

Mr. Bowman: Are there any questions from the Commission for the applicant?

Ms. Dressel: Can you put the picture up again of your schematic? Based on what I see on the plan, it looks like three separate structures, but you are saying that it is actually one structure.

Mr. Lang: These are walkways to entrances. These are breezeways. This is like a duplex unit and this is two units. Each unit has a two car garage. There are two of them here and two of them here and the roof line attaches across the back.

Ms. Dressel: On that back area, on the plan it says proposed subservice infiltration area. Can you explain that to me?

Mr. Lang: All the stormwater, instead of digging a hole, we have developed an infiltration technique which means you can leave it as a green area. It is basically a park area.

Mr. Bowman: We will now open discussion up to members of the public.

Mr. John Stowell: My wife Pat and I live at 58 W. Park Place in the same block as Boden House. We have owned and lived in this 101 year old stone and stucco house for 27 years. It is on the National Register of Historic Places.

I appear tonight on behalf of a large number of our neighbors who have previewed my remarks. To help you identify our location and those of some others here tonight. I have a schematic plan of lots in the area, which I would like to pass out to you. You will see that our house is between John Norton's vacant lot at the corner of W. Park Place and Orchard Road and the Christian Science Church. Across Indian Road and our side of W. Park Place is a corner lot now owned by the Episcopal Diocese. On the south side of the street and after the fitness center is the Boden House (#29), then residences of Barbara Williams (#39), the Huthmacher's (#45), the Irvine's (#49) and the Carter's (#57). We appreciate the Planning Department's recommendation to scale back Mr. Lang's for six AC units to three, based on the average density of houses in our area making a total of four residences on about 2.3 acres. However, we wonder why the 1.009 acre parcel behind the Boden property is included in the calculations. Mr. Lang acquired land locked parcel with not street access when he purchased the old YWCA. We believe he should not be permitted to build residences on it unless they are permitted by the front frontage of the Boden property through which street access is obtained.

Look at other lots to the south of this parcel on S. College Avenue. All are zoned RS and contain only one single family residence. Most are very deep lots measuring over 600 feet with ample acreage to support more than one house. But the rear portions of these lots can't have another house because there isn't enough front footage to meet the Code. This sort of restriction appears elsewhere in Newark and we believe should be applied to Lang's landlocked strip of land behind the Boden property and houses on W. Park Place. What is the equality of permitting Lang to build on this rear strip of land that the fitness center owns while nearby residents are denied that opportunity. Lang's access is obtained through the Boden property, but the entire lot has only enough front footage for two houses no matter how deep it becomes through acquisitions. We believe the Boden property, which has a front footage of about 221 feet should remain RS which would allow two dwellings only – the maximum under RS zoning. We appeal to the Commission to deny Mr. Lang's request for rezoning to AC. It is not warranted for the reasons given and also will, in our opinion will diminish the value of our property and others nearby, invite more requests for spot rezonings in our district and set a bad precedent for other RS districts in the City.

We recognize that Mr. Lang has a legitimate need for additional parking for the fitness center and we have no objection to his being permitted to rezone to BL some land now zoned RS for this purpose. However, we would like the fitness center to be deed restricted so that its footprint can't be enlarged if Mr. Lang gets the 25 foot strip for parking. We would not object to either of two choices: (1) add additional parking beyond the present parking lot behind the Boden lot by rezoning to BL more property and land already owned by the fitness center and zoned RS; or (2) add additional parking by annexing and rezoning to BL a strip of land about 25 feet wide taken from the east side of the Boden property as already requested by Lang. This would leave about 190 feet of front footage – enough for two houses – both the existing Boden House and one other or two new houses. We urge you to give our suggestions careful consideration.

Mrs. Barbara Williams: 39 W. Park Place. I don't have the advantage of driving by and not seeing the structure. I am right beside it. I wanted to add to the comments by saying that I

used to be down at 245 W. Park Place and, of course, the character of that part of W. Park Place changed. I thought this was a nice piece of property so I bought it from the University of Delaware. The University did not keep the property up so it was in terrible shape. So, I invested in improving the property. This was a serious investment for me. I chose the property because it was zoned what I wanted and I like the character of old Newark. That is why I bought the property. Now, the property next to me is going to be rezoned and so, I am concerned on lots of points. I have questions. The first question is that the units go from six to three. We are told that AC is in demand. Three units is less than one percent of what I have been able to look at in terms of what is coming online – Fountainview and the Elkton Road Twin Lakes, which is a property that is being developed by Lang. It is three units but the impact on the community I think is far greater than what the three units will add. We have young folks coming to the University – faculty, staff – who would also like to be close. This property, of course, is prime property. I can't see three units adding to what is already out there. The historic aspect, again, is there a process? Why didn't the Boden property come up years ago when there was a commission to look at all the pre-1945 homes in the area? It was in better shape when that commission was done. Why it didn't make the list of historic properties? Can the City just say that we declare this historic without some kind of procedure? I do have questions and would like to revisit the impact of this area here. Oh, it's underground but what is going on. How will that really impact in terms of filtration for the properties close by? The neighbors are not interested in improving a house that is not historic. We are not interested in preserving, so we hear that there is an interest. Who's interested? Not the folks that surround the property. That is my take on the development.

Ms. Katherine Sheedy: 356 S. College Avenue which is not immediately adjacent to the property. It is approximately half a block away. I am one of the people with one of the really long lots. I actually support this proposed development for a couple of reasons. I do think it is compatible with the neighborhood. I walk through old Newark to get to work everyday and from time-to-time a new house is built on a lot and it is new construction. There are even a couple of what could be called McMansions that have been constructed in the neighborhood over the last few years. They don't look compatible with the spirit of the neighborhood. The spirit of old Newark is mixed architecture, architecture with character. Certainly the Boden House fits into that category. Also, I think the proposed development is entirely compatible with the sustainable use at the site. It is infilling an area with needed housing. And forgive me Barbara, I take your point that there are a lot of adult communities being constructed but none of them are being constructed in old Newark where you can walk to the library, where you can walk to Main Street, where you can walk to the shopping center. As being in the right age group, I am not going to move into this development because I already have a house – but walking places, not having to drive, having a pleasant neighborhood to walk in is very important to me. Also, in terms of supporting sustainable development, whenever possible – and it is not always possible – it is by far a greener solution to renovate an existing building than to abolish an existing building and build new construction. I don't have a problem with the six units. I don't have a problem with three units. I certainly would have a problem if the green field that used to be the playground was developed because that would impinge on the neighbors. But, based on the plot plan, six units do not seem onerous. Somebody brought up the point of low density on the block because of the long backyards. I believe I have one of the two of those long backyards that is still in private hands. All of the others are owned by the University. The University can go in and build whatever they want on those lots. I would never even entertain the notion of putting another housing unit on my lot because it is garden. There is a fox that lives back there. There is native vegetation. There are rabbits and snakes. That whole back piece is a habitat and it is a beautiful habitat. The green field doesn't really function as part of that habitat. The important point that I wanted to make is that most of those long yards are owned by the University so there is absolutely no guarantee that they are going to remain open space in the future.

Another reason I endorse this, and for me it is an important reason, is that it adds a higher proportion of stable residents to the block. Since, on S. College most of the houses are owned by the University, the University requires that everyone move every two years. The idea of having people come onto the block who are going to stay and be part of the community and invest in the community, as someone who has lived on the street for 30 years, is extremely important to me.

Finally, I want to endorse Roy's statement that I think it is a good spot for an adult community. So, compatible with the neighborhood, compatible with sustainable development and I think it should go ahead. I firmly endorse all the restrictions that the Planning Commission is recommending for the development with the exception, quite frankly, six units do not bother me.

Ms. Wendy Bellion: My husband George Irvine own 49 W. Park Place. Much as Mrs. Williams did – just to give you a sense of where that is – we are this property right here. So we own one of the long properties that would directly back onto the green space that is being discussed. I wanted to start off by saying we are hearing a lot about old Newark tonight. I appreciate the historic value of that term, but I want to say a few words in favor of young Newark. My husband and I purchased this house three years ago. We have a three year old child. The Huthmachers, next to us, also have a three year old child. And the Carters, next to us, have two teenagers. One of the reasons we decided to purchase a home in old Newark was for many of the reasons that are being cited in favor of this AC development. My husband and I both work at the University of Delaware. We love the idea of being able to walk to work, speaker of green alternatives for Newark. We love the idea of our son going to West Park right down the street and we love the fact that we live in a neighborhood that includes numerous children. I fear that we have purchased one of the last affordable houses in the neighborhood; however, I hope that continues. But, much as Mr. Stowell and Mrs. Williams have both voiced their objections to this plan, I would like to add my voice to that as well. I am concerned about the rezoning issue and what impact that might have on young families and children, in particular, in this neighborhood.

We have heard quite a bit about the large, long lots in this area. I think we have already seen and witnessed the effects of commercial creep in eastward from Elkton Road. I am deeply concerned about a replication of that occurring westward from the direction of S. College Avenue. I would simply urge the Planning Commission to respect the ideas that were introduced as part of the Newark Comprehensive Plan and to really consider the units per acre recommendations that were laid out as part of that plan. It seems to me that that itself set a very important precedent in terms of maintaining historic character and integrity of this neighborhood, and I would hate to see that eaten away for a commercial purpose.

Ms. Carol Aftosmis: 78 W. Park Place. I have lived in my house for 36 years. It was built in 1925. I don't consider it historic. It bothers me very much to have zoning changes because it just opens the door for further changes down the road. When we bought our house there wasn't even a stoplight on our corner. There were stop signs but no stoplights. So, I have seen a lot of changes, and every change we make sort of compresses old Newark to a smaller area and takes away from the neighborhood. So, I am not in favor of this proposal.

Ms. Dorothy Miller: 430 Orchard Road. I am on the other side of Orchard Road. So, this is not in my backyard at all, but I do want to address this over 55 stuff. I think we are going a little overboard on it. One of the nice things about this old Newark area – I consider myself part of it even though I don't back up to this particular project – is the heterogeneity of the population there. That area is a nice area for young professionals and so forth, and they would be excluded from buying something if it is over 55. I just think we are going overboard with this over 55 stuff and I object to that. At some point we have overdone it and we ought to consider that carefully. As far as the project itself goes, I am neutral.

Mrs. White: 103 Radcliffe drive. I, obviously, don't live nearby and I think that those who do should speak for their concerns. I have a couple of questions that are related but not central to some of the concerns that have been raised. I am wondering why the Boden House that exists now fronting on W. Park Place is going to be part of the AC (adult community) zoning. The only reason I can see is that if you kept that as RS, then you would make a flag lot to the back, which is not allowed by City Code. Is that correct?

Mr. Lopata: That is why.

Mrs. White: Now that I know the reason, if you are going to rezone the whole property including the front building, why can you allow people to live there who are under 55 or who are any age. It seems to me that if you rezone it, I don't see in the Zoning Code under

AC a use that a single family home that is open to any age. Why can that be sold to somebody . . .

Mr. Lopata: You lost me, Jean.

Mrs. White: If you look at AC zoning and you see all the different uses, one of them is age restricted. Unless I read it improperly, there isn't under AC zoning there isn't single family homes.

Mr. Lopata: These are not single family homes. He is proposed six units attached.

Mrs. White: I am speaking about one.

Mr. Lopata: That would be deed restricted to allow it. It is a legal nonconforming use so it would continue. When we rezone, we do that all the time.

Mrs. White: Because it already exists.

Mr. Lopata: Correct.

Mrs. White: If it didn't already exist, you couldn't create a single family home that was under AC.

Mr. Lopata: If it did not already exist they could build, as John said, two units on the site and subdivide it – two homes side-by-side.

Mrs. White: But, it is now going to be a single family home bought and lived in by any age but still sitting within the AC zone.

Mr. Lopata: Correct. The existing house will be a legal nonconforming use. If it is approved, everyone will know what is happening.

Mrs. White: I know there is condominium one, which is just that house that exists now and condominium two is the six or three units. Although we call that a condominium, a person is actually going to buy that and are going to live in it just like the rest of us live in our house as a property owner, but we don't call our houses condominiums.

Mr. Lopata: Just like Southridge. They are condominiums but they are three stories.

Mrs. White: No, I am not talking about the ones in the back. I mean the front house.

Mr. Lopata: That is going to be a single family type dwelling. That will be a legal nonconforming use.

Mrs. White: It is called a condominium but it is actually . . .

Mr. Lopata: That is between Mr. Lang and the purchaser in terms of how they do the maintenance.

Mrs. White: So, they could be part of the maintenance association.

Mr. Lopata: I assume they would not be. That would be odd, but it could be done. Perhaps, if there are only four units, they could share the cost.

Mrs. White: Or they might not because they have a large property.

Mr. Lopata: Correct.

Mrs. White: Note #12 on the blueprint #2 says the existing single family residence on lot #1 will be deed restricted to permit only one family or not more than two unrelated persons. I presume that means only one family or not more than unrelated to buy it.

Mr. Lopata: That goes with our normal deed restriction that we use for town homes and others.

Mrs. White: Okay, but the question that I had is if somebody has bought that house condominium, one can rent up to three unrelated people.

Mr. Lopata: But, we are restricting this more heavily because Mr. Lang is asking to put a use on the property that would otherwise not be permitted. The Planning Department tends to feel like if somebody gets something from the community, they ought to give something back.

Mrs. White: I am still having trouble explaining. if somebody buys a house as an owner occupant as a separate issue, you can rent to two unrelated people without getting a rental permit and then if you go to three you need to get a special permit.

Mr. Lopata: I am proposing restricting that to two.

Mrs. White: So, you are restricting that as well.

Mr. Lopata: Correct.

Mrs. White: It wasn't clear to me from note #12.

Mr. Lopata: The idea is to make sure that that doesn't become a rental unit.

Mrs. White: But, that is my point. If somebody lives in it, it is not a rental unit, it is owner occupied. Can they rent it to more than three?

Mr. Lopata: The idea is to keep it from becoming a rental unit.

Mrs. White: I know. That is what #12 is, but if somebody lives on a street and owns the house, it is not a rental unit; they are just an owner occupant.

Mr. Lopata: That is not what I am concerned about. The idea is to keep it from coming to three tenants.

Mrs. White: In other words, note #12 does not deal with a rental permit where the owner occupant lives there. It does not deal with it at all so they could have three renters there.

Mr. Lopata: No, we want to keep it to two.

Mrs. White: They are two separate things.

Mr. Lopata: That was not Mr. Lang's proposal, that was mine.

Mrs. White: I don't know what the community would think and it is what they think that is important, but looking at the landscape plan, I wondered why in the turf area why one might not put trees. I didn't know whether that turf area would be used for children to play in or something even though it might not be theirs. Obviously, you wouldn't put it in the middle where you have the stormwater management area, but I just wondered why you are keeping it all at turf.

Mr. Lopata: It is probably because of the stormwater management.

Mrs. White: That looks like it only involves the middle.

Mr. Lopata: Mr. Charma will address that.

Mrs. White: Finally, I had two questions that are quite peripheral to the plan in front of us. When Mr. Lang was buying the Jewish Community Center property and then it got converted to the fitness center, I had appeared before Council at that point. The question I have relates because we are talking about the playground area. At the time it brought up the

presence of the memorial playground and the sign that was in memory of Kay Thally – a woman who was dedicated to her family and community. I asked whether Mr. Lange would be contacting the family as to what they wanted to do with the sign and, particularly, what would happen to the playground equipment. I have two questions. Did you, Mr. Lang . . .

Mr. Bowman: Mrs. White, that is not relevant to this discussion. That is an issue that needs to be discussed at another time with Mr. Lang.

Mrs. White: The playground area is part of this project. So, I think it is fair to ask the question.

Mr. Bowman: That's fine, but that question related to the purchase of the Jewish Community Center which is not before this body tonight. So, if you want to ask Mr. Lang that off-line you are welcome to do that, but it is not relevant here and we don't need to spend time on it.

Mrs. White: The playground is part of this development so I thought it was a fair question as to what happened to the playground equipment.

Mr. Tim Spalding: My wife (Miranda Wilson) and I recently bought the property at 329 Orchard Road. So, we are close to the development here. It concerns me about the spot rezoning and the randomness of that. We were talking about three units vs. six units. I got from the discussion that Mr. Lang suggested that the number of units was irrelevant but the footprint would be the same size. This footprint is very large compared to the existing Boden House and that was one of the things that concerned me about changing the character of old Newark. I also want to say that my concern is also three units, six units, I think there is a big difference, but again, the footprint is still huge. The traffic issue is something of a large concern to me. We have a driveway of this nature. This is an already very densely populated with cars area. I think there is also another concern, why we would want to limit the number of people that would be going in and out of that area. My wife and I want to join the chorus of people who oppose this motion.

Mrs. Williams: I think I forgot to say that I object to the rezoning. I just want to go on the record.

Ms. Kay Lutz: 391 Phillips Avenue. I think I came with old Newark and I will be moving very shortly to an adult community. The Boden property has incredible historic value. Where is the Historical Society when we really need them? Most of the time they are here rousting about something. The Boden property is very significant. Some of you probably don't even realize that at Newark High School for years an award was given out entitled the Boden Award. There is a lot of background there about Newark. I don't know what somebody else would want to do with that property. I think it is the best possible use for a beautiful historical building. Although I will not be living at 391 Phillips Avenue forever, I would definitely support it.

Mr. David Stockman: 227 Orchard Road. I live a couple of blocks away. I just want to be on record for saying that I support the objections to the proposal.

Mr. Bowman: If there is no one else from the public that wants to comment, we will give the applicant an opportunity to address some of the issues that were raised and then we will bring it back to the table if they so desire.

Mr. Chris Locke: Lang Development, Director of Residential Development. I would like to address some of the issues that were put up by the members of the public. First, in regards to the community itself, this is an upscale community. We are looking at the six units ranging anywhere from about 1,300/1,400 square feet up to about 2,300/2,500 square feet. You are looking at price ranges of \$375,000 to a half million dollars. This is not like the Village of Twin Lakes. This is not like Fountainview. This is a much more upscale community to the AC units that would only enhance the residential values of the adjoining properties as well as people who are speaking in the development that is across the street on W. Park Place. This is minimum intrusion on the adjoining properties. As you can see by the site, this (inaudible) does not get near the adjoining properties. We deliberately did that

after comments at our October meeting as well as our April meeting with members in the community.

The quality of the building. Someone said it was much bigger than Boden Manor. It is not much bigger. Boden Manor has about 5,000 square feet. This building would be about 10,500 square feet. So it is twice, but it is not much bigger. If we wanted to knock down Boden Manor, we could build two 7,500 square foot homes for 15,000 square feet.

Also, I think we need to look at W. Park Place and E. Park Place. Someone had mentioned the changing characteristic of this community. Of the 65 residential lots that are on E. Park Place, 48 have rental permits. Of the 34 residential lots on W. Park Place, 16 have rental permits. So, we are actually enhancing this corridor by building an AC community. We are trying to take this corridor from primarily a rental area to, hopefully, something different. Also, you have on W. Park Place commercial use. You have a funeral home, you have a couple of churches, you have an accounting office, a chiropractic office and a doctor's office. So again, this is enhancing the area.

To say that this project will affect the residential nature of people who live on Orchard and Townsend and Sunset is kind of like me saying that I live in Fairfield and the Fairfield Shopping Center affects the residential component of Fairfield or Fairfield Crest. This is residential. We are not looking to build an office building. We are not looking to build a strip shopping center. We are looking to build more residential units.

I also wanted to point out, I am sure that the members of the Commission are aware that in both March and April you had two other communities come up for rezoning. You had the property CampusSide on 896 presented by Kevin Mayhew. That was .972 acres and you allowed ten townhouses of rentals. Mr. Lopata pointed out that it did comply to the Newark Comprehensive Plan which this project does as well. Planning thought that it was good that maybe someday these units would be owner occupant. These units are going to be owner occupant. We address that as well. He also said in support of that project that to corresponded to the developmental pattern in the immediate neighborhood of the site. This one does as well. It is residential in nature.

On April 6th the Planning Commission looked at Sutton Place. Sutton Place was 1.16 acres and you approved 12 town homes. Again, most likely rentals. It did not conflict with the Comprehensive Plan and you approved it. Joe Charma will speak in more detail about what the Comprehensive Plan says. It says low to medium density. Low density is one to three units per acre. Medium is four to ten units per acre. This, I believe, is 3.14.

Mr. Joe Charma: I am with Landmark Engineering and I also live at 711 Harvard Lane in Newark, Delaware. I guess I just want to address a couple of comments that were made earlier, technical comments focusing on a lot of, for obvious reasons, zoning issues, but one comment that I heard was about the stormwater management system. What would be the effect on the neighborhood? I think that the system that is proposed here is the best possible system that you can design. Fortunately, this site has good infiltration rates. We field tested at 10 to 20 inches per hour which is very, very good. It is really surprising for Newark because the nature of geology here is generally not like that. So, what that means is we are taking the runoff – and the computations have been reviewed by the Public Works Department – from the 100 year event, which concerns everyone and we are infiltrating that in the ground. There is no run-off. Public Works is very pleased with the design. That design, again, being a subsurface system, we get to use the land. We don't lose the land to a big hole in the ground which becomes an eyesore with cat tails, children and all sorts of things. Fortunately, on this site we have an option that is a preferred design. Right now it is the preferred design recommended by the Department of Natural Resources. It is one of the best green technology practices you can employ.

I just want to touch on traffic. Age restricted communities are – and it is well documented by hundreds of traffic impact studies that are compiled in the Institute of Traffic Engineering Manual – we have traffic volumes that are very low. A single family home has upwards of ten trips per day. An age restricted home might take two or three trips a day. It is dramatically different, not to mention the driving habits of over 55, generally, people are not rushing out there at eight o'clock in the morning to get to work because they are retired

– most of them. Similarly, in the afternoon they are not rushing home between four and six. So, from a traffic impact perspective – and I know DelDOT would agree, and I know also that the Planning Department would have recommended a traffic impact study had they felt that there was going to be significant impact – I just want to be on record stating that the traffic impact is negligible.

With respect to Mr. Locke’s comments about the density and a lot of the comments we heard earlier. I have taken a look at the Comprehensive Plan. I would like to note that Mr. Lopata did a great job of projecting what the density would be in the area immediately around the proposed subdivision on the south side of W. Park Place and to Orchard Road, but, realistically, we need to look at a little larger slice of the community. In other words, we need to look at what is going on on E. Park Place and that side of College Avenue. What I have prepared is a brief analysis of what the density (as I calculate it) is. What I did was, for you in the audience who can’t see this plan, I took this site and looked at the neighborhoods right around the site, in other words, on the north side of Park Place and on the east side of College Avenue. I might add, the area that Mr. Lopata calculated, he calculated a density of 1.85 immediately around the project. My calculation came out to 1.82. I actually included more area and more lots and it still comes out to the same density, so I thought we were on the right page.

Going through the analysis and looking at the other densities of the adjacent neighborhoods across the street, if you will, from the site, we come out with an average density of 3.26 dwelling units per acre. Again, this proposal was 3.14 dwelling units per acre and it is just slightly higher than the recommended Comp Plan density of 3 units per acre. And, again, I refer back to planning sections of D and J of the Comprehensive Plan where they refer to the density. Planning Section D is the planning section that does include the Boden Manor site and that is listed as single family residential (low density). Low density is one to three units per acre. If you cross Route 896 to the east, that is Planning Section J and that area is characterized as single family residential (medium density) and multi-family residential. And, that is kind of what you have over there. Again, that density is four to ten units per acre. This area with the commercial property (former Jewish Community Center) and transitioning to a density of about three (3.14 to be exact) it does serve as a transition area from that medium density on the east side of College Avenue to the lower density of the rest of the community where Ms. Williams residents. The AC zoning, it being age restricted will guarantee the density would not change in conjunction with the deed restrictions that are proposed by the Planning Department. So, I think this rezoning would protect the community and add value to it.

As Mr. Locke mentioned, these units are higher end units. We are proposing six units so they will be a higher end unit. As you can see from the architectural renderings, they are very much in character with the Boden House. It is our intention to have that building look like it has always been there and part of that property.

Mr. Lopata: I have a quick comment on Joe’s calculations. I think anyone who lives in that area, Joe’s areas 1, 2, and 3, are all west of S. College Avenue and you have come up with density similar to what I did. On the east side of S. College Avenue, of course, you have much higher densities. Anyone who lives in that area knows that that neighborhood is really a different neighborhood. I don’t want to get into a debate about it, but it seems to me that 1, 2 and 3 really prove my point that that part of little old Newark is relatively large, deep lots that has been zoned RS for generations just like across the street is RD. If we were to permit a slightly different use with the kinds of conditions that I think are important like saving the house and adding a few more units, we ought to make sure the number of units is much more compatible with the neighborhood. Reasonable people can differ; even unreasonable people can differ.

Mr. Charma: I would say that the density is reasonable with respect to transitioning down from the higher density down to the lower.

Mr. Lopata: To me, that is a good argument for the AC zoning, that it is a transitional area. That is the argument I would make on your “side of the fence” to say it makes sense to have AC because it is a slightly different area as you get closer to S. College. I do not think it is a good argument for additional units. I am trying, first of all, to respond to what I feel is a

strong sense in the community to not really unbalance the number of units per acre. I picked that up, obviously, from previous discussions we have had with people in the community. It makes sense. The other projects you mentioned were totally different locations – the ones that Chris went over and you mentioned. I don't think they are relevant.

Can I add one more little thing? We have an urban myth in Newark. It is called the W. Park Place commercial creep myth. I have lived in the City for 37 years. There is no commercial creep on W. Park Place. In fact, there is less commercial on W. Park Place and Elkton Road than when I moved here. There was Deerpark's Market and a gas station at the corner. There was a little Folks Fabric building that is still there. All the other uses are residential and the funeral home. They have not changed at all except as Mr. Locke pointed out, we have more student rentals. That has been the principal change on W. Park Place not commercial development. As I said, there is less commercial development. The Code used to permit dentist and doctor's offices in residential districts. We no longer do. So, that is why you have in old Newark some of these doctor's offices around the City that you no longer see.

Mr. Bowman: I will bring it back to the members of the Commission for any questions that you might have. I have one for Roy. This issue of frontage, I am not sure what impact that has. Could you elaborate a little bit.

Mr. Lopata: In the RS district, the Code requires 75 feet of lot width for a single family home. In this case, it is a bizarre shaped lot. If it was to be developed in a non-single family detached was the only way to do it, of course – is to come up with a zoning that would allow units behind units. We do not allow that in RS. AC – there are other zones that would allow it – I felt was by far the most compatible. If we are going to put units back there, we ought to put something that is, obviously, not going to become student housing and other kinds of uses I will just tell you, most of the inquiries I received for the Boden property before Mr. Lang bought it were for offices, hotels, a bed and breakfast, which I actually thought was a good idea. There was some discussion about tearing down the house, which I am surprised that some people don't seem to be concerned about that. I know this is not a "historic house," but I think it is a nice old home and if there is a way of saving it, we are all better off for that.

Ms. Dressel: I appreciate Mr. Charma coming up with all of these densities for that whole area because I think it is helping me make, hopefully, a point here. I also agree with Mr. Lopata that Sections 4 and 5 are not really relevant to this discussion with this particular property because it is in the Center of your Section 3 on here. When I do the math using just section 1, 2 and 3, I come up with a density of 2.1 which looks to me like it would allow about 4.8 units total for the whole property. So, it makes sense to me that we would reduce the density of this property to comply with the rest of the neighborhood. Personally, I think there are already a lot of AC designations coming into Newark; however, listening to the discussions from Mr. Lopata I also think that this is also a way of preventing some more negative construction in that area. It seems to me that if it came down to three additional units I agree that the footprint would probably need to be reduced because I can't imagine selling something that large for the price that you would then need to sell it at. So, I guess I am leaning towards the AC but reducing the units.

Mr. Hamilton: I am very concerned about the comparisons of the densities across the street. If anybody had been in that neighborhood and your, Mr. Lang, should know because you are from the area, those two comparisons are not fair. E. Park Place is a completely different animal than W. Park Place. In addition, I am not sure why two 7,500 square foot home wouldn't fit better on those lots and add value to the property. I can understand everybody trying to work a compromise here but I don't necessarily think we have to compromise on this particular property. It is almost an entryway into old Newark. I am not sure we should change that unless it is for the better of the community. Although I admire the attempt, I am not seeing how this actually helps the community. The other two projects that we have approved are, again, a completely different beast. I am rather shocked that anybody would make those comparisons. If you know this property, it is nothing like those other properties, so I am not in favor of this project.

Mr. Bowman: If there is nothing further, the Chair will entertain a motion.

MOTION BY MCDOWELL, SECONDED BY DRESSEL THAT THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

- A. APPROVE THE BODEN MANOR REZONING FROM RS TO AC AND BL AS SHOWN ON THE ATTACHED PLANNING DEPARTMENT EXHIBIT A, DATED JUNE 5, 2007, WITH THE CONDITIONS SUGGESTED BY THE SUBDIVISION ADVISORY COMMITTEE;
- B. APPROVE THE LANDMARK ENGINEERING, INC., BODEN MANOR SUBDIVISION PLAN, DATED APRIL 27, 2007, WITH THE CONDITIONS SUGGESTED BY THE SUBDIVISION ADVISORY COMMITTEE.

VOTE: 3-1

AYE: BOWMAN, DRESSEL, MCDOWELL

NAY: HAMILTON

ABSENT: BEGLEITER, RUSSELL

MOTION PASSES

Meeting adjourned at 9:05 p.m.

Respectfully Submitted,

Elizabeth A. Dowell
Secretary, Planning Commission