

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

MARCH 5, 2013

7:00 p.m.

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

Chairman: James Bowman

Commissioners Present: Patricia Brill
Peggy Brown
Angela Dressel
Andy Hegedus
Edgar Johnson

Commissioners Absent: Bob Cronin

Staff Present: Maureen Feeney Roser, Planning and Development Director
Mike Fortner, Development Supervisor
Jerry Clifton, Councilman, District 2
Stu Markham, Councilman, District 6

Chairman James Bowman called the March 5, 2013 Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE FEBRUARY 5, 2013 PLANNING COMMISSION MEETING.

MOTION BY HEGEDUS, SECONDED BY BRILL, THE MINUTES OF THE FEBRUARY 5, 2013 PLANNING COMMISSION MEETING WERE UNANIMOUSLY APPROVED.

2. ELECTION OF OFFICERS AND 2013 CALENDAR.

Ms Feeney Roser: Our Charter indicates that we are to elect a Chair and a Vice Chair from the membership of the Commission annually. It was pointed out by the members of the Commission who attended a training session on the role of the Planning Commission offered by the University of Delaware that the State Law also requires a Secretary be elected. Of course, in our case a secretary would be delegating the secretarial responsibilities to Elizabeth who is the Planning and Development Department Secretary, but a secretary in title could be incorporated into the Vice Chair position and comply. So, at this point, we need to have nominations for a Chair and a Vice Chair/Secretary position.

MOTION BY DRESSEL, SECONDED BY HEGEDUS, JAMES BOWMAN WAS NOMINATED AS CHAIRMAN OF THE PLANNING COMMISSION.

NO OTHER NOMINIATIONS WERE MADE.

VOTE: 6-0

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

NAY: NONE

ABSENT: CRONIN

MOTION PASSED UNANIMOUSLY

MOTION BY BROWN, SECONDED BY HEGEDUS, ANGELA DRESSEL WAS NOMINATED AS VICE CHAIRMAN/SECRETARY OF THE PLANNING COMMISSION.

NO OTHER NOMINIATIONS WERE MADE.

VOTE: 6-0

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

NAY: NONE

ABSENT: CRONIN

MOTION PASSED UNANIMOUSLY

Ms. Feeney Roser: Ms. Dressel will now be delegating secretarial responsibilities to Elizabeth Dowell. Thank you Elizabeth. The meeting schedule for the 2013 year is in your packet.

Mr. Bowman: Given the number of items on the agenda tonight and the fact that it looks like there are a number of popular subjects, I am going to exercise the Chair's prerogative to limit public comments to no more than five minutes. I would ask you that if you come up to comment that if someone before you has made the same comment that you limit your time and basically say that you are in agreement or disagreement with the project. If we, again, get too long, I will shorten that time to three minutes. Otherwise, some of us will be here until two or three o'clock in the morning, and I don't think we really want to do that.

3. REVIEW AND CONSIDERATION OF A REZONING, MAJOR SUBDIVISION, TWO SPECIAL USE PERMITS AND A PARKING WAIVER FOR THE PROPERTY LOCATED AT 230 E. MAIN STREET (NEWARK SHOPPING CENTER). THE APPLICANTS ARE REQUESTING DEVELOPMENT APPROVAL TO RENOVATE THE EXISTING SHOPPING CENTER, AND BUILD A BANK WITH DRIVE-THROUGH WINDOW SERVICE AND 220 TWO-BEDROOM APARTMENTS AND ASSOCIATED PARKING GARAGE.

Ms. Feeney Roser summarized her report to the Planning Commission which reads as follows:

"On November 20, 2012, the Planning and Development Department received applications from Atlantic Realty Companies, Inc. for rezoning, major subdivision, two special use permits and a parking waiver for the property located at 230 E. Main Street (Newark Shopping Center). The applicants are requesting development approval to renovate the existing shopping center, and build a bank with drive-through window service and 220 one and two-bedroom apartments and associated parking garage. The applicants have applied for the required 36 space parking waiver, as well as special use permits for apartments in the BB district and for the bank drive-through. Please see the Urban Engineering, rezoning, major subdivision, parking waiver and special use permits plans; color building elevation drawings and the applicant's supporting materials.

The Planning and Development Department Report on the Newark Shopping Center project follows:

Description and Related Data

A. Location:

North side of E. Main Street adjacent to and east of the Pomeroy Trail.

B. Size:

16.4479 acres

C. Existing land Use:

The site is currently the home of the Newark Shopping Center, which has a series of commercial spaces in a sequence of five buildings, about half of which are occupied. The Newark Cinema Center anchors the northern most building, with the Enterprise rental facility at the northwestern boundary, and the Brunswick Blue Hen Lanes bowling alley at the northeastern corner of the property. The site also contains associated access ways and parking for all facilities.

D. Physical Condition of the Site:

The Newark Shopping Center property is a developed site containing existing commercial buildings and surface parking lots on one tax parcel. The proposed development divides the shopping center into two parcels. Lot 1A fronts on Main Street and is currently almost completely paved with a narrow grass strip along Main Street behind the sidewalk. In terms of topography, Lot 1A is relatively flat with a gentle slope from highs in the northeast to the west, towards the Pomeroy Trail. To the north of Lot 1A is a steep embankment leading to the CSX Railroad line. Similarly, Lot 1B which now contains the Brunswick Blue Hen Lanes bowling alley is a relatively flat paved area with wetlands to the east of the pavement and a gentle slope from south to north. Lot 1B also has a steep embankment leading up to the CSX Railroad line at the northern boundary.

Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service, the Newark Shopping Center site consists of Urban Land (Up). 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.

E. Planning and Zoning:

The Newark Shopping Center is currently zoned BC. BC is general business zoning that permits the following:

- A. Auction
- B. Automobile, truck, rentals, retail, and wholesale sales with special requirements
- C. Crating service
- D. Frozen food locker
- E. Ice Manufacture
- F. Sign painting and manufacture
- G. Warehousing with special requirements
- H. Wholesale sales with special requirements
- I. Photo developing and finishing
- J. Veterinary hospital
- K. Cleaning and dyeing plants
- L. Commercial laundries/dry cleaners
- M. Laundromats
- N. Outdoor commercial recreational facilities with special requirements
- O. Swimming club, private or commercial
- P. Social club, fraternal, social service, union and civic organizations, except on ground floor locations
- Q. Studio for artists, designers, photographers, musicians, and sculptors
- R. Offices for professional services and administrative activities
- S. Personal service establishments
- T. Finance institutions, banks, loan companies
- U. Retail and specialty stores
- V. Repair and servicing, indoor and off-site, of any article for sale, which is permitted in this district
- W. Related indoor storage facilities are permitted as an accessory use to any of the permitted uses in this district
- X. Accessory uses and accessory buildings
- Y. Restaurants, taverns, bakery-restaurants, and delicatessens
- Z. Public parking garage and parking lot
 - a. Parking off-street

- b. Public transportation facilities, including bus or transit stops for the loading and unloading of passengers; station and depots
- c. Street, right-of-way
- d. Utility transmission and distribution lines
- e. Water tower, water reservoir, water storage tank, pumping station, and sewer
- f. Retail food stores up to 5,000 square feet in maximum floor area, limited to bakeries confectionery, candy, gourmet shops, small convenience grocery, and meat sales facilities. Goods produced on the premises shall be sold only on the premises

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

- A. Automobile repair and/or service station, paint and/or body shop with special requirements
- B. Self-service car wash establishment with special requirements
- C. Automobile/motor vehicle repair with special requirements
- D. Automatic car wash establishment with special requirements
- E. Used car lots
- F. Retail food stores
- G. Fast-food and cafeteria style restaurants with special requirements
- H. Drive-in restaurants, with special requirements
- I. Drive-in and curbside service for other than eating establishments.
- J. Substation, electric, gas, and telephone central office with special requirements
- K. Tower, broadcasting and telecommunications with special requirements
- L. Police and fire stations
- M. Library, museum and art gallery
- N. Church, or other place of worship, seminary or convent, parish house, or Sunday school building
- O. Instructional, business or trade schools
- P. Motels and hotels
- Q. Commercial indoor recreation and indoor theaters
- R. Adult bookstore/adult entertainment center with special requirements
- S. Restaurants with alcoholic beverages

The applicant is requesting BB zoning. BB is a downtown central business district zoning 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 the off-street parking waiver requested for uses at the site, the Newark Shopping Center plan meets all applicable Zoning Code requirements.

In addition, regarding requirements, special use permits are required for a bank with drive-through service, and for apartments in the BB zone.

Regarding nearby properties, the Newark Shopping Center site is adjacent on the east to the Pomeroy Trail. The MI (general industrial) zoned right-of-way of the CSX Railroad is located above a steep embankment just north of the site. A series of BB zoned commercial properties are adjacent to the west of the site including Mojo Main and Market East Plaza. Across Main Street, south of the site, are a series of BB zoned mixed use properties, as well as Farmer Lane and the access to the DelDOT Transit Hub.

Regarding comprehensive planning, the Newark Comprehensive Development Plan IV calls for “commercial (pedestrian oriented)” uses at the Newark Shopping Center site. Commercial (pedestrian-oriented) land uses are defined as all types of retail facilities for the buying and selling of goods and services as well as administrative and professional offices, personal service establishments, eating establishments and shopping centers. Residential uses may be permitted under certain limited circumstances. Note the majority of downtown Newark is classified under this Comp Plan land use definition.

In addition, the Plan’s Downtown Economic Enhancement Strategy suggests, “Downtown Core District” land uses for the site. The Strategy describes this district as:

“ . . . [the] center of Newark’s commercial business district 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; their compatibility with the 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 downtown economic environment; and potential significant negative impacts on nearby established businesses and residential neighborhoods.”

Regarding gross residential site density, please note that the portion of the Newark Shopping Center major subdivision and special use permit plan which calls for residential uses calls for 47.79 dwelling units per acre. By way of comparison with recently approved BB zoned projects along Main Street, please note the following densities:

<u>Development</u>	<u>Units Per Acre</u>
102 E. Main Street	20.83

108 E. Main Street	14.71
113 E. Main Street (Washington House)	36.10
129 E. Main Street	35.29
137 E. Main Street	24.00
257 E. Main Street	8.00

As noted above, the Commission should weigh this requested density against the overall contribution of the project to the quality of the downtown economic and aesthetic environment.

BB District Off-Street Parking Option Procedure

The applicants are requesting a 36 space parking waiver on the Lot 1A for the shopping center (commercial) parcel. The Zoning Code calls for 571 spaces (142, 775 sq. ft. X 4/1000 sq. ft.) to service this development, and the plan provides 534 spaces. The residential parcel (Lot #1B) exceeds the parking requirements for the uses proposed at that site.

The BB district off-street parking waiver program, adopted by the City to encourage downtown economic development, 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 dependant 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 the 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 and Development 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 the Planning and Development Director and/or the City Manager.”

Also regarding the requested parking waiver, our procedure specifies that applicants receiving such approvals must make a “payment in lieu of spaces” to the City used to improve parking downtown. The required payment, based on an estimate of the cost of construction of a surface level parking space provided by the Public Works and Water Resources Department (PWWR) of \$5,388* is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 1,347 (5% of Cost)
Six to Twenty-five (19)	\$ 51,186 (50% of Cost)
Over Twenty-five (12)	<u>\$ 64,656</u> (100% of Cost)
Total:	\$117,189

Comments regarding this “payment in lieu of spaces” and related comments regarding this issue appear below in the Subdivision Advisory Committee comments. The applicant’s supporting letter with comments regarding the parking waiver is attached.

*Note: This estimate to construct a surface level parking space is based on 2008 construction costs. On February 8, 2013, at the Planning and Development Department’s request, the PWWR Department revised the estimate of the cost of construction of one surface level parking space to \$6,272, which is the figure that will be used for parking waiver applications received after the date of the estimate.

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, related exterior features, and existing utility lines. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, as you can see from the Newark Shopping Center rezoning and subdivision plans, supporting letter and applicant’s color building elevation drawings, the proposal calls for renovating and restoring the existing shopping center through selective demolition of portions of existing commercial buildings to improve access to the Pomeroy Trail and the proposed residential section, as well as significant façade, pedestrian and landscape improvements. The plan also proposes to construct a 4,200 sq. ft. bank with drive-through service fronting on Main Street. In addition, the plan also calls for the demolition of the existing bowling alley and the construction of a 220 unit apartment building with center courtyard and an associated 455 space garage.

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 Committee. Because the project involving the rehabilitation of an existing shopping center does not fit into the framework of the DNP Design Guidelines which focuses on “mixed-use” buildings, the Committee reviewed the project using its “unique design” category. As a result, the Committee recommended that Council approve the Newark Shopping Center plan with a couple of caveats. Specifically, the Design Committee has recommended in favor of the design, even though the parking lot existing between the street and commercial buildings does not meet the Design Guidelines. The Committee cites the proposed bank pad site being brought up to the sidewalk on Main Street and the proposed connection to the Pomeroy Trail as desirable attributes for the recommendation.

Special Use Permits

Zoning Code Section 32-78, Special Use Permits, stipulates that Council may issue a special use permit provided the applicants demonstrate that the proposed use will not:

- "A. Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- B. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- C. Be in conflict with the purposes of the comprehensive development plan of the city."

Please note that the applicants will need two special use permits for the proposed uses. Specifically, a special use permit is required for the drive-through window service at the bank fronting on Main Street and a special use permit is necessary for the 220 apartments in downtown.

Fiscal Impact

The Planning and Development Department has evaluated the impact of the Newark Shopping Center project on Newark's municipal finances. The estimates are based on the Department's Fiscal Impact Model. The Model projects the Newark Shopping development plan's fiscal impact; that is, the total annual municipal revenues less the cost of municipal services provided. Based on the Model's estimate, we project the annual Newark Shopping Center net revenue to be as follows:

First Year:	\$87,564.12
Second year & Thereafter:	\$71,064.12

Please note that the current fiscal impact of the shopping center is not calculated into this estimate. In other words, the impact is calculated from the complete proposed project, and not the difference between what is currently generated and what will be generated if the development is approved. In addition, please note that the difference between the first and future years' estimates is the anticipated real estate transfer tax in the first year from the sale of Lot 1B to a residential builder/developer, once approved.

Traffic and Transportation

In light of the size, scale, and location of the Newark Shopping Center project and the requirement for the State of Delaware Department of Transportation (DelDOT) entrance/exit permit, we have asked DelDOT to review this project.

In response, DelDOT indicates:

- The redevelopment plan does not meet the warrants for a Traffic Impact Study (TIS) in that the proposed plan's peak hour trip generation is estimated to increase by less than 50 vehicle trips, and the site's daily trip generation is estimated to decrease;
- While the Department would normally require a right-of-way dedication of 50 feet from the center line along the center's Main Street frontage, because of the urban location of the site, they may reduce this requirement;
- Only right turns out should be permitted at the west entrance on Main Street. Removing the rights-in option will avoid the potential for conflicts caused by vehicles turning in to the center, while bank customers are leaving the site.
- All entrances will need to be improved to meet current DelDOT standards, and adequate site distance needs to be verified at each entrance. There shall be no buildings, parking or other obstacles within the site triangle.
- ADA improvements will be required along the frontage of roadways and entrances.

- The developer finds it essential to have a traffic signal at the Chapel Street entrance to the site. In support of DelDOT installing one, they have prepared a Traffic Operational Analysis, which they have also submitted for review. DelDOT's Traffic Section has not yet determined whether a signal can be installed at the requested location, and will advise the City and the developer of its determination at a later date.

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development plan for the site and has the comments below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Electric Department notes that, as previously discussed with the developer access will have to be provided behind the proposed parking structure in order for bucket trucks to be able to service utility poles at the location.
2. The Electric Department indicates that Delmarva Power will have to approve the design for the location of a guy and anchor for the 138,000 volt transmission system.
3. The Public Works and Water Resources Department (PWWR) notes that the cost of water meters must be paid for by the developer, and meters will have to be centrally located. The location will have to be approved by the Department.
4. The PWWR Department notes that STP fees will be due at the time of the issuance of the CO for each unit.
5. The PWWR Department notes that additional comments will be forthcoming during the CIP phase.
6. The Code Enforcement Division of the Planning and Development Department indicates that the project will be reviewed using the 2012 ICC Codes and Delaware State Fire Prevention Regulations. The Division will have additional comments in this regard during the CIP process.
7. Planning and Development Department indicates that the proposed mix of commercial and residential land uses at the Newark Shopping Center site corresponds to recently approved downtown development projects and the Comprehensive Development Plan IV, because even though it does not result in mixed use buildings, it does result in a mix of commercial and residential uses on the same property.
8. The Planning and Development Department notes that the rezoning of the 16.4479 acres from BC (a purely commercial zoning category) to BB, a zoning category which permits traditional downtown development with mixed use buildings in the heart of Newark is consistent with the zoning in the area and desirable for proficient planning and economic development in the downtown district.
9. The Planning and Development Department indicates, regarding the requested 36 space parking waiver, that even with the addition of the bank with drive-through service, the selective demolition of portions of the existing commercial buildings to improve access to the Pomeroy Trail and the residential piece, reduces the amount of commercial square footage in Lot 1A from existing conditions. The 36 space parking waiver, therefore, is not necessary for more intense commercial uses at the site, but is triggered because the plan calls for the removal of the existing parking spaces located between the fire lane and buildings B, C and D. The removal of these spaces will significantly improve fire access to these buildings and provide a considerable improvement to traffic flow within the

center by eliminating conflicts caused by vehicles backing out of the existing head-in parking spaces into the travel lane.

In addition, regarding the waiver requested, as managers of the downtown parking system, the Department notes that previous parking studies conducted to advise the City of strategies to meet the downtown parking challenge have consistently indicated that more than adequate parking exists for the portion of downtown located east of Chapel Street. In fact, for the 2006 Desman Study this section of downtown had to be separated from properties located west of Chapel Street because the availability of parking spaces in the eastern section skewed results for the overall district. Parking meter revenues and informal surveys of Newark Shopping Center parking lot usage also support these findings. In other words, the City's parking challenge is locationally based west of the site.

Further, the Department believes that significant funding generated by the parking waiver request (\$117,189) will provide a substantial contribution towards the City's efforts to address the downtown parking challenge.

Having said that, the Commission may wish to discuss accommodations for guest parking for the residences with the applicant at the meeting.

10. The Planning and Development Department also suggests the following subdivision site design conditions:

- The architectural design of the facades of the proposed Newark Shopping Center site should be carried out on all building elevations visible from public ways.
- Storage areas, mechanical, utility hardware and dumpster shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
- Lighting should be designed to limit, insofar as possible, impact on adjoining and nearby properties.
- The residential units should include noise reduction features to limit the noise from the CSX Railroad line to the north; and
- The residential units should be designed to allow for future conversion to condominiums should market conditions change.

11. The Planning and Development Department notes that the proposed density of more than 47 dwelling units per acre exceeds that of all recent downtown development projects. In this regard, while recognizing that the limits on the number of bedrooms proposed by the applicants (one and two bedroom units) will reduce, to a certain extent, the intensity of the project; and recognizing Council actions regarding increasing BB zoning permitted densities to expand our downtown housing choices for graduate students, young couples, unmarried singles, etc. by limiting apartment size; and acknowledging the developer's proposed marketing strategy to reach these populations, the Department cannot help but be concerned with the proposed density. As you will note based on the density comparisons above, the requested density (47.79 units) is nearly 12 units more per acre than the Washington House (36.1), which is our most dense development in the BB Zone, and which is, for the most part, owner-occupied housing. It is also important to note, to ensure owner-occupancy, the Washington House is deed restricted to no more than two unrelated tenants per unit. The proposed Shopping Center apartments will be limited to four unrelated tenants by Code, unless additional restrictions are applied.

In addition to the above, when one considers the average density approved downtown over the last 8-10 years of a little more than 23 units per acre, and the caution reflected in the verbiage of the Comprehensive Development Plan IV regarding careful security of additional apartments downtown, the Department believes the proposed development to be too dense. This density concern is echoed by the Newark Police Department, citing increased population and the residential component's location between an active railroad line and the rear of commercial properties.

On the other hand, of course, the result of the proposed density for this project, will significantly improve the Newark Shopping Center which has for years been a neglected and underutilized part of the downtown. The Newark Shopping Center proposed development will:

- Significantly improve the aesthetic, pedestrian and “green” appeal of the shopping center in the heart of downtown;
- Provide a significant reduction in the number of unsightly dumpsters on the site, and greatly improve view of and access to the Center from the Pomeroy Trail;
- Save the movie theater, which is important to the cultural and entertainment amenities of our community; and
- Based on the developer’s proven retail market track record, should significantly improve the center’s retail mix and vacancy rate.

The Commission will have to weigh these benefits to the Newark community, and others the applicant may point out at the meeting, against the density requested. As previously noted, the City has approved higher than average densities in the past for a significant community benefit.

As a result, the Department suggests that the Commission may want to review with the applicant and community at the meeting consideration of a reduction in density; and/or restrictions on the number of unrelated individuals who can reside per unit beyond the BB zoned required four unrelated individuals; and construction timing or sequence to ensure that the improvements to the commercial portion are provided before or simultaneously with the residential development.

Recommendation

Because the project conforms to the land use guidelines of the Comprehensive Development Plan IV, and because the rezoning, parking waiver and drive through bank special use permit, with the Subdivision Advisory Committee conditions, will not have a negative impact on adjacent and nearby properties, and if following the Planning Commission’s review of this report and consideration of the applicant’s presentation and public comment, the Commission determines that the project is compatible with downtown Newark in terms of design, scale and intensity of development; the Planning and Development Department suggests **that the Commission take the following actions:**

- A. Recommend that City Council approve the rezoning of the 16.4497 acre Newark Shopping Center property currently zoned BC (general business) to BB (central business district) as shown on the attached Planning and Development Department Exhibit A, dated March 5, 2013.**
- B. Approve the 36 space waiver for the Newark Shopping Center property.**
- C. Recommend that City Council approve the special use permit for the bank with drive through window service.**
- D. Regarding the Major Subdivision and Special Use Permit, consider the following alternatives:**
 - a. Recommend that City Council approve the Newark Shopping Center major subdivision and downtown apartments special use permit plan as shown on the Urban LTD plan, dated November 16, 2012 with revisions through February 12, 2013 with the direction to the applicant to revise the plan to reduce the number of apartments to 150 (4.6031 acres X a density of 32.5 units per acre) to conform more closely to the development pattern in downtown, and to include all other subdivision Advisory Committee recommendations; or,**

- b. Recommend that City Council approve the Newark Shopping Center major subdivision and downtown apartments special use permit plan as shown on the Urban LTD plan, dated November 16, 2012 with revisions through February 12, 2013, at reduced density the Commission finds reasonable, with the Subdivision Advisory Committee recommended conditions; or,**
- c. Recommend that City Council approve the Newark Shopping Center major subdivision and downtown apartments special use permit plan as shown on the Urban LTD plan, dated November 16, 2012 with revisions through February 12, 2013, at the density requested, with the Subdivision Advisory Committee recommended conditions, including a restriction on the number of unrelated individuals who may reside to a multiple of the number of units approved.”**

Ms. Feeney Roser: I will be happy to answer any questions the Commissioners may have for me.

Mr. Andy Hegedus: When a zoning changes and there is a special use approved under one zoning, does that automatically transfer to the other one? I was thinking about the movie theater. It is approved as a special use under BC.

Ms. Feeney Roser: That is an existing use. It will be allowed to continue there. You don't need a special use permit for it.

Mr. Hegedus: So, we don't need to approve that here tonight. Also, in the three recommendations about density, one of the options was for 150 units. Can you just give a little bit more on your thinking behind the 150 units.

Ms. Feeney Roser: I looked at the development and compared it to the community benefit; trying to weigh the significant improvements to the shopping center, which has been neglected for many years and is 50% vacant at this point against the density requested, taking into consideration the access to the Pomeroy Trail, the improvements that they were going to make, so I compared what I believed to be the improvement vs. the density requested. I looked at the Washington House, which was the most dense development at 36.1 units per acre that we have approved in recent years, and for our community, the benefit there was owner occupancy. I do believe that, while they are not promoting owner occupancy in this case, there is some benefit to the community to come from it. So, I thought that they deserved a density higher than what we normally give downtown for developments that don't necessarily give a community benefit, but not as much as the Washington House. So, I came up with 32.5 units per acre. It was a judgment call. Certainly, after the Commission hears from the applicant may feel differently about it, but I thought that was reasonable based on the benefit that the community would get from it.

Mr. Edgar Johnson: Maureen, do you know what the density is for the construction on Delaware Avenue that was just completed?

Ms. Feeney Roser: Campus Edge? These are all Main Street projects. We certainly can get that tonight. Mr. Mayhew, do you know the density of the project?

Mr. Mayhew: Approximately 5.6 per acre.

Ms. Feeney Roser: Do you want us to check that or is that close enough for you, Edgar?

Mr. Johnson: That is close enough.

Mr. Bowman: The applicants are here and they will present their project.

[Secretary's Note: The applicant, Planning Commissioners and the public referred to a PowerPoint presentation that the applicant brought for their presentation to the Planning Commission].

Lisa Goodman: Young, Conaway, Stargatt & Taylor. I am here on behalf of the Atlantic Realty Company. With me this evening from the Atlantic Realty Company are Mr. Adam Schulman and Mr. Chris Fencel. Also here this evening is Mr. Ryan David who is the project engineer with Urban Engineering. For the benefit of not only the Commissioners but for everyone who has given their time to come out tonight, we have a PowerPoint so that everyone can see exactly what the Commissioners are seeing. So, the packet that is being handed out to the Commissioners is exactly what is being shown on the screen, so you all can see everything that we will be discussing. I am going to do something that I rarely do. I am going to start from the back. Not of the PowerPoint, but of the discussion because the Planning and Development Director has really put a tremendous amount of time and thought into her recommendation. And, so, I just wanted to focus us on the bigger picture of her recommendation. What you heard her say that the proposed BB zoning is highly consistent with everything else around this and with downtown as is the parking waiver, as are the two special use permits. The question really, I believe, from her report comes down to density. She gave you three suggested options of which you may use one or you may choose a fourth. The three options that she suggested were:

1. Recommend approval of a plan as we have presented tonight with 220 residential units with two bedrooms each.
2. Recommend approval of a plan at some lesser density.
3. Recommend approval of a plan at 150 units.

That is the context in which I think we start this discussion and really, I believe the issue boils down to density. And, one of the things I want to talk to you about tonight is, while the Planning and Development Director's density calculation is absolutely accurate and the Planning and Development Director is absolutely obligated to calculate density on a per parcel basis. But, as a Planning Commission, you can look at the big picture. So, one of the things I am going to be talking about is that, in fact, we are really talking about residential density over 16 acres, which is the whole shopping center. So, with that frame, I would like to walk you through the overview of the project.

We are all very familiar with the Newark Shopping Center. This is its existing condition today. It is clearly a center in need of redevelopment, refurbishment, revivification. It was built in the 1950s and it is an old style center. So, there is a large sea of parking and we all know where that is. There is minimal connection with the center to the community. And, again, the Planning and Development Director spoke about this in her report. There is almost no landscaping and there is no or minimal stormwater management for either quality or quantity. As we know from the longstanding parking issues, there is almost always a vast sea of empty parking, which tempts non-shoppers to park there and has, in the past, resulted in tow truck wars, which none of us likes to see. It doesn't welcome people to Newark. It borders one of the great City amenities, which is the Pomeroy Trail and yet, it has no connection or relation to the trail. So, that is the situation in which we find the center today.

This is the proposed site plan. I want to talk you through a little bit about what the proposed changes are here. This is looking at it from the top. The proposal here is to, as Ms. Feeney Roser said, add a small building down on Main Street that is proposed to be set right up against Main Street. That is the proposed new bank. So, one of the things that that will do is help to orient the center as much as possible toward Main Street, which it lacks now. We can only do so much there because, of course, we only have a short frontage on Main Street, but this is certainly an attempt to get a more Main Street feel to the center. We are also proposing to create an opening through and reorient what is labeled as Building F. This is the building that is along the Pomeroy Trail. Part of the issue with this building in addition to just needing revivification is, it essentially blocks much of the center from the Pomeroy Trail. So, the proposal is to open up, essentially, a breezeway (large passageway) through the center of the building so that folks can see through both from the center to the trail and from the trail to the center. The idea is to make it more open and more inviting and to encourage pedestrian traffic in both directions. And, indeed, we are also proposing to create a pedestrian pathway through the entire center. This will provide the rest of that critical link, we think, from the trail

and the rest of town through the center. I will show you some elevations of what that is proposed to look like shortly. It will make the center more upscale and welcoming and, frankly, more modern. Modern centers are built much more with people out of their cars in mind than just with people in their cars. It includes hardscaping, landscaping, lighting, etc.

Finally, we are proposing a residential component to the rear of the site where Chris is showing you, where the current bowling alley is. We will talk a little bit more about this, but the overall idea here is to make this more of a walkable type of community, so not essentially just a retail island, which I think many of us would agree is part of the reason the center hasn't worked very well in the past.

Let's talk briefly about the retail component and how this would look in terms of redoing the retail. In the upper left is a shot of the existing center and what it looks like. To the right, you see a shot of the proposed pedestrian connection looking back at the building along the Pomeroy Trail. You have landscaping, you have hardscaping, you have lighting, you have a safe and inviting place for pedestrians to walk. It makes a big difference to a center. To the left, you have another existing before shot and to the right you have a sense of what the façade of the center will look like when these proposed renovations are complete.

This is a 3/4 birds eye view, if you will, again, looking back and the building along the Pomeroy Trail, with the trail behind it, and giving you a pretty good overall sense of what we think the center will look like when it is done. So, you see the open connection back to the retail building which is behind you and then the walk way leading to the building along the Pomeroy Trail and then out to the Pomeroy Trail.

This is just another angle, again, showing that pedestrian connection.

Let me take us back to the proposed residential. We have tried to be scrupulously accurate here in terms of the massing of this building. This building is a proposed 220 units. It has parking on the first floor that is permitted under BB and, in fact, is encouraged. You are not allowed to have residential on the first floor of BB. Some of the initial applications here did propose residential, but we now have parking on the first floor. We have five stories of residential above it, all two bedroom units – 220 units. There is also – and you cannot see it here, which is exactly by design – on the site to the left of this building, structured parking to serve the residential building. There is more parking than the Code requires and more than adequate parking for that building. The whole idea is that not only is parking out of sight, but that it also shields the residential building from the railroad tracks. It seems to us to be sort of a perfect transitional use when you talk about how you would want uses to be.

Going back to where I started – and I said I had started backwards – in talking about the density. So, this proposal is 220 units. You all know, that not that long ago Council revised the Code to incentivize the building of smaller bedroom units for the belief that it makes sense to have diversity of housing types and that smaller bedrooms are attractive to and, therefore, will attract singles, unmarried individuals, graduate students and young couples. The Code incentivized that by upping the number of unit counts that are permitted per acre up to 50. So, the proposal here is a little over 47 dwelling units per acre. The only reason that we are at that number 47 is that for purely business reasons that have nothing to do with what the center looks like. And, of course, you never see this when you go there. My client needs to strike a new property line for this residential building with the idea that eventually that may be under separate ownership. We have to calculate our density based on that five acre site. If we were not creating, frankly, that purely artificial line, our density would be calculated on the entire 16 acre site. This is the only residential that we are proposing. So, if we weren't drawing that property line, which again, you don't see when you go on that property, our density would be at 13.38, which is lower than all but one of the examples in the Planning and Development Director's report. Again, the Code directs her to count density based on the parcel site. We sort of forced her into that by proposing to strike this new line. Currently now the center is all one parcel. If we didn't draw the line, we would be at 13.38. Let me analyze it another way. The Code currently incentivizes and encourages the building

of two bedroom units for all the reasons we just talked about. That, of course, has the effect of driving up your unit count. If my client said we will just build four bedroom units, our unit count would drop from 220 to 110. The same number of beds. The same number of people. Frankly, cheaper to build because we are not building kitchens. We are building half the number of kitchens. So, what does that do to our density? At five acres, 110 units is 22 dwelling units per acre putting us very comfortably, essentially, where most of the other projects are. At 16.4 acres, 110 units is 6.6 dwelling units per acre. So, I provide all of this as a way to say, while we are, in fact, striking this new property line, when you really go out there and look at what is happening, we are not putting that many units on the site. And, if the existing buildings could permit it and we were building this on top of the retail we probably wouldn't be having this discussion about density because we would be calculating this based on 16 acres. But, we can't do that because we have this old center that was not built to have additional apartments on top of it. What you need to balance tonight and what Council will need to balance when we get to them is this balance between the incentivization for two bedroom units, but that ups your density calculation and, in fact, it does. As Ms. Feeney Roser noted, in terms of the positives here, we are taking an old tired center and in large part through the residential development component being able to find really, really significant upgrades to the center. As your report indicating upping the aesthetic and the green appeal in the heart of town, providing significant reduction in the dumpsters, greatly improving the view of and access to the Pomeroy Trail, saving the movie theater which is an important cultural amenity and that given my client's track record they are going to really improve not only the retail mix but the vacancy rate which is currently at about 50%, and is not something that anyone wants in the heart of Newark or frankly any town.

I just want to briefly touch on the rezoning from BC to BB and, again, this was addressed in the report. This is, frankly, what the Comp Plan wants to see here. It is what everything is, essentially, surrounding it. It is BB. It is downtown business zoning and it doesn't get any more downtown than the Newark Shopping Center. So, we believe that we more than meet the requirements for BB zoning and that is consistent with the recommendation.

We are seeking a 36 space parking waiver. The Code requires 571 spaces. We are proposing 534. We are actually reducing the retail square footage by approximately 28,000 sq. ft. and for that 28,000 sq. ft. we think it makes sense to have 36 less parking spaces. And, again, as it was pointed out in the report, one of the big benefits of this is we are removing the head-in parking along many of the buildings, which greatly improves fire safety because you now have room for a fire lane right along the buildings and it greatly improves safety because you don't have cars backing out into the travel lane. Any one of us who have had fender benders in shopping centers know that backing out motion gets you every time (or at least me). Certainly, as to the parking waiver, the proposal doesn't conflict with the Comp Plan. It conforms with and is in harmony with the character of the development pattern of the central business district. What I am doing now is actually going through the requirements for the parking waiver. It is not highway oriented. This is a neighborhood center. And, we are trying to make it more of a neighborhood center by bringing a residential component to it so that we will have people walking back and forth through it, which frankly, we don't have very much of right now. That is part of creating the connection with Pomeroy Trail as well. You will have people walk in and, of course, from the residential component, you will have people walk out and then back in. Certainly it won't adversely affect the health, safety or welfare of people living or working nearby or be detrimental to public property. Indeed, we think we will be a safety benefit, in part because of the parking changes I just discussed. As the Planning and Development Director noted, there is more than adequate parking east of Chapel Street and this is really within the recommendations that have been made in the past regarding parking. Finally, the last standard is taking into account, shall consider the advice and recommendations of the Planning Director, which we love because they are positive.

The special use permits just briefly for the residential in BB. Again, we don't believe it adversely affects the health or safety. We think it is very consistent with what the Comp Plan wants to see in the central business district. We will actually be generating less daily traffic than the square footage in the center does right now or

certainly would if it was full. Not being full is one of the issues. We will not be detrimental or injurious to property or improvements. We want walkable diverse housing stock. We want these housing units that are two bedrooms. That is really also consistent with the drive through. So, the bank is permitted in BB. Drive through require a special use permit. As you all know, no banks can really get built today without a drive through. It is just a necessary component of banking these days whether it is because of bad weather, because of a parent with a little child in the car, someone who is disabled and had difficulty getting out of the car. That is just how banks get built just like that is how pharmacies get built these days. It is designed to provide safe access and circulation. If you look, again, at the bottom where the bank building is, you can see the circulation pattern. We have designed it so there are very easy movements in and then out on the left side of the bank as you are looking here without conflicting with anyone who might be at the window. There won't be any blocking of traffic and we think that is very important.

In conclusion, I think we all know that this is a center that really needs redevelopment and that this is an opportunity to provide that redevelopment, to rehab the existing commercial, to do significant pedestrian improvements, landscaping, orientation, etc. I want to come back to where I started to these multiple recommendations that are laid out before you as different paths that you can choose. As you all know, you sit here and hear many recommendations and you sit here and listen to many projects. The bottom line is that every project is a balance of providing what the City wants to see there and creating a project that is buildable. In other words, that works from a pure dollar and cents standpoint, and this is a project that does that. If we go down in unit count, the project very quickly becomes tenuous as far as doability. Frankly, the reason the center has not been rehabbed before is because it is very expensive to do so, and it is a little bit of the chicken and the egg problem. You want to get better tenants but you need a nicer looking center but you can't have a nicer looking center because you can't generate the money with your current tenants. So, I know that a number of the tenants are very excited about this possibility. I think there are some here tonight who you will hear from on the effect they believe it will have on them and by extension on the City. We are happy to answer any questions, but we would respectfully ask that you strongly consider approving the plan as we have shown it this evening.

Mr. Bowman: Are there any questions for the applicants from members of the Commission?

Ms. Dressel: Originally, in our packet, it said that it was one and two bedroom apartments and now it has, apparently, changed to two bedrooms. Can you explain that? You kind of touched on it, but one of the things that we had said as Planning Commission was the option of the one and two. The variety rather than having all the same type.

Ms. Goodman: The original proposal that was made to the City actually had a higher unit count and a slightly different design. And, at that point one and two bedroom units were doable. We have reduced it to 220 and my client feels that at that number two bedrooms are really where they need to be to make it financeable. That is where we are.

Ms. Dressel: In the plan at different places it talks about five stories and other places six stories, so you are saying that it is actually six stories tall.

Ms. Goodman: Right, I think the difference there is it depends on what you are talking about. So, it is one story of parking and then five stories of residential. The total height is 75 ft. and six stories, one of them being parking. I apologize for any confusion. Sometime when you redesign and redesign and redesign, these little pieces get lagged behind in terms of changes. So, I apologize for that and the Department has been great to work with in terms of helping us to redesign here.

Ms. Dressel: Can you also explain again the reasoning for the new property line?

Mr. Goodman: Typically in the development world, there are companies that are good at residential and there are companies that are good commercial. There are not very many companies that do both, especially large scale both. So, it makes sense for my clients to strike a line there so that if it appears to be good both financially and for the project to

have the two different components under separate ownership, even if it might be within the same family of companies, that they could do that. We can't transfer property unless it is a separate parcel. It is sort of an artificial construct, but it is a necessary one. And, that is how the Code does the density calculation.

Ms. Dressel: And as a result of that desire, you are dealing with the higher density.

Ms. Goodman: Correct, because we have to calculate based on that new property line which takes it down to five acres.

Ms. Dressel: Before we get into all of the other things, I would like to say that the architecture, the setup, the green space, and everything else of the property, the plan is very appealing. I appreciate the effort that has gone into that to give it some diversity and variety from some of the projects we have seen.

Mr. Bowman: I have one quick question and you sort of opened the door for it with this separate parcel, and this is based on some past experience that some people may remember. Does the University of Delaware have any connection to this residential part in any way, shape or form at present.

Ms. Goodman: No, simple answer, no.

Mr. Hegedus: In these pictures in the PowerPoint, it is now a breezeway that goes to the Pomeroy Trail, before it was just an opening, right? So, now you are doing a building with the little turret on the top and all that stuff.

Ms. Goodman: I don't think it was ever actually an open air. It always had a roof on it.

Mr. Hegedus: It didn't look that way on the drawings here, but that is okay. I like the look. I was just trying to get in my head what it was like.

We talked about it now being all two bedrooms. How many people?

Ms. Goodman: This slide shows there is a roof on the building and the next slide actually shows it a little better. How many people? We have two bedrooms. I suspect that what you are getting at is what would be the number that we would be comfortable with and the answer is, that what Council has done and that Commission has recommended in most cases and seems to be developing as sort of a standard. There are some folks that have more and some that have no restrictions. It is the number of bedrooms plus 2. That is unrelated individuals. So, obviously, if you had a family come in, a young couple with two kids, and they had a third kid, you are not going to kick them out because they are a family even though they might have five, but four unrelated individuals which would be the number of bedrooms plus two seems to us to be reasonable and that would be a total resident count assuming that you had them all that way which, frankly, never happens would be 880 separate individuals.

Ms. Feeney Roser: That would also be required. The density bonus that Council gave for smaller units said two bedrooms and a maximum of four unrelated tenants. So, it would be four max.

Mr. Hegedus: Let's talk about density for a minute. As you explained, the density numbers are there because we are trying to promote graduate students, married couples, and one of the things that was not on that list was undergraduate students.

Ms. Goodman: I think that that was Council's thinking. As you know, it is illegal to discriminate. It is illegal to discriminate on who comes to rent your unit and that is a good thing. So, if a student comes, they must rent to the student. And, some students will come, no question. There will be students whose parents want them to live in a smaller unit and in that case, we would see two students, maybe even one student and a study if the parents are of sufficient means. But, certainly, two bedroom units are more affordable for those other constituencies that are out there looking for them that would not be in a position of either being able to afford or wanting to rent a four bedroom.

Right, because when you get to graduate school I think most people hope that you no longer have three roommates. Although, when I was in graduate school, I did because that is what I could afford. I think that was Council's thinking to provide that opportunity.

Mr. Hegedus: So, understanding that you are not discriminating, are you doing anything other than density, meaning the two bedroom units, to promote the graduate students and married couples?

Ms. Goodman: There certainly will be amenities so there will be the standard amenities that you would find in a building of this type. I guess I don't know what else one could do to specifically promote those constituencies.

Mr. Hegedus: Quality of amenities, the interior amenities that are done, the woodwork that is inside. You can slap them up or you can make them nice.

Ms. Goodman: The plan certainly for this to be a high-quality, high-amenity building, and one does not spend the type of effort and money in doing this type of project and erect a building that is not high quality.

Mr. Hegedus: The last topic to touch on for me is traffic. I found the last page of the plan, with all the traffic numbers, really interesting. The first time I had looked at one in detail, so the reason that we are saying there is less traffic that will go in and out is because you are reducing some square footage and that reduction in square footage offsets 880 people living in the apartments.

Ms. Goodman: The parking calculations are done on the base of the ITE (International Traffic Engineer Manual) and that have calculations performed by actual site visits over many, many years of what each type of development generates. When they go out and routinely do these counts to spot-check their numbers, they are very accurate and retail generates a lot more traffic, especially when you have apartments in a place where we know we are going to have lots of walking. Parking is at a premium in Newark. So, folks who want to live downtown mostly work downtown or go to school downtown and they are not going to be moving their cars, at least most of them, are not going to be moving their cars on a daily basis. They want to live downtown because they want to walk, which is great because that is what we want. So, when we apply the standard ITE calculations (and I apologize, I don't have that page in front of me) the parking numbers actually go down, and we do not meet DelDOT's warrants for a traffic impact study. So, if you generate more than 50 trips in the peak hours (rush hour a.m. and p.m.) you have to do a traffic impact study. We do not generate that number of trips, and so, DelDOT did not require a traffic impact study.

Mr. Hegedus: So, having gone to the center under 50% occupancy, the traffic there, at times, is already very difficult, very challenging, getting out on Chapel. So, I like the idea that there will be a traffic light. I'm not sure about how that traffic light works with the one right on the other side of the railroad bridge because the traffic already backs up past that anyway.

Ms. Goodman: That is one of the things that DelDOT has to work out to be sure that those are timed correctly for exactly what you are intuiting doesn't happen, which is that those lights don't mess each other up, essentially. Currently, we have an uncontrolled access which creates backups. There are no natural gaps in traffic for cars to exit or for pedestrians to come in and out. So, signaling that intersection creates that gap that help that quite a bit.

Mr. Hegedus: Also right now there are no left turns, typically because people can't get out. So, with the light there, there will be a lot of traffic flowing towards Main Street on Chapel that doesn't exist today.

Ms. Goodman: Some amount of it.

Mr. Hegedus: If I looked at the numbers your are estimating, it will be about an equal number going out that way as going out the front on Main Street. And, it was even interesting that it was kind of a balance between the entrance side on the right looking at the site and the exit on the left next to the bank you were assuming about equal amounts of traffic coming out of both places. There is something about all the traffic flow that just isn't right to me. I don't know how you analyzed it, studied it and where you come up with the numbers of ins and outs in all those places, but with the traffic light at the exit on the side where you are proposing the bank, that is a tough turn right now as it is. You are saying 24 ft. wide and it looks like two cars wide trying to get out of there because you have the bank coming out at the same point you've got people coming down the road on the right-hand side. I am interested in how you are going to get the cars on the right with the bank exiting with that light around that corner.

Ms. Goodman: That is something that DelDOT has looked at and is looking at and I think is comfortable that is going to work from a circulation standpoint. Of course, DelDOT has to approve that. That is their entrance division and we actually redesigned that a couple of times to be sure that both the City was pleased with it in terms of pulling the bank up toward Main Street and also that DelDOT is comfortable with it. So, I think the advise we are getting from DelDOT and from our traffic experts – and our traffic expert is not here this evening – is that that works.

Mr. Hegedus: According to this there is not any other DelDOT review other than this piece of paper that is noted here and it just says, make sure you turn right on Main Street, make the curbs up to standard and all that stuff, but from a traffic flow, it says you don't need to do a traffic impact study and only right turns should be permitted out of the west entrance on Main Street.

Ms. Feeney Roser: That information came from a letter from DelDOT that was sent to my department regarding the project. That is not necessarily inclusive of everything that has gone back and forth between the developer and DelDOT. Generally, we defer to DelDOT and they tell us what they would like to see on a State street.

Mr. Hegedus: So, is there more that they would like to see than what was noted in their letter to you?

Mr. Chris Fencel: Vice President of Development and Construction for Atlantic Realty. With regards to DelDOT there is a process that you have to go through. It is called a Letter of No Objection process and I think the City is very familiar with it and is required with most applications. We are in that process now. We actually had a meeting with DelDOT today to go over some of the preliminary comments. In some time, I don't know if it will be by the time we go to Council, but we will have a letter from DelDOT that has no objections and they will list some criteria and there will be some more defined responses that we will have to adjust the plan or comply with. It is to be resolved with DelDOT at this point, but we are working through that process.

Mr. Hegedus: Can the DelDOT comments change the design of what happens on your property vs. what happens on the road?

Mr. Fencel: It is possible, but in our preliminary review, the entrances more or less will stay the same. Getting back to your comment on the distribution, DelDOT applies a percentage of traffic exiting or entering certain access points. So, those traffic diagrams were produced based on feedback that DelDOT provided to us.

Mr. Hegedus: I do have to say after beating you up for a little bit, I echo Angela's points about the redevelopment of the shopping center looking great, the architecture looks great. I'm very much in favor conceptually of the redevelopment work. You can tell from my questions I have some other issues, but I applaud you for thinking about it and putting so much thought into the upgrade of it.

Mr. Johnson: Can I just piggyback on something Andy said. Again, I don't think there is anybody in Newark that doesn't want this shopping center upgraded and what you have done here is magnificent, but if you are reducing retail footage and you said retail footage

provides more traffic than does residential footage, why do we have a light on Chapel Street? Let me say this, I have been caught at the corner of 7-Eleven on Delaware Avenue and South Chapel Street trying to go north at N. Chapel at 5:00 p.m. I go through two and three lights before I can cross Delaware Avenue. If you put another light north of Main Street, I might have to sit there for five stops at 5:00 p.m. So, why do we need a light if there is going to be less traffic because there is going to be less retail. It doesn't sit with me that if traffic is being reduced, why do we need a light?

Mr. Fencel: The light helps with access to and from the center so with the signalized access point it allows for spacing as Lisa indicated in her presentation for access out of the center as well as into the center either from northbound on Chapel or southbound on Chapel. So, it creates a spacing and as you go through the process with the signals, you have to adjust those timings. Unfortunately, at rush hour sometimes the timings just aren't correct or there is enough traffic that it does back it up and it doesn't function as correctly as it should be based on design, but the signal will allow for better flow in and out of the center and at most times during the day will relieve some of the congestion that may occur on Chapel Street.

Ms. Brown: I want to piggy back on the traffic, and I respectfully submit that this will not decrease traffic and I will give an example. I drove in here tonight and I have been on Commission seven or eight years and most nights I drove in at seven o'clock nobody was driving out. From the time I turned here until the time I turned into the parking lot four cars went out. The only thing that changed is that we have apartments next door now. So, I think we are not looking at reality. This is going to create more cars. When you put 880 bodies, even if half of them have a car, that is 440 cars. Do the math. They are going to go. They are going to have cars. Students have cars.

The other question I have is, how are you going to limit access to your parking for your tenants? You have a garage. Are you going to have a key card? How are you going to limit that access so that it is not used by other people? And there is also a safety issue there.

Mr. Adam Schulman: I am one of the owners of Atlantic Realty. I will try to field that one the best that I can. We haven't worked all the details out specifically but what most likely is going to happen is that there will be key card access to it that is exclusive to the residents for a number of reasons. One, to prevent people who shouldn't be parking there from parking there; and, two, just for general security. That is typical of what we see in any residential building that we are involved with, that is how it is taken care of.

Ms. Brown: Will you have a gate and grates and things so that people cannot get into the parking facility. With just an arm, people can access the facility on foot, so I'm concerned about people coming in and parking and being accosted by somebody.

Mr. Schulman: There is a balance in there, again, between wanting to provide the proper level of security and both in and out. That is something we will work out with the City to make sure we are providing a certain level of safety and preventing other cars and people from wondering in there that shouldn't be. What we would most likely do is start with something we think works and then if that doesn't for whatever reason better or worse, it would be something that we upgrade along the way. At a minimum, there will be some mechanism to prevent cars from going in and out that don't belong there and I would expect that to be a card access.

Ms. Brown: I am thinking about the Washington House, you can't just get in there. I am also thinking about the building behind the diner. That is open but they have grates at the window. I haven't gone in that lot.

The second thing that is another safety issue. Are you planning to put a fence that is not easily scaled between the property line beginning down near Chapel Street all the way around and back to make it difficult for people to go up to the railroad track. Some of you may already know or may not know, we have a problem with that in Newark and routinely people get run over by the trains.

Mr. Schulman: I would expect so – yes.

Ms. Brown: But, I didn't see it in your plan.

Mr. David: A fence is indicated on the plans. We are still working out the height with the power company.

Ms. Brown: Lisa talked about the marketing strategy to encourage couples, young families and young professionals to, I assume, rent these apartments. What is your marketing strategy?

Mr. Fencel: The most obvious thing that is going to attract those types of tenants is the size of the bedrooms that are located here. That in and of itself is going to discourage a fair amount of undergraduate students from wanting to live in this environment. So, when we market, we are going to market to the people that we think that are most likely to move into a building like this. It is more the size of the unit and the fixtures that are in those units and way that they are designed that is going to drive how we market it towards perspective renters.

Ms. Brown: If you upgrade the fixtures and finishes, won't that increase the price?

Mr. Fencel: There is a balance there as well. It is in our best interest to lease out that building. At the numbers that we are talking about between the shopping center and the upgrades in this building, there is going to be a certain level of rents that are going to need to be achieved, but putting the rents at a level that can't be rented certainly isn't going to do us any good, so that by no means is what our objective is. We believe that based on studies that have been done by quite a number of groups that we have been talking to, there is a pretty good balance that you can have nice fixtures and nice units in here at reasonable rental rates because we want to be able to rent these units out. Building the cheapest product that we have doesn't do our retail and our perspective retail tenants any good. That is not what we are looking for and certainly wouldn't be able to afford it at the cost of structured parking and the cost of this product alone. I'm not sure I am answering your question because I am not giving you specifics because I don't have all the specifics nailed down here.

Ms. Brown: You were talking about marketing or talking about tenants for the shopping center. Currently we have very few tenants and in talking to some of the tenants that are in there, I know one that is moving out, they are not happy with the current situation, what kind of tenants would you like to see in there and how are you going to encourage the tenants that you want to come in.

Mr. Fencel: We have done quite a number of shopping centers like this over the years and this is going to be what I would classify as a neighborhood shopping center. It is going to have amenities that are needed by the immediate community. It is going to have some restaurants, fast casual dining and, hopefully, a restaurant or two that is more than just fast casual, but that is something that is going to take time and we need to be able to lease this in a way that is going to serve the community and we need to improve the center to get those types of tenants in there. We are doing whatever we can to retain the existing tenants. In addition, we are planning on bringing in others that can serve both people who live and work in Newark and the University as a whole. We are looking for an improved tenant mix beyond what we have.

Ms. Brown: Do you see a grocery store like Harris Teeter or Whole Foods, something like that.

Mr. Fencel: Our goal is to get a food mart in here at one level or another. I can't commit to who that is going to be yet and unfortunately we stepped into a situation where our predecessors did do that which was not accurate, but our goal is to get a food market in here one way or another and we will spend a whole lot of time in doing that.

Ms. Brown: Are you envisioning your tenants as chains or are you envisioning your tenants as local businesses?

Mr. Fencel: We are going to have a combination of nationals what I would consider Newark mom and pop's.

Ms. Brown: My last question goes with striking this new property line. This essentially makes this two parcels so that one parcel could be sold and you could retain the other one or you could sell both parcels separately. Is that correct?

Mr. Fencel: It would also enable us to finance the two separately as well.

Ms. Goodman: We should point out that the plan that gets approved, regardless of who the owner is, that is the approved plan. It is not uncommon for a developer to get a plan approved, especially other places, and hand that off to the next owner to build it. That is not uncommon but the plan goes with the land. So, a new owner, unless they come back through the process, is not going to be in the position of building something different that you have approved.

Mr. Bowman: We have a number of people who signed in to make comments. I have an Emmett Little.

Mr. Emmett Little: The bowling place is important because Delaware might lose some quality. I like the bowling center because I go there a lot and I had my birthday party there. I don't want it to be torn down because I want to have a lot of memories in my head so I can remember the bowling center and I try to go there sometimes so I can get exercise and not watch the TV all day long. I also like to see people having fun at the bowling center and I hope I can see some more people have fun there and I really don't want the bowling center to be torn down.

Ms. Marilyn Minster: Good evening. I am Marilyn Minster. I have operated and been in the Newark Shopping Center for 57 years successfully. I knew it as an asparagus field and I watched the foundations go up. The sewer pipes, the water pipes, all of that, under the Handloffs. The Handloffs were a very fine family. They ran an excellent shopping center and an excellent business. They were known for their integrity. Then we had the Christiana Mall built and it became the demise of the Newark Shopping Center. It was also the demise of the Newark Department Store. I have stayed through recessions, like the great recession and I have been able to operate a business. After the Handloffs sold it when they reached an age where they felt they needed to retire, it was sold to the Krapfs. The Krapf family managed it for awhile and made some improvements. But, from then on we had two other owners who did absolutely nothing, and I mean nothing. We couldn't even get roofs fixed. We couldn't get anything done. Then we began to lose tenants because they were unhappy with the way it was being operated. We now have a company (Atlantic Realty) who has the integrity and the desire to recreate the Newark Shopping Center and it is going to be very important, not only to me or to the other tenants who are there, but they have been very considerate and they are going to continue that. And, it will be an asset to the City. I think it will do something else. It is going to stimulate E. Main Street from Chapel Street to McDonalds. Mrs. Bing and I used to laugh and say that downtown Newark ended at Chapel Street. She would always say that maybe someday we will see it in our end of the town. Well, maybe now we will because I think with the neighborhood development of apartments and retail we'll see a stimulus to E. Main Street. I totally support Atlantic Realty and what they are trying to do and I believe that the 200 apartments, or whatever apartments you decide but hopefully more than 150 which we will need to make it a good center and a good neighborhood. If you read your Comprehensive Plan you will find that it is now neighborhoods where you have apartments and you have shopping and restaurants. This will not be a drive through development. This will be a walking development. This will be a development where people are more settled. We are not going to attract students, undergraduates, we are going to attract older people who are concerned about maturing. And, some of us do mature. This is what the shopping center should be and Atlantic Realty is dedicated to doing just that. It is a dream of mine that I will see the shopping center someday great like it used to be, because it was great. I don't know how many of you lived here in 1955 when it opened and for the years after, but it was thriving and downtown was not thriving. We gradually – and I am on the Partnership – we gradually improved

downtown to where we now have S. Main Street. Now, wouldn't it be nice to have the improvement on E. Main Street with the shopping center as a core with apartments and with shopping. I hope that you will consider this because it is going to be an asset a very definite asset to the City of Newark, and it will make my dream come true.

Ms. Peggy Schultz: I am speaking tonight on behalf of the League of Women Voters of New Castle County. We have members throughout the County including a large number in Newark. The League supports growth in areas that are already developed and those with suitable infrastructure. When grocery shopping, a walking/biking trail, the opportunities of a University and other amenities are nearby, we support it even more. The Delaware Population Consortium shows a clear need for housing with a smaller footprint and more luxurious design. A development like this one proposed tonight would help to curb carbon emissions because of the many opportunities for walking and bicycling. Troubling elements in the plan, however, are a scarcity of landscaping at the site of the apartment and a question about the design. The Newark downtown area would be wise to seek comfortable housing that will fill the need for our aging baby boomer population and younger professional workforce. We urge the Planning Commission's careful consideration of the Population Consortium's findings and a review of the apartment house design in terms of its appeal to empty nesters and the younger professional demographic.

Mr. David Carpenter: I am the owner of the Capriotti's Sandwich Shop in Newark Shopping Center. I purchased the restaurant about a year and a half ago. It has been at that location for close to 24 years. The restaurant is run down and needs to be rebuilt. My plan from day one has been to rebuild the restaurant in Newark Shopping Center. I decided to wait until the total renovation of the center took place. The plan is to build a new Capriotti's on the same side of the center. It will be much larger with indoor and outdoor seating. Our move is just part of the big plan which is to renovate the entire center and add the residents at Newark. I graduated from the University of Delaware in 1990. Since then the Main Street corridor has changed drastically. The main changes over the last 20+ has been the addition to mainly student housing to the Main Street area. The residences at Newark will house professionals and retirees, not students, maybe some students but the majority probably won't be students. The addition of the housing over the years has benefitted Main Street vendors and the City of Newark. The renovation of Newark Shopping Center and the addition of the residents at Newark will be another win, win for local vendors and the City. The new and improved space will lease quickly. I don't see a need for concern over increased traffic. Living at the residences at Newark, you don't really need a car. I think most people will be walking to their destination. That being said, I think going to 220 units is not an issue. It means more people to support local vendors and the City of Newark. This is a responsible development project and we should all support it 100%. Coming down here tonight, I had not been in the area that they call S. Main Street now, but I see a lot of redevelopment in this area. After 57 years, the Newark Shopping Center deserves the chance to be renovated and redeveloped in a responsible manner. I mean, it is a no brainer to fix this place up and renovate it.

Ms. Karen DeMonte: Cambridge Drive. My question is on the third option that you gave, you talked about limiting the number of occupants per apartment. I hear a lot about the unit being for young professionals, for young couples, for graduate students. I just think limiting it to two unrelated vs. four unrelated will help you to achieve that goal and so my question is, when you stated lowering the number of occupants, what did you have in mind?

Ms. Feeney Roser: That is what the Department had in mind. Right now, they are entitled to four unrelated allowed to reside in each unit, and the Washington House is two unrelated, so the Planning and Development Department thought that was reasonable, if the Planning Commission wanted to approve the density at 220, to lessen the impact of the development. I'm not sure that the developer can live with that. I don't know. They will have to address that, but that was the idea of that recommendation.

Mr. Steve Dressel: Good evening. I am Steve Dressel, 8 Wynclyff Lane, and as some of you know and in the spirit of full disclosure, I am the husband of Planning Commissioner Angela Dressel. I would like to speak in favor of the project proposed for the Newark

Shopping Center. What I find most appealing is the project's proposal consists of two bedroom apartments. What has concerned me about recently approved projects and developments underway and possibly even some that are before the Commission tonight, or in future months, are the large and potentially growing number of apartments and townhouses with three, four, five, six and even eight bedrooms. These units are clearly aimed at the student rental market, which is fine, however, when these projects are built with only student housing in mind, there is never an opportunity to go back. I'm happy with the scale of the proposed project. I think as we increase the number of desirable units in Newark, the crappy projects will no longer have demand, and as a result, we may see some regentrification of the currently blighted areas. To me that is the significant and probably the most important benefit to the community. As a Newark resident, I obviously think Newark is a great place to live. I also think we want to promote and welcome a diverse population. In addition to students, I would like to see young professionals just starting out, couples and young families not quite ready to buy a house, visiting professionals – professors or grad students, and even seniors and retirees that no longer want the burden of homeownership. But, when the choice of the downtown rentals is made up of four bedroom units in an apartment or a five bedroom townhouse, it really makes it unfeasible for these groups to become part of the Newark community. So, I think it is great that Newark is a college town but it is not so great that it is becoming only a college dorm. So, I think that approving this project as presented would be a big step towards promoting the diversity that is critical for towns like Newark to thrive.

Mr. Tom Hall: Could we get the aerial view on there please? I am the owner of Cardio Kinetics at 52 N. Chapel, which is the building towards the bottom of the picture with the large white roof. As you know, I am in the medical business and I am all in favor of taking the affirmed and sick and making them better. So, I am in favor of a redo for the Newark Shopping Center in a big way. My only concern is, I can't get out of my building now onto Chapel Street from about 3 until 5:30 p.m. So, I am real happy that you are going to put trees there because I am going to be looking at them for a long time, I think. With a light there at the corner where you are proposing the light, the only problem I have is that as traffic builds it is going to stop at that light which is right in front of the only access I have to my building. It will stop and allow people to come out of your property onto Chapel Street, which is fine, but the problem is, there will never be a break for me to get out of my building. I think there are solutions to it. I'm not sure what they actually are. It might actually require a second light. If you are talking about just the businesses, I'm not focused on the homes which could be an issue on that street, too, but for my business, if there was a light that stopped prior to the light at the theaters (5 or 10 seconds prior to that so there is a second light) I could probably get traffic out of there and get patients out of our building and onto Chapel Street. I think it is a great project and I am really in favor of redoing the shopping center, I'm just really concerned about getting out of my building since I only have that one access.

Ms. Karen Taylor: I am from Landenberg, Pennsylvania. I want to thank Newark and Atlantic Realty for bringing some revitalization into Newark Shopping Center. It is an eyesore currently and I think it is really used for student parking and at the center of Newark we really don't need a huge lot with vacant places for student parking. I think they have done an excellent job at trying to include the community in this project which is something that Newark is all about and they have brought that to the heart of the project with connecting it to the current new walkway and walkway cutting across the lot, increasing how you can safely exit and enter. It is a really haphazard parking lot currently, is a perfect continuation of the current project that Newark has been working on, in my opinion.

Mr. Bowman: I have no more written requests, but we will keep it open for comments from the public. I would ask that unless you have something fairly significantly different than what has already been commented on that you hold your comments in brevity, if you would please. If there is someone else please raise your hand.

Mr. Chris Locke: 604 Cambridge Drive, Newark, Delaware. I want to thank Atlantic Realty for their presentation this evening. Obviously, everybody in town agrees that Newark Shopping Center has to be redeveloped. Just a couple of things that I think the Planning Commission should think about is the potential of this property being

subdivided into two parcels. Most likely, the residential will be sold to another operator so they can fund what they want to do for the commercial end of the property. You may want to consider making the apartments contingent upon them redeveloping the shopping center first and then having them do the residential apartments. This would allow us to get what we want in the City which is a new shopping center. You have a little bit more teeth at that point in time. You also may want to look at the front of the shopping center. That really is a very important visible part of the city. It is one of the first main tracks of property that you see on Main Street and putting a bank there, my personal opinion is, it doesn't maximize the use of that particular property the way you could show case of rest of Main Street, like it is past Chapel Street.

Mr. Douglas Roy: 35 ½ Corbit Street. Everybody is talking about making residential affordable for college students, what are they doing about housing for us regular folks in the neighborhood? Everything is geared towards professionals, college students and grad students, nothing for regular citizens of the city here. And, there is a hidden homeless population in the City of Newark. I don't know if anybody on City Council has seen it. I personally know people who complain about not having affordable housing here in the City of Newark. Everything geared toward the college students and that seems to be the main focus. So, these developers who are sitting here now, what are you doing to make affordable housing for the regular citizens who need housing here in Newark. Is there anything being done to set aside so many units to make it affordable for citizens who need that, because where I lived previously, the developers had to set aside so many units to make affordable housing for people who need it.

Mr. Bowman: I think the Planning and Development Department is more in line to answer that question than the applicant is. I could bring that back to Planning and Development Director.

Ms. Feeney Roser: I know that we are in the process of updating the Comprehensive Development Plan and, of course, our affordable housing strategy is part of the Plan. We've started the conversation a week ago at a public meeting to discuss the housing assessment and affordable housing needs for the community, which is part of that process. Mike Fortner in our office is actually heading up that effort and he can certainly be in touch with you to talk about what the plans are to continue because that conversation has just started.

Mr. Roy: That should have been in conversation many years ago when they shut down the Cleveland Heights project. That has been sitting there empty now for years and there is a homeless problem in Newark and those should be opened up to make it affordable for people who need housing and you aren't doing that.

Ms. Feeney Roser: I understand that the Newark Housing Authority is working on the redevelopment of that site for affordable housing. They haven't gotten to the point where they are ready to come to this Board yet, but we have had many conversations with them and have written letters of support for them to get funding from HUD to begin the process. So, I think that is happening as well.

Mr. Roy: Who are the developers? Who is in charge of the Atlantic thing?

Mr. Bowman: I don't want to cut you off, Sir, but I think you have made your point. Again, it is not relevant for the developers at this point to answer that question. The answer has come from the Planning and Development Department. They have stated what is going on. Thank you very much. I appreciate your comments.

Ms. Nancy Willing: Barksdale Estates. This is a real exciting plan. What I would echo is what Ms. Schultz talked about the design elements for the apartments. It is pretty sterile. Because this isn't exactly on Main Street does it come under the purview of the Design Committee for Main Street?

Ms. Feeney Roser: It was reviewed by the Design Committee, yes.

Ms. Willing: They have already looked at and accepted that design?

Ms. Feeney Roser: They recommended in favor of it.

Ms. Willing: I would say, maybe go back to the drawing board, if at all possible. My worry is that because it looks like it is going to be sold off that they wanted to do it as streamlined as possible to have something that could be easily sold. It really doesn't come up to the standards of anything else we are seeing on S. Main Street or what is being done on Main Street. It looks more like a sterile hospital. I do kind of agree with one more bank sitting in the niche, it is what is called a pad site in the middle of the parking lot is pretty typical. I am not happy with that but, then I am really happy with the entire project as a whole. So, thanks.

Mr. Anthony Barcola: I am the owner of Salon By Anthony in the Newark Shopping Center. I have been there since 1982. For years we have been an adopted child. I now see an opportunity for that bridge to cross and we become part of Newark. I know Maureen has had significant problems getting the Newark Shopping Center involved in miscellaneous things throughout Newark. I think this is a phenomenal opportunity. I think we will no longer be the adopted child and that end of Newark will now become part of the City.

Mr. Bowman: Unless there is anyone else with significant comments, we will bring it back to the table. Does anybody on the Commission have any further comments or question for the applicant? If not, we will be in a position to entertain a motion.

Ms. Dressel: I have questions about the residential building itself. I'm just not clear on what part is residential and what part is the parking. Is the whole thing going to have parking underneath of it? In this picture, I can see that there is a parking deck in the back.

Ms. Goodman: Right. This picture shows the top deck of the parking along the railroad. That is the structured parking.

Ms. Dressel: What I see here is proposed Building H, and I am just trying to understand what it is going to look like because it looks like from this that all of the residences are going to be in Building H and then there is all this parking behind it. But, I am gathering from what you are saying that there is actually going to be residences above that parking as well.

Mr. Ryan David: Urban Engineering. I am not the architect, but I understand the way the building works. The portion that you are seeing here that is labeled with Building H in there is all Building H but this is the ground floor you are looking at there. That ground floor is not going to have residential in it. Those are going to be part of the amenities and the front of the house and behind that is going to be the garage on the lower level and then a garage on the back half of that as you flip in the set, and as you see up on that image right there, the garage that will extend above the first level will only be the portion on the back.

Ms. Dressel: That is what I wanted to see. I also appreciate that somehow maybe Lisa heard my message with a previous plan that with residential buildings I am very concerned about being too close to the railroad tracks. So, the fact that you put the parking garage in the back of the building and moved the housing elements forward, I think it is great as a safety measure.

I have another question on that section of the building, though. Is the fire lane in the back? On the plan it looks like it only goes about a third of the way rather than all the way around the building. I wasn't sure if you could explain any reasons for that.

Mr. David: We are required to provide a certain amount of fire coverage around the building and that gets us there, basically. We have met with Code officials and the Fire Marshal and worked this up so we have the amount of coverage that we need per Code.

Ms. Dressel: It just looked a little suspect for that back half. Maybe it is because there aren't really any apartments very close to there and it is just the garages. I'm not sure.

Mr. David: Which back half are you referring to? Are you referring to the parallel to the tracks? It is purely a length around the building. So, there is a certain length around the building that you have to provide access to, and by shooting down that back half gets us the exact length we need.

Mr. Bowman: Part of that is impacted by the fact that that is a fully sprinkler protected building.

Mr. David: That is correct.

Mr. Bowman: Including the garages.

Mr. David: The garage has the appropriate fire stand pipes.

Ms. Brill: I don't understand where the guest parking is.

Mr. David: There is excess parking in the center. We parked it per Code, which would by nature include the guest parking and then we have gone above that.

Mr. Hegedus: I am sorry. I didn't understand that. Could you explain it again?

Mr. David: We have provided the minimum required parking spaces by Code, plus some. I think we have a handful of extra spaces. There are ten or so extras. So, by Code that gets you what you need for the tenants and their visitors.

Mr. Hegedus: But, all that, I thought from prior conversations, was in the parking garage that is secured by key code.

Ms. Goodman: There is extra parking in the station and as with any apartment building there will be a way that you arrange to have your guest brought in whether it is that you go down and meet them with your key card or they pick one up at the front desk. Any big city has those arrangements. If guest chose, there will be plenty of parking. If you have a dinner party, one of the beauties of a combined development is that there is also the surface parking and there is plenty of that as we all know.

Mr. Hegedus: So, for the guest parking, it's either somehow we came into the secured garage or they park on somebody else's property. The shopping center. That is what I heard.

Ms. Feeney Roser: There are spaces on the residential piece outside the garage.

Ms. Dressel: Andy, there is a section over to right back by the railroad track.

Ms. Goodman: There is surface parking on the same property as well.

Mr. David: There are about 15 parking spaces that are on this parcel that are outside the garage that are in excess of what would be required.

Ms. Goodman: So, for example, if you see the ones that are on the inside of the U at the front of the building, there is parking there. There is parking around the back.

Mr. Hegedus: Thank you.

Ms. Brill: I am very much in favor of marketing for the empty nesters and the young professionals instead of the students, and not making this a dorm. Therefore, I am in favor of the deed restriction to no more than two unrelated tenants. It is very attractive but I was wondering if it is possible to make these balconies functional. These aren't functional balconies. They are facades. It is just a little question.

Ms. Goodman: Where are you looking?

Ms. Brill: The proposed front façade of the residential building. Am I not seeing it correctly?

Ms. Dressel: They are not balconies.

Ms. Goodman: The intention is that they are not functional balconies. That is a balance. Balconies are nice, but in the City, they are generally disfavored because they can lead to death.

Ms. Brown: When I look at the drawing, for instance, down here in this corner closest to the Commission, there looks to be a vacant space. Is that a vacant space?

Ms. Goodman: That is a good question. That is a courtyard. One of the amenities of this building is that it is not designed like every other building. So, it has a center space so you get air and light into those windows that are in the center as well. I should have pointed that out earlier as a unique feature.

Ms. Brown: Access to this courtyard is only through the building? Is that correct?

Mr. Goodman: Yes, correct for security purposes.

Ms. Brown: So, in other words, it is like a giant open skylight to all of the buildings.

Mr. Hegedus: I don't remember my buildings in town but there was another building in town that had courtyards but I think it was primarily students and it was a problem.

Ms. Feeney Roser: That was an open courtyard and it had walkways around it to get in to the units, and it became a problem. This, as I understand it, you don't access the courtyard. You can't go and throw things off of balconies into the courtyard. It is simply for light. Right?

Ms. Goodman: Light and air, primarily. It is a unique way of getting light and air into the center of a building where you might otherwise have windowless spaces.

Ms. Feeney Roser: But the access is window not door.

Ms. Goodman: Yes, the access is window.

Ms. Brown: I agree with Chris Locke. I think it would be advisable that we recommend to City Council that COs not be given until the improvements to the shopping center are completed to ensure that the City gets what we want out of this project.

Ms. Feeney Roser: If I could just add to that. I skipped over my report in the hopes of shortening it a little bit, but that was something that the Department comments also that talked about construction timing or sequences to ensure that the improvements to the commercial portion are provided before or simultaneously with the residential development. I don't know if you want to tie it to COs for the other, but the agreement language could reflect that.

Ms. Goodman: We are happy to work with the City so that we come up with something that works for my client, but assures you that you are getting the upgrades to the shopping center that you are seeing.

Ms. Brown: I would like to recommend to Council to have that in the agreement. If it is not in writing, it is not worth anything.

Ms. Dressel: We have talked a lot about the restriction of the unrelated. We have kind of gone around it a little bit. I'm wondering how the Commission feels on going to two unrelated or allowing the four unrelated.

Mr. Hegedus: Can I broaden that discussion just a little bit because I think the unrelated is one option, the density is kind of another option that is working to accomplish the same thing, potentially, right – reduce the number of occupants that are there. I guess I am stuck a little bit because I don't know what is best. We don't see your financials. That is not part of what we do. We are trying to figure out for the community what is the best thing. So, a six story apartment building, there is nothing like it in Newark except for dorms that have been built and are being built. It has me kind of concerned as to whether it is a density issue is the way to get at this your professional senior thing that works on the traffic. Is it the deed restriction? So, I don't know what is right and I don't know if tonight we should say, if you get to 150 you are good to go, or whether we should say, go away and think about it a little bit and come back and tell us what it is. Personally, I'm torn on what the right action for us to take is.

Ms. Dressel: We are just making a recommendation anyway. So, City Council is going to make that final call. So, I would think that we make the suggestion to keep it as two unrelated, that would satisfy our desire to go for a lower density and eliminate the four people per apartment.

Mr. Schulman: I would tell you right now after looking at the way this residential building is going to be financed, and when I say financed that is looking at an outside institution that is going to come in and loan the construction funds to be able to produce this building. Probably the one that is going to put the most onerous burden on us is the limit of unrelated individuals in there and that is going to box out potential people who can rent here. I am not just talking about students, I'm talking about people in general and that is going to cause concern to any lender and make this project unfinancable by having that restriction on it.

Ms. Feeney Roser: The Code limits occupancy to four unrelated individuals in a two-bedroom apartment, for the density bonus the developer is pursuing.

Ms. Goodman: That was, as I understand it, part of what Council was doing when they went to these two bedroom units was to try to strike their balance on this. I think, Ms. Dressel what you indicated that you guys recommend and they decide, they just recently looked at this and that is the number that they came up with. And, we are happy to have this conversation with Council as well.

Mr. Hegedus: Here's my other problem that we have and this is not a you guys thing, it is just a where we are thing. We talked about the fact that we are beginning this Comprehensive Development Plan process, and there was a meeting last week where the housing things were gone over. So, there are issues in the community around the amount of student housing. We want to create more for people that are aging. We want to create more for young professionals. We want more affordable housing. So, we are trying to figure out the balance on that so you come in with a development like this knowing that there will be some undergraduate students renting there. It will be some housing. It is convenient. It is not much different than my son's dorm room with a suite and a bathroom except you throw in a kitchen and a little bit more space. So, kids that are going to the University of Delaware that have a little more financial means might jump into your place. The problem is that I don't have a basis with data right now to make an informed recommendation about the impact of 880 people moving into that apartment complex. So, this decision is not what an engineer would like to do. I would like to have a projection and numbers. So, this is a gut feel. You look at that thing and with all the traffic issues we've talked about, I understand your need for financing, I want the shopping center renovated, I want to be able to provide housing for seniors, is this the right size? How do you find the balance? That is what I am really struggling with right here is to say do we just stamp it or do we have to say it is the most dense thing we've got, we've got to back off because it is not even in the ball park of any of the other places we have knowing it is one and two bedrooms. That is my personal struggle.

Mr. Bowman: I think we are at the point where the Chair is going to entertain a motion.

Motion by Dressel, that the planning commission makes the following recommendations to city council:

- A. Recommend that city council approve the rezoning of the 16.4497 acre Newark shopping center property currently zoned BC (general business) to BB (central business district) as shown on the attached planning and development department exhibit A, dated March 5, 2013.
- B. Approve the 36 space waiver for the Newark Shopping Center property.
- C. Recommend that City Council approve the special use permit for the bank with drive through window service.
- D. Recommend that City Council approve the Newark shopping center major subdivision and downtown apartments special use permit plan as shown on the Urban LTD plan, dated November 16, 2012 with revisions through February 12, 2013, at a density of 220 two-bedroom apartments, with the subdivision advisory committee recommended conditions, and the added condition that the improvement of the shopping center be underway before the apartments construction begin; and the added restriction of no more than four unrelated individuals permitted to reside in each unit with the current code.

Motion dies for a lack of a second.

Mr. Hegedus: Can I make a recommendation that we break this into two parts, that we approve part of it because I think that would be a simple vote so we don't have to go through this process of saying we are approving the rezoning, the parking waiver, the drive through, other recommendations, the improvements are done first and then we can come back for a second discussion around is it 220 and is it 4 unrelated tenants until we agree on that part. Does that make sense?

Ms. Feeney Roser: I don't know that you need a separate vote on it. I think if you are clear that the first A through C are in the motion, you can just say that and then you can make your recommendation on the rest of it. Council is not used to seeing a rezoning without a subdivision to go with it, that is, if you are talking about doing one and then not doing the other.

Mr. Hegedus: I was just from a parliamentary procedure process trying to get us to a good vote.

Mr. Bowman: You have A, B and C already everybody seems to agree on that just modify D on what you can agree to.

Mr. Johnson: Maureen has put a density of 150 apartments and 32.5 units per acre and all of the reasons make sense. I think something north of 150 so I would recommend 180 and that would give you a density of 39 which is more than we have approved before and I worry about precedent, but the idea that it is two-bedroom apartments and its location should get some consideration.

Motion by Johnson, seconded by Dressel, that Planning Commission make the following recommendation to Council:

- A. Recommend that City Council approve the rezoning of the 16.4497 acre Newark shopping center property currently zoned BC (general business) to BB (central business district) as shown on the attached Planning and Development Department exhibit A, dated March 5, 2013.
- B. Approve the 36 space waiver for the Newark Shopping Center property.
- C. Recommend that City Council approve the special use permit for the bank with drive through window service.
- D. Recommend that City Council approve the Newark Shopping Center major subdivision and downtown apartments special use permit plan as shown on the

Urban LTD plan, dated November 16, 2012 with revisions through February 12, 2013, at a density of 180 two-bedroom apartments, with the subdivision advisory committee recommended conditions, and the added condition that the improvement of the shopping center be underway before the apartments construction begin.

Ms. Feeney Roser: Does your motion include A, B and C?

Mr. Johnson: Yes, but not with the tenancy limit.

Ms. Brown: Does that also include the restrictions where the companion of redevelopment of the shopping center?

Ms. Dressel: Yes.

Vote: 2-6

AYE: Dressel, Johnson

Nay: Bowman, Brill, Brown, Hegedus

Absent: Cronin

Motion Fails

MOTION BY BRILL, SECONDED BY HEGEDUS, THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

- A. RECOMMEND THAT CITY COUNCIL APPROVE THE REZONING OF THE 16.4497 ACRE NEWARK SHOPPING CENTER PROPERTY CURRENTLY ZONED BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT) AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED MARCH 5, 2013.
- B. APPROVE THE 36 SPACE WAIVER FOR THE NEWARK SHOPPING CENTER PROPERTY.
- C. RECOMMEND THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMIT FOR THE BANK WITH DRIVE THROUGH WINDOW SERVICE.
- D. RECOMMEND THAT CITY COUNCIL APPROVE THE NEWARK SHOPPING CENTER MAJOR SUBDIVISION AND DOWNTOWN APARTMENTS SPECIAL USE PERMIT PLAN AS SHOWN ON THE URBAN LTD PLAN, DATED NOVEMBER 16, 2012 WITH REVISIONS THROUGH FEBRUARY 12, 2013, AT A DENSITY OF 220 TWO-BEDROOM APARTMENTS, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, AND THE ADDED RESTRICTION OF NO MORE THAN TWO UNRELATED INDIVIDUALS PERMITTED TO RESIDE IN EACH UNIT.

Ms. Feeney Roser: Chairman Bowman, Councilman Clifton is saying that you had a vote and you can't vote again.

Mr. Bowman: If the motion fails, I don't know why they can't.

Ms. Feeney Roser: I think Mr. Clifton's point is that he doesn't think we can actually vote again once there has been a motion made and it failed.

Mr. Bowman: I think we can do whatever we want.

Ms. Goodman: I think you are entitled to have another motion if someone so wishes. I am not your counsel so I would have look at your rules. I don't know of a rule that would prohibit that. Otherwise, you are essentially sending no recommendation to

Council. I'm not sure you are fulfilling what Council really wants from you if you do that.

Mr. Hegedus: In my limited understanding as well is that you can't revote on the same motion. So, if you have a different motion, you are okay.

VOTE: 5-1

AYE: BOWMAN, BRILL, BROWN, HEGEDUS, JOHNSON
NAY: DRESSEL
ABSENT: CRONIN

MOTION PASSED

[Secretary's Note: Resident came to the microphone and began to speak out of order].

Resident: Point of Order. What rules are you governed by? Robert's Rules?

Mr. Bowman: That is correct.

Resident: I think you are out of order on that motion.

Mr. Bowman: It all depends on who is reading Robert's Rules at this point. Folks, we have another item on the agenda which is #4.

4. A COMPREHENSIVE PLAN AMENDMENT, THE REZONING, MAJOR SUBDIVISION AND SITE PLAN APPROVAL OF 19.69 ACRES FROM THE MOR (MANUFACTURING/ OFFICE/RESEARCH) ZONING TO RM (GARDEN APARTMENTS) ZONING AND 4.70 ACRES FROM MOR (MANUFACTURING/OFFICE/RESEARCH) TO BC FOR THE ACCESS WAY TO THE PROPOSED DEVELOPMENTS AS WELL AS SUBURBAN PLAZA, WSFS BANK AND THE HOME DEPOT. THE PROPOSAL CONSISTS OF A TOTAL OF 168 LODGE AND COTTAGE CLUSTER STYLE APARTMENT UNITS.

Ms. Feeney Roser summarized her report to the Planning Commission which reads as follows:

"On December 20, 2012, the Planning and Development Department received an application from AUDG Holdings, LLC for the rezoning, major subdivision and site plan approval for 24.39 acres of the remaining lands of the Pauline A Mayer, Inc. properties at Suburban Plaza. A Comprehensive Development Plan amendment is also requested to accommodate the proposed development. The Cottages at the Plaza plan is divided geographically into two sections: north and south. The applicants are requesting a rezoning of 10.99 acres from the current MOR (manufacturing/office/research) zoning to RM (garden apartments) in the north section in order to build 107 dwelling units; and the rezoning of 8.70 acres in the south section from MOR (manufacturing/office/research) to RM (garden apartment zoning) proposed for 61 dwelling units. The remaining 4.70 acres of the south section, which is currently the private access way to Suburban Plaza, WSFS Bank and the Home Depot, as well as to the proposed developments, is proposed for BC (general business) zoning. Therefore, the total proposal is to build 168 lodge and cottage cluster style apartment units on 19.69 acres of land. Site plan approval is also sought for this residential development, as well as the required Comprehensive Development Plan amendment.

The Planning and Development Department's report on The Cottages at the Plaza follows:

Property Description and Related Data

1. Location:

The properties are located on the Suburban Plaza property on Elkton Road. The southern section is located on the west side of Christina Parkway access way, immediately adjacent to and north of the WSFS Bank fronting on Elkton Road. The northern section is east of the Home Depot store and north of the Suburban Plaza Shopping Center.

2. Size:

North Section:	10.99 acres
South Section:	8.70 acres
Christina Parkway Extended:	<u>4.7 acres</u>
Total Site:	24.39 acres

3. Existing Land Use:

Vacant farmland on either side of commercial uses, and the access way to the commercial site.

4. Physical Condition of the Site:

Both parcels are currently vacant farmland. The northern portion is relatively flat with slopes to the north at the tree line. The area has been mowed in conformance with the City’s Meadows Program in that several feet from the curb line is mowed; and the remainder is about 12” to 18” of unmowed grass. The southern section is also a grassy open area with emergent wetlands adjacent to the woodlands on the southern and southwestern portion of the site. An unnamed creek also runs through the woodlands in the southern portion of the property.

Regarding soils, according to the subdivision plan and the United States Department of Agriculture’s Natural Resources Conservation Service, the site consists of:

<u>Soils</u>	<u>Ratings</u>
Hatboro-Codorus (Hw)	Severe
Mattapex-Urban Land Complex (MuB)	Moderate
Mattapex Silt Loam (MtA)	Moderate
Othello Silt Loam (CtA)	Slight
Udorthents (UzC)	Mild

Please note that according to the Natural Resources Conservation Service, “. . . a rating of severe does not mean that a soil cannot be used for the intended use. However, it does mean that severe limitations exist that must be overcome with proper design and operation.”

5. Planning and Zoning:

Please note that there are conflicting versions of the Zoning maps for the area. The County parcel view designates the zoning of the south portion of the proposed development plan as BC; and the north section as MI. In fact, the zoning of both of these parcels is MOR (manufacturing/office/research). The data column on the plans, therefore, will have to be revised prior to City Council review to reflect the correct existing zoning.

The Cottages at the Plaza sites are zoned MOR (manufacturing/office/research).

The MOR zone is a general industrial zone that permits the following:

- A. Any process involving cleaning, distribution, manufacture, processing, production 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 or manufacture; ore smelting; blast furnace, garbage or offal reduction or dumping; asphalt manufacture or refining; abattoir; junk storage; automobile wrecking; animal rendering; and oil storage.
- B. Offices for professional services and administrative activities, industrial, and academic research and/or testing laboratories, and warehousing, including the sale of products customarily incidental to the uses permitted in this subsection.
- C. Food service facilities incidental to and located within any of the permitted uses within this district, primarily for service to the employees of such permitted uses, provided:
 - 1. There shall be no entrances directly from the street to such facilities.
 - 2. No sign relating to such facility shall be visible from outside any building.
 - 3. Facilities shall be so located and constructed to protect tenants of the building from noise, traffic, odors, and interference with privacy.
- D. Utility distribution and transmission lines, substation, electric, gas, and telephone central office.
- E. Public transportation facilities including bus or transit stops for the loading and unloading of passengers; stations and depots.
- F. Parking, off-street.
- G. Recreation facilities, intended primarily for the use of the employees of such uses permitted in this district.
- H. Retail, specialty retail and retail food stores, subject to the following requirements:
 - 1. Such uses are permitted only in existing facilities or structures existing on or before October 13, 1991.
 - 2. Such uses shall be subject to all area, parking, signing, and other zoning code regulations.
- I. Warehouse sales, subject to the following requirements:
 - 1. Not more than one sale shall be held every six months lasting not more than 72 hours.
 - 2. The directors of building and planning must approve all warehouse sales.
- J. Accessory uses and accessory buildings.
- K. Tower, broadcasting and telecommunications, subject to special requirements.

The applicants are requesting rezoning of 19.68 acres of 24.39 acres to RM (garden apartments). The remainder (4.70 acres) which is now currently the access way to the commercial properties, and will be the access to the residential developments, if approved, is also zoned MOR but given its use will be more appropriately zoned as BC. Having said that, RM allows the following:

- A. Garden apartments, subject to special requirements.
- B. One family, semidetached dwelling.
- C. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- D. Nursing home, rest home or home for the aged; subject to special requirements.
- E. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding semi-trailers and similar vehicles for storage of property.
- F. Cluster or neo-traditional types of developments, included uses that many not be permitted in this district, as provided in Article XXVII, Site Plan Approval.
- G. One-family detached dwelling.
- H. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for a rental permit, and provided there are not more than three boarders or roomers in

- any one-family dwelling.
- I. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- J. Public and private elementary, junior, and senior high schools.
- K. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- L. Municipal utilities, street rights of way. treatment plant.
- M. Temporary building, temporary real estate or construction office.
- N. Utility transmission and distribution lines.
- O. Public transportation bus or transit stops for the loading and unloading of passengers.
- P. One-family town or rowhouse subject to the requirements of Sections 32-13(1) and 32-13(c)(1).
- Q. Student Homes, with special requirements

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

- A. Conversion of a one-family dwelling into dwelling units for two or more families, if such dwelling is structurally sound but too large to be in demand for one-family use, and that conversion for the use of two or more families would not impair the character of the neighborhood, subject to special requirements.
- B. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed. No repair facilities are allowed except within completely enclosed buildings.
- C. Physicians' and dentists' offices, subject to special requirements.
- D. If approved by the council, property in a residential zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use, whether said business use be a nonconforming use in the residential zone or a business use in said adjacent area zoned "business" or "industrial."
- E. Police and fire stations, library, museum, and art gallery.
- F. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- G. Professional offices in residential dwellings for the resident-owner of single-family dwellings permitted subject to special requirements.
- H. Customary Home occupations with special requirements.
- I. Public Transit Facilities.
- J. Private (nonprofit) swimming clubs.
- K. Day Care Centers with special requirements.

Please note that apartment uses in RM district require lots of a minimum of one acre in size.

In terms of comprehensive planning, the Comprehensive Plan IV calls for manufacturing/office/research uses for both the northern and southern sections (those areas for which development approval is sought), with the remainder of the total site classified as auto-oriented commercial. Manufacturing/office/research is defined in the Comprehensive Development Plan IV as "Light and medium manufacturing, production, processing, fabrication assembly, treatment and testing laboratories, academic research facilities and related 'high tech' uses including warehouse and packaging and warehouse sales, administrative offices, and limited food services. Medium industrial uses are somewhat more intensive than 'light' industry, and in Newark, typically are those industrial processes permitted in the "Zoning Code" district MI (general industrial)."

The requested Comp Plan amendment calls for "multi-family residential (medium to high density)" uses which are defined as "areas designated for dwellings designed for and occupied by more than one family, living independently of each other in apartments, condominiums, townhouses, with a density of from 11 to 36 dwelling units per acre."

Regarding this amendment, please note that Plan IV indicates, regarding “residential” uses, that “. . . professional, administrative and commercial offices, churches, schools, nursing homes, funeral parlors, community centers, daycare centers, police and fire stations, bed and breakfasts, office research facilities, and similar light industrial uses, and various residential use types may be accommodated very satisfactorily within areas not necessarily designated for such uses, depending upon the specific use involved, site design considerations, proposed site amenities, and the availability of adequate services and facilities.”

Further, please note that in the Purpose and Plan Design Section of the Plan, it indicates that the Comprehensive Plan is “not proposed as a warranty against alternative decision making when public needs or experience change – which, of course, may require Plan amendments – but, rather, it is intended as an officially adopted legally required public document designed to establish strategies and policies to ‘guide’ our community’s growth over approximately the next five years to ten years.” As you know, we are currently in the process of updating Comprehensive Development Plan IV, which was adopted in 2008.

Regarding adjacent and nearby properties, the lands to the north and northeast of the site are zoned “I” in New Castle County and are owned by the DuPont Company. To the northeast, as well, are City owned lands zoned OFD and PL. Immediately adjacent to the east are the RM and OFD zoned Christina Mill Apartments and adjacent to the southeast is the RM and OFD zoned Millstone Plaza development. In between the two parcels proposed for development, of course, is the BC zoned Suburban Plaza Shopping Center and Home Depot. The BC zoned WSFS Bank is immediately adjacent to the southeast and fronting on Elkton Road. Further west along Elkton Road are “CN” zoned, county lands..

Regarding density, the northern section’s proposed density is 9.74 dwelling units per acre, while the southern section is proposed at a density of 7.01 units per acre; for a total site density of 8.53 units per acre. While this density is significantly less than the 16 per acre permitted in RM and fewer than suggested in the Comp Plan amendment, it is consistent with residential densities in the area. In this regard, please note that the adjacent Christina Mill Apartments density calculates to 8.69 units per acre and Millstone Plaza is 8.98 units per acre.

Regarding area requirements, please note, the applicants are requesting Site Plan Approval for the Cottages at the Plaza development. Code Section 32-97 provides for “alternatives for new development and redevelopment proposals to encourage variety and flexibility, and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations. Site plan approval shall be based upon distinctiveness and excellence of site arrangement and design and including but not limited to:

- (1) Common open space;
- (2) Unique treatment of parking facilities;
- (3) Outstanding architectural design;
- (4) Association with the natural environment including landscaping;
- (5) Relationship to neighborhood and community and/or;
- (6) Energy conservation defined as site and/or construction design that the building department has certified meets or exceeds the 'certified' level as stipulated in the LEED (Leadership in Energy and Environmental Design) United States Green Building Council Program or a comparable building department approved energy conservation program.”

In this case, the applicants are requesting site plan approval for several area requirements. Specifically, the plan requests relief from the requirements for: the

number of dwelling units per building; the minimum side to side distance between buildings; the minimum back to back distance between buildings; and the height (in feet, not stories) of the lodge buildings. In particular, RM zoning permits 12 dwelling units per building and the plan shows the four lodge buildings with 19, 23, 23, and 27 units per building in the northern section, and 33 units in the one lodge building located in the southern section. The applicants are also requesting site plan approval for building height for the lodge buildings, in that, while they will not exceed three stories, they will be taller than 35 ft. in height. RM zoning also requires a minimum side to side distance between buildings of 25 feet, and several of the cottages in both the northern and southern sections measure only 20 feet apart. In addition, RM zoning requires that no portion of the front or rear of any buildings shall be nearer than 50 ft. to the front and rear of another building, and cottages in both sections measure less than 50 feet apart.

Obviously, the Commission will need to consider these requested area regulations exceptions against the standards of distinctiveness and excellence of site arrangement outlined in Section 32-97, and the developer's site plan approval submission.

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, related exterior features, and existing utility lines. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, the Cottages at the Plaza rezoning, major subdivision and site plan approval plan calls for a total of 168 lodge and cottage cluster style apartment units to be constructed on 19.68 acres. The overall unit mix (north and south sections combined) calls for 18 one bedroom units, 17 two bedroom units, 117 four bedroom units and 16 five bedroom units.

The plans also call for a clubhouse and pool and active recreational space on the south side. There is also a clubhouse proposed on the first level of building 200 on the north side. The combined development proposes 10.66 acres of passive open space through preserved woodlands, wetlands and wetland buffers. They also propose a pedestrian connector between the two sections through the Suburban Shopping Center. Access to the site is proposed from Christina Parkway Extended and for the north section by connector road between the rear of Suburban Plaza Shopping Center and Home Depot parking lot, and through the Suburban Shopping Center.

Fiscal Impact

The Planning and Development Department has evaluated the Cottages at the Plaza's impact on Newark's municipal finances. The estimates generated for net return are based on the Planning and Development Department's Fiscal Impact Model. The Model projects the Cottages at the Plaza's fiscal impact -- that is, total annual municipal revenues generated, less total cost of municipal services provided. The Planning and Development Department's estimate of net annual revenue for this project is \$9,960. Please note that there is no difference projected between the first year and those beyond for this development

as there will be no impact in first year revenue from the City's transfer tax as the development proposed is a long-term land lease.

Traffic

At the request of the Planning and Development Department, the Delaware Department of Transportation (DelDOT) has reviewed the Cottages at the Plaza rezoning, major subdivision and site plan approval plan. The Department indicates that while the project meets the warrants for a Traffic Impact Study (TIS), DelDOT regulations also provide that, for developments generating less than 2,000 trips per day and less than 200 trips per hour, the applicant may choose to contribute a fee in lieu of the TIS, which will go to fund a future DelDOT area-wide study. In this case, DelDOT suggests a contribution of \$10 per daily trip or \$11,420 (1,142 x \$10) for the fee.

Apart from some bicycle, pedestrian and transit improvements which are discussed below, the Department does not see a need for additional off-site improvements as a result of the development. DelDOT also indicates that a Letter of No Objection will be required. For bike and pedestrian traffic, DelDOT also suggests the following:

- A. Sidewalks should be provided along the driveway separating the shopping center from the Home Depot parking lot. Residents in the north section of the apartment complex will want to walk to the clubhouse in the south section. Related to that, crosswalks should be provided across the Christina Parkway.
- B. Paths should be provided from the north section of the apartment complex to the northwest corner of the shopping center, and from the south section to the southeast corner so that residents will not have to walk all the way around to the vehicular entrance of the shopping center. If not already present, lighting should be provided for security.
- C. On parcel 18-034.00-055, a missing section of sidewalk should be added along the driveway leading into the apartment complex.
- D. At the main shopping center entrance, sidewalks should be provided leading to the site from the Christina Parkway. The developer will also be required to enter into a signal agreement with DelDOT pertaining to the intersection of Elkton Road and Christina Parkway. This agreement should address the addition of pedestrian signals and crosswalks as well as maintenance and future alterations to the signal.
- E. Further DelDOT notes that DART First State service provides bus service to Suburban Plaza by means of two bus routes. Bus Route 16 connects Newark and Wilmington and has stops on Elkton Road north of Christina Parkway. Bus Route 64 connects Newark and Elkton, Maryland, and stops on Elkton Road south of Christina Parkway. In addition to the pedestrian signals and crosswalks mentioned above, DelDOT recommends that the following facilities be provided to support these stops:
 - a) As necessary, sidewalks should be extended to each of the four stops.
 - b) An 8 ft. x 8 ft. concrete pad, including sidewalks, should be installed at each stop to provide a waiting area.
 - c) The shoulder pavement should be marked to denote bus stops. The developer should work with Delaware Transit Corporation and DelDOT to determine the extent to which stops can and should be moved closer to the intersection of Elkton Road and Christina Parkway. (As a general comment regarding sidewalks, DelDOT recommends a three foot buffer between the sidewalk and the back of the curb on any new or reconstructed sidewalks).

Subdivision Advisory Committee Comments

The City Subdivision Advisory Committee – consisting of the Management, Planning and Development and Operating Departments – has reviewed the proposed Cottages at the Plaza development plan and has the comments below. Where appropriate,

the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Electric Department indicates that service is available on site. Suitable locations, approved by the Department, for pad mount transformers must be provided.
2. The Electric Department indicates that the developer is required to supply and install all conduit needs for underground high voltage cables, and supply and install all low voltage conduits and cables to the buildings.
3. The Electric Department indicates that the developer is required to pay all costs associated for on-site electric distribution materials and meters. The costs to be determined once final building locations are approved.
4. The Electric Department must approve meter locations and all switch gear. Keys to rooms where electric meters are installed must be supplied to the City if meters are installed indoors.
5. The developer must pay all costs associated if any existing electric distribution facilities need to be relocated.
6. The Parks and Recreation Department indicates that the trail/pathway around the perimeter needs to be a hard surface and ADA compliant. This requirement will need to be coordinated with the Public Works and Water Resources' comments below regarding the pathway through the CIP process.
7. The Parks and Recreation Department indicates that a sidewalk connection should link the two residential developments. (Please note: this suggestion was also made by DelDOT above and echoed by the Newark Police Department. The applicant has, indeed, provided a connection between the two residential developments through the shopping center. This proposed connection through the center addresses elevation concerns along the driveway connecting the two developments, and encourages pedestrians to walk in front of stores to move in between the two residential pieces).
8. The Police Department is concerned about the vehicular conflicts at the connections of the proposed development at Christina Parkway (Extended). They indicate that traffic controls should be required at these intersections. The Department also suggests the second entrance to the south portion of the proposed residential development be moved further northwest on Christina Parkway. The NPD also notes that the issue of ownership of the road, once the development is built out, will need to be addressed, especially concerning maintenance.

Please note, in this regard, the private Christina Parkway access way shown on the plan, when built (at the time Suburban Plaza was approved), was intended for dedication to the State of Delaware as a continuation of the Christina Parkway, which was also, at the time, proposed to extend to Barksdale Road and beyond. As a result, the road was designed as the four lane connector road it is today. Since that time, DelDOT has abandoned long-term plans to extend the Christina Parkway beyond the shopping center, leaving the road as a private access way. In addition, at the time of approvals of the original shopping center, as well as the Home Depot and WSFS developments approvals, DelDOT required various on and off-site improvements and signal agreements for the intersection of Elkton Road and Christina Parkway, and in the case of the WSFS development, the intersection of Christina Parkway Extended at the access to the bank and to Suburban Plaza Shopping Center. In addition, the agreement for the WSFS development clearly states that through the recordation of the subdivision plan, the Christina Parkway Extended right-of-way shall be dedicated to the State of Delaware, as shown on the Pauline A. Mayer Suburban Plaza major subdivision plan, dated January 5, 1988. It is not clear that the right-of-way dedication was ever completed.

In light of the above, and the considerable improvements requested by DelDOT to accommodate this development, both on and off-site, the Planning and Development Department recommends that a meeting be held with DelDOT, the City and representatives of the land owners, AUDG Holdings, LLC, Home Depot and WSFS to address: road ownership; the improvements required; and the timing of and responsibility for such improvements for both the Christina Parkway Extended and Elkton Road. This meeting should take place prior to City Council review of the Cottages at the Plaza development plan.

9. The Public Works and Water Resources Department indicates that:
 - The water meters will need to be centrally located. Their location will have to be approved by the Department.
 - The cost of meters will be paid for by the developer.
 - STP fees for each building will be due at the issuance of the CO for that building.
10. The Public Works and Water Resources Department indicates that the walking path within the buffer area should be a more permeable surface than the stone dust proposed. As noted above, the walking path surface will be discussed with the landscape architect during the CIP process.
11. The Public Works and Water Resources Department indicates that geotechnical studies are being conducted and the results will need to be furnished to the City. All the stormwater areas are being tested to see if infiltration is feasible. While the Department does not envision the results requiring significant changes to the plan, the reports should be submitted prior to Council review of the plan.
12. The Public Works and Water Resources Department indicates that water flow tests will be required. The Department believes that the waterlines currently in place may be inadequate to serve a development of this size. This concern is not something that the Department anticipates affecting the residential layout or density of the site, but may have impacts the utility plan which will be set through the Construction Improvement Plan process.
13. The Planning and Development Department notes that the applicant has indicated that the target market for these potential units are not undergraduate students, but that they will be reaching out for graduate students, families and young professionals at this location. Based on this assertion, the Planning and Development Department questions the need for five-bedroom units in the cottage developments, of which there are 16. In addition, to minimize the overall impact of a 168 unit development on the community, the Department believes that the applicant should voluntarily deed restrict the property to a total maximum number of unrelated tenants permitted to reside in the development to a multiple of the number of units approved. The Commission may want to discuss these suggestions with the developer at the meeting.
14. The Planning and Development Department suggests the following, regarding subdivision site design conditions:
 - The architectural design of the proposed façades should be carried out on all building elevations visible from public ways.
 - Storage areas, mechanical and utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
 - The planning area lighting should be designed to limit impact on adjoining and nearby properties.
 - Regarding site plan approval, the Planning and Development Department notes that the Planning Commission should review the proposal in light of the criteria noted above.

15. The Planning and Development Department indicates that the building should be designed to allow for future conversion to condominiums.
16. The Planning and Development Department indicates that the development meets the Zoning Code for parking. Specifically, the south side exceeds the required spaces by 12 spaces; and the north side meets the required amount exactly. The Commission may wish to discuss guest parking with the applicant at the meeting.
17. The Planning and Development Department indicates that the rezoning to RM is appropriate because the rezoning of the Home Depot site from MOR to BC in 2007 separated the MOR zoning at the site into two parcels, one of which (northern section) is now surrounded by BC, OFD and RM zoning, and therefore, less appropriate for an industrial designation. In addition, permitting residential development within walking distance of Suburban Plaza Shopping Center will improve the economic viability of the Center – as well as meet neo-traditional development goals. Therefore, the Department supports the rezonings and the Comprehensive Development Plan amendment.
18. The Code Enforcement Division of the Planning and Development Department indicates that the plans will be reviewed against the 2012 ICC Codes, which include requirements for sprinklering and LEED, certified level, Energy Conservation's standards or similar such certification, approved by the Division.

Recommendation

Because with the proposed Comprehensive Plan amendment, the Cottages at the Plaza rezoning will conform to the requirements of Comprehensive Development Plan IV, and because the rezoning, major subdivision and site plan approval plan, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on adjacent and nearby properties, because the proposal (with site plan approval) meets all applicable Code requirements, and because the proposed use does not conflict with the development pattern in the nearby area **the Planning and Development Department suggests that the Planning Commission take the following actions:**

- A. Recommend that City Council revise the existing Comprehensive Development Plan IV land use guidelines for this location from “manufacturing/office/research” to “multi-family residential (medium to high density)”;** and,
- B. Recommend that City Council approve the rezoning of 19.69 acres from the current MOR (manufacturing/office/research) zoning to RM (garden apartments) and the rezoning of 4.7 acres from MOR (manufacturing/office/research) to BC (general business) zoning as shown on the attached Planning and Development Department Exhibit A, dated March 5, 2013, and,**
- C. Recommend that City Council approve the Cottages at the Plaza major subdivision plan as shown on the Landmark Engineering plan, dated December 12, 2012 with revisions through January 31, 2013, with site plan approval, and with the Subdivision Advisory Committee conditions.**

Ms. Feeney Roser: That completes the summary of the report. I will be happy to answer any questions the Commission may have.

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

Mr. Hegedus: The meeting with DelDOT, is there any potential out of that, that there would have to be any significant changes to the actual designs and the site layouts.

Ms. Feeney Roser: Of the layout of the residential pieces? No. There may be changes to the roadway. Mainly, it is to figure out who is going to own the road at the end and who is going to pay for what.

Ms. Brown: Is this property in the Comprehensive Plan one of those properties that we were designating to be converted to condos or owner occupied housing.

Ms. Feeney Roser: The Land Use designation is manufacturing/office/research. At the time the Comp Plan was presented, we thought that that was a reasonable use. Housing was not considered as part of that Comp Plan.

Ms. Brown: Does the new perspective Comp Plan say that you are supposed to consider this as condos? Is that to be desired or not?

Ms. Feeney Roser: This particular piece of land has not been designed.

Ms. Brown: The reason I asked is because in here it says that this is a long-term lease. So, to me it looks like this can only be a rental. You are not going to sell the property. You can't sell these buildings.

Ms. Feeney Roser: The Mayer family will continue to own it. It is a long-term lease arrangement that I am sure the applicant will speak to.

Ms. Brill: I have just one correction. Maybe it is my misunderstanding, but on page 6 you read 12 dwelling units building, but the plan shows lodge buildings with 19, 23, 27 units per building, and I have 19, 27 and 27. Am I wrong? 19 is in building 200, 27 is in building 300 and 27 is in building 400. Is that correct?

Ms. Feeney Roser: It could be a typo. You are right. That should have been two buildings with 27 units and one with 19. I can correct that.

[Secretary's Note: The applicant, Planning Commissioners and the public referred to the PowerPoint presentation that the applicant brought for their presentation to the Planning Commission].

Ms. Goodman: I am here tonight representing AUDG Holdings Group. I am pleased to have with me Mr. Ryan Holmes, Mr. Ryan Bourque from the client, Joe Charma from Landmark Engineering who is the project engineer, and Mr. Dale McLane from Niles Bolten Associates, Inc. all the way in Atlanta who is the project architect.

For the folks in the audience, what we are putting up on the screen is what the Planning Commission is being handed. You will have the same thing to look at.

I would like to walk you through this project. This project is significantly different than the project we just spent a pleasurable two hours talking about. This project is, of course, not in downtown. As a matter of fact, it is pretty much as far away from downtown as you can get because it literally borders County property.

We talked about Suburban Plaza, and the center portion here in black and white is Suburban Plaza and the two portions here that are in color at the top we have the site that we refer to as the north site and at the bottom, the south site. In color are the portions that we are here tonight to talk about as rezoning, site plan approval and subdivision plan approval with a Comp Plan amendment. Of course, the Comp Plan amendment is not that unusual. Council certainly has done them before. In the County, actually, they are done every time there is a rezoning because they conform to the Comp Plan to the rezoning. The timing of this is good because it is Comp Plan time anyway, as Ms. Feeney Roser pointed out.

Suburban Plaza needs no introduction: Home Depot, Acme, Applebee's, two banks, GNC, Walgreen's, Subway, the bagel Shop, etc. The land to the west (to the left) is owned by DuPont and is manufacturing land. The lands in question to the north and south as was indicated are to be long-term leased from the owners. That is not to say that that arrangement could not change in the future to lease hold to ownership, but it is true that currently the terms on which these lands are available for development is a long-term lease.

This is a close-up of the north site. It is 10.99 acres, currently zoned RM as indicated. It adjoins the DuPont land zoned industrial to the northeast and it adjoins east

Christiana Mills Apartments and Millstone Plaza along Elkton Road. And, Suburban Plaza itself is zoned BC. So, we have RM and BC and then this little piece, relatively speaking, of MOR zoned land.

The north site proposes to utilize two housing types, and they are represented here in different colors. The reason we are in front of you on something called site plan approval, which isn't very common, is because this is really a unique proposal. So, it is not the normal thing that you folks see and so it is appropriate for site plan approval which allows ultimately Council more flexibility with certain area requirements. It allows them to look at the overall plan and say we like this and therefore we want to modify certain things.

The orange buildings are the lodge buildings, and we will talk about specific architecture here in a little bit. They are three story buildings and they are walk up flats, so one level apartments. The cottages which are in yellow, the smaller buildings, are duplexes grouped in pods of four. So, there are, essentially, a set of duplexes back-to-back with another set of duplexes. They all have front porches. The interesting feature here, therefore, is that by definition there are on back yards. There are front yards on either side. Your backyard essentially is the wall with the unit behind you. We frankly didn't put all the landscaping on this plan because it would be a little hard to see if we did so, and we will show some more details of landscaping in a minute. What you have throughout both the north site and the south site are areas designed for community gatherings – little pocket parks where some might just be a seating area, some might be a place where you can gather and talk or you might want to have a little cookout – areas like that to foster a sense of community because that is the point here.

So, on the north site there are four lodge buildings, 11 duplexes with a mix of bedrooms as Ms. Feeney Roser indicated in her report. There are some one bedrooms, two bedrooms and four bedrooms. The overall density is 10.31 to give you a sense of where we are there and there are 3.45 acres of passive open space and that is the area that you see down in the lower left-hand quadrant here. That is all to be preserved as open space.

In the south site you see a similar type of units but on this site there is one lodge building and there are 28 duplexes. Again, a similar mix – one bedrooms, two bedrooms, four bedrooms and 16 five bedroom units. Let me just say at the start here, this is a different beast and my client has indicated to me to say to you right up front that they are comfortable deed restricting this to one person per bedroom because that is how they are going to run this place. I personally would be more comfortable if we did that as an overall number so it would be 600 people. That way if someone has a boyfriend or a girlfriend move in we don't have the bedroom police, but the number would be one per bedroom overall.

I want to note that not part of this application because it lies in the County. At the bottom here you see that treed triangle that is in the County. It is actually zoned CN (maybe it is CR), which is commercial designation in the County, but it is also being leased by my clients, frankly, to buffer their project and it will be left open. It is mature woodlands. It is wetlands. They want to have it under control so that nothing happens to it in the future to the extent that it could be developed. It is in large part mature protected habitat, but they want to control it so that it buffers their project. It is part of the leased area, even though it is not in the City.

We do have additional parking on this site. The required is 171 and we have 185. This gives you and birds eye view of the south site.

To give you a sense of what this is going to look like when it is done because I think it is easier to see than on a flat perspective. What you can see is a mix of unit types. If you look at the back here you will see a very large area of amenities in addition to, which we will talk about in a moment, a very substantial and very beautifully appointed clubhouse. That whole area is not residential that is clubhouse.

Let me talk a little bit about the amenities. If you look in the back you will see a large swimming pool, open seasonally. In addition, there is proposed to be a half basketball court, bocce ball courts, an open air pavilion for gatherings. It will have outdoor cooking

facilities and there will be other outdoor cooking facilities scattered around as well, as well as the clubhouse.

These are the elevations of the units, just to give you a more up close sense of what these are going to look like. I think it is helpful for you to see these so you have sense of what they are going to look like. So, the idea here is to keep the cottage feel as a unique thing that is not offered elsewhere in Newark. You can see that the architecture does that. This is a typical lodge building, and again, the idea here is to have a lodge feel, not an apartment building feel, but a different sort of project. This is a different iteration of a lodge building on the site. Specifically, building 500.

This is the elevation of the proposed clubhouse, and again, what you can see here is the sort of carryon of the cottage/lodge sort of craftsmany kind of feel here. This is inspired by some actual buildings that exist. These are photos of another project done by the same architect on which they are modeling this project. This is not exactly how it is going to look. This is to give you a sense of the feel and what these are being modeled after. So, the top building is a clubhouse building that is the inspiration of this project. The lower two are photos of the interior of a lodge building. They will have the same type of amenities here. So, this lodge building is proposing, for example, coffee area, meeting rooms, a catering kitchen, ping pong, pool tables, conversation areas, a community television watching area, dart boards, in addition to a large workout area. The idea here is to attract folks who might be coming from other areas where they would, frankly, expect these types of amenities. Given where this is located, it goes without saying that one of the hopeful draws would be from folks coming in to work at the tech block who might be moving from other areas of the country, possibly more urban areas where they have more amenity rich types of projects. And, this is designed in part for that kind of folk. Again, we cannot discriminate against students, and I expect that there will be a mix here, but I think you can see from the high end amenities and design here that their going after professionals to the extent that that is possible.

These are photos of actual buildings that inspired the lodge on the left and the cottage look and feel on the right. Again, outdoor amenity examples, a pool example with a hot tub and a outdoor kitchen area and then one of those little pocket seating areas. This happens to be a single bench that I was referring to earlier and they are scattered throughout.

Let me move on to site plan approval. Site plan approval is a specific creature in the Code. You don't see them very often. Essentially, we have to show that we meet a mix of five criteria. We don't have to hit every one out of the ballpark, but we have to demonstrate enough meeting of those criteria or a mix of those criteria that Council believes that we qualify for this site plan approval. I think this project, frankly, does hit the overall site plan approval process out of the ballpark. We have to show distinctiveness and excellence in site arrangement and design and that includes the following:

- Common Open Space – I walked you though the amenities and the arrangement here which we think are really unlike anything that exists in Newark right now, both indoor and outdoor. Overall, there will be 10.66 acres of passive open space in this project.
- Unique Treatment of Parking Facilities – We have surface parking here, but we have arranged it in such a way that it is largely shielded so when you come in it is behind the buildings. We think that is a much preferable design and we do not have garages which will also allow us distinctiveness and flexibility in the appearance of the buildings. So, you are not looking at either front or back at a large garage door, which you could make them look nice, but they are still garage doors.
- Outstanding Architectural Design – I walked you through the design and we feel very confident that this is something that is not offered in Newark and is a very unique and outstanding project.
- Association with the Natural Environment Including Landscaping – The slide that I showed you earlier showed the Code required landscaping. We wanted to show you this slide because it shows typically how we propose to landscape individual buildings. You can see the density of the landscaping and the intensity of the landscaping is far beyond what the Code requires and will be beautiful when done. Here is a sample of what a duplex cottage conceptual plan would look like in terms

of landscaping. And, again, you can see how unique that will be. In addition, for exceeding those requirements, we have the preservation of the woods to use as a buffer. Even though that is not actually in the City, it certainly goes to the overall design. We have the preservation of the wooded area on the south site which is in the City. So, overall that includes the seven acres that are not in the City.

- Relationship to Neighborhood and Community – Obviously, we are proposing these two very unique residential areas with, frankly, just about every community amenity you could want in between them. If you look at the mix that is at Suburban Plaza, it would be hard to design one that would be better for, essentially, not having to be in the car – Home Depot, a grocery store, a number of eateries, two different pharmacies, there is a game store, virtually any amenity that you want is there. So, we think that that provides great walkability and great relationships to the neighborhood. One of the things that my client thinks is important is to keep people out of their cars. So, one of the proposals here, assuming that there is tenant demand for it, is to provide a shuttle that would be unique to this community. There would probably be two shuttles which would put them about every 15 minutes into the center of town and back and would also take you out to the tech park. So, the idea is, why would you get in your car if you can get on a nice shuttle and go that way. People will take their cars some places but, hopefully, not for their regular commute.

Briefly as to the zoning criteria, and you have heard that the Department has recommended in favor of those. It is certainly consistent with nearby RM properties. It is not detrimental to any nearby properties. We already have residential nearby and we believe it will be beneficial to the merchants at Suburban Plaza as well as to the proposed future residents. It doesn't conflict with the development plan in nearby areas for the same reason. It is certainly consistent with the development of Elkton Road with the mixed use closer to Main Street and then residential moving out. Frankly, it is the type of high end, amenity rich, environmentally responsible development that Newark is saying it wants to encourage. So, I am thrilled to be standing here representing this project. I think it is unique and in a great location and they have provided amenities that, frankly, I think are unrivaled to what any other project that I have seen recently. We are happy to answer any questions.

Mr. Bowman: Are their questions for the applicant from the members of the Commission?

Mr. Hegedus: The sidewalks that connect it all, the one you are going with is going down into the shopping center and coming back up again?

Ms. Goodman: Yes.

Mr. Hegedus: The major disconnect for me is not discriminating but wanting to go for the professional group, why are there five bedroom places when you are not seeking the undergraduate college crowd, is the obvious question? And, you would think that it being so far out of town, the undergrads would not want to go that far. For all the right reasons you put a shuttle in that makes it easier for undergrads to get out to five bedroom places with a cool pool and all that stuff. What is the thinking behind that?

Ms. Goodman: That is a good question. The answer is that it is a balance. We don't view the shuttle as being a way of encouraging students. We view the shuttle as an amenity that anybody who lived there would want. It is very difficult to drive into town and park. So, if I wanted to go into town, I'm getting on the shuttle and I am going to go have dinner and I am going to come back. Or if I'm going to work, it just makes sense. It is unrealistic to think that there won't any students there, however, there are also families that may easily want five bedrooms. We see that in modern homes. We see Mama, Dad, two kids and they want a study or a playroom. So, those units are certainly not out of the realm of a family. It is also possible that they will be students. I think the willingness to restrict to a total number of one person per bedroom, hopefully, addresses that concern that the goal here is to absolutely not to have two students per bedroom which is, I think, is really the concern about having student housing.

Ms. Brill: I have no problem, actually, focusing on students here, but why would a husband and wife want to sleep in separate bedrooms?

Ms. Goodman: Did I count wrong – sorry. That is the British model.

Ms. Dressel: I am concerned about the number of 117 four-bedrooms and 16 five-bedroom units. You have a little tiny bit of variety here with one and two bedrooms, but I think it would be more in keeping with what we've been talking about if we were to see more two and three bedroom units as opposed to seeing more four and five bedroom units in here. Especially in the individual cottages because if those are all five bedroom, that is just going to be party city on the weekends and that would all be student housing probably. So, not wanting to prohibit, but I think we have a lot of four and five bedroom places in the City now and it seems as though it would make much more sense and be better received to see a lot more two and three bedroom units in this complex. That is going to be a recommendation I will make.

Ms. Goodman: We understand that and that recommendation, if it is adopted will go to Council and in the meantime we will think about it and look at the bedroom counts and take your advise into account and have that conversation with Council and maybe make some adjustments.

Ms. Brill: Have you also thought about covered bike racks because it is a little way out and bicycling would be the way I would want to go and if you had covered per unit, it would be really handy for the residents.

Ms. Goodman: I don't know but we will now.

Mr. Bowman: Is there a plan for onsite management?

Ms. Goodman: Yes, it is required by the Code.

Mr. Hegedus: I would like to echo a little bit of Angela's thinking. I asked about the five bedrooms, in my notes I said I am also concerned about the four bedrooms. I like the layout a lot, you talked about how the amenities are all high end. So, I am just wondering if you changed the floor plan, can you still get the income you are looking for because you would appeal to a crowd that could do the three bedroom higher end sort of thing – young professionals renting. You need to go away and think about the finances.

Ms. Goodman: We can go away and think about that and to the extent that it would be the will of the Commission to make a recommendation that we consider looking at the number of bedrooms in the units and coming up with a different sort of mix. I think we would be very open to going back and looking at that as a recommendation from you folks.

Ms. Brown: I am sort of taken aback when I looked at our notes from the Planning and Development Department that you came in and wanted us to adjust the front and rear allowances. You wanted us to adjust the side allowances. You wanted us to adjust the height allowances and you wanted us to adjust the number of units per building. These were in the requirements before you started building this. My feeling is that you should have stuck to them. That is what the City says you are supposed to do and I know we keep granting variances and all that, but that is what they should have done. That is all I am going to say about that. That really annoys me. It is what it is and that is what you should go by.

However, the exact reason that the site plan approval process is in the Code is for situations like this. The Code actually says, if you bring us something that is really unique and we really like, we want you to go through this process because we recognize that it is not a one size fits all and rather than have us go to the Board of Adjustment and have them look at each individual thing, the idea with the site plan approval is that we come to you and then council and you guys in your wisdom look at the big picture. I understand what you are saying. It is a little bit like folks going to the board of Adjustment and saying nobody should ever get a variance. The answer to that is, but the Code created the Board of Adjustment because that recognized that variances are desirable and necessary.

Ms. Brown: And, in Newark we seem to do that a lot. I don't know if these numbers are right but I am getting a total of 600 bodies if you are going by bed per room. That is a lot of bodies to add in one space. I like the plan. I love especially the smaller duplex houses, but

600 bodies and the pedestrian traffic and the car traffic, I think, is going to have a huge impact on this area. We don't know who owns the roads. We don't know who is going to maintain them. This is all up in the air and the Police also had a real concern. We don't tend to look at this but I think this really something that we need to pay attention to. They are concerned about the traffic and I think there is a real concern there. Otherwise, I think it is a great place. It looks lovely. The other concern I have is making sure that the amenities – the club house, the pool (I don't know if you need bocce courts) – are in place that there is an agreement that this is done and that they are maintained because we had a prior project where some of the amenities were not built and then some of them were not maintained. I think we have a real problem here with people honoring their word. So, I think we have something in the agreement with the City that this has to be done. If you say you are going to do it, you need to do it.

Ms. Goodman: And again, as with the prior plan we are happy to work with the City through the development agreement to address those concerns so that you are not concerned that what you approve is what you get and what you keep.

Ms. Brown: My last concern is, and I understand the economics of this, but after we did go to this housing meeting that Mike put together, we have a real problem here with affordable housing in Newark. Real people cannot afford to rent housing in Newark. Is there any plan in here that they are going to make these affordable for real people, people that have a fixed income, people that have limited income. We are getting rid of our limited income properties. We don't have rent control. So, do they have some sort of plan here where we can have real people with jobs?

Ms. Goodman: As opposed to unreal people.

Ms. Brown: Well, what I am saying is there is a real economic difference here and I think we are putting our head in the sand and want this on the record.

Ms. Goodman: This particular project is proposed to be a market rent project. However, I will tell you as a conceptual matter, you are absolutely right. The health of a City overall requires a mix of housing types at a mix of price points. That is exactly the purview and job of your Planning and Development Department is to come up with a plan to workshop it and to take it up to Council and the Zoning Code can be used to incentivize the construction of that kind of housing and other tools that the City has as well.

Ms. Brown: And this project is maybe something that could happen. It is two pieces. It is totally divided so, I'm just throwing that out there. I think this is something we need to start thinking about. Maybe these people can pull a rabbit out of their hat and a little less money into their pockets.

Mr. Bowman: If there is anybody in the public that would like to step to the microphone and speak to this project, please step to the microphone and state your name and address please.

Ms. Schultz: I am speaking on behalf of the League of Women Voters of New Castle County. I would like to know if any provision has been made for public transit parking or a pull-in site or something like that. I know there is not very much frontage there, but it is really hard to retro-fit these things and being in the position where it is a bid outside the major business area.

Ms. Feeney Roser: Ms. Schultz, are you talking about DART bus routes?

Ms. Schultz: Yes.

Ms. Feeney Roser: Yes, there are provisions. Actually, in the DelDOT recommendations, there are four different lines that serve the Suburban Plaza area and their plan was to include bus shelter pads and sidewalks leading to them.

Ms. Schultz: There is something in this plan?

Ms. Feeney Roser: Yes.

Ms. Schultz: Okay, I didn't see that on the plan. Thank you.

Mr. Russell Johnson: I was born and raised in Newark, Delaware. I used to live on New London Avenue and throughout the years I have seen a total and rapid decline of the black community. There has been, it seems to me, a total disregard to the community in Newark in itself as opposed to developers wanting to come in and just be about money. This project here seems to be another little ritzy piece of work that is going to cater to the higher end of people. We are not seeing any concern especially with how our economy is right now and the way people are across this whole nation. And, the working people who are working hard to develop this country and trying to keep our families together and there is nothing about family that I am hearing here tonight, nothing about keeping families together to try to keep communities together. I don't like the idea of this plan right here. It doesn't appeal to me at all as a resident of Newark and as a human being. So, I just don't like it.

Mr. Bowman: Is there anyone else that would like to speak to the project? We will bring it back to the Planning Commission.

Ms. Goodman: Mr. Chairman, I do have one thing to submit in public comment. These are 10 letters (two copies each) from merchants in Suburban Plaza in support of the project.

Mr. Bowman: We are back to the Commission for any further questions. If there are no further questions, the Chair will entertain a motion.

Ms. Dressel: Going back to the lodge buildings. We have now discovered that there are 19, 27, 27 and 33 units. I am looking at this thinking that the architecture is very nice, but it seems to me that it would, again, be more acceptable if those numbers were smaller, maybe not quite to the 12 because if it is all 12 it is going to begin to look monochromatic and we don't want that. If they went to between 15 and 20 per building, so you would reduce the footprint of the lodges but maybe have a couple of extras or something like that, and then that would also take into consideration, the way I am thinking, reducing the number of four-bedroom units in those lodges and maybe making more of them to be the three bedroom units. Again, that would make it more feasible for smaller families and fewer undergrad students to be having huge groups of people living there. Would the owner comment on how that would work with your plans.

Mr. Ryan Holmes: With Ambling. We would have to go to a higher level than the three stories and then our parking would be reduced because you would be taking more parking footprints because of the setbacks. For smaller buildings is what you were asking.

Ms. Dressel: Right.

Mr. Holmes: Those buildings are actually behind the Suburban Plaza on the split site.

Ms. Feeney Roser: Ryan, I asked this question in a meeting that we had but for the Commission's benefit: Why no three bedroom units?

Mr. Holmes: We don't find that three bedrooms rent as well. We can get the cost further down on a four bedroom than you can on a three bedroom unit. We have multiple properties and we have one property that has ones, twos, and fours, and we are 100% occupied in everything, but we have 50% vacancy in our three-bedrooms because it is kind of like the odd man out issue.

Ms. Brill: So, you are willing to scratch the five-bedroom concept.

Mr. Holmes: We are not really willing to scratch the five-bedroom, we think that is bringing the whole cottage atmosphere to the project which makes it a unique project. We might consider changing some of the fours, but the five bedrooms, we need those dollars. We are trying to provide a different mix of product as you can see to make the product unique and not something that is around in the area today.

Ms. Dressel: So I'm sure I understand: there are 117 four-bedroom units and there are 16 five-bedroom units. The Cottages are not all the five-bedrooms. They are four and five-bedroom. Believe it or not, I get the three-bedroom thing, although, I think that for two people renting that would make a lot of sense to have the third bedroom for an office space or something else.

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

- A. RECOMMEND THAT CITY COUNCIL REVISE THE EXISTING COMPREHENSIVE DEVELOPMENT PLAN IV LAND USE GUIDELINES FOR THIS LOCATION FROM "MANUFACTURING/OFFICE/RESEARCH" TO "MULTI-FAMILY RESIDENTIAL (MEDIUM TO HIGH DENSITY)"; AND,
- B. RECOMMEND THAT CITY COUNCIL APPROVE THE REZONING OF 19.69 ACRES FROM THE CURRENT MOR (MANUFACTURING OFFICE/RESEARCH) ZONING TO RM (GARDEN APARTMENTS) AND THE REZONING OF 4.7 ACRES FROM MOR (MANUFACTURING/OFFICE/RESEARCH) TO BC (GENERAL BUSINESS) ZONING AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED MARCH 5, 2013, AND,
- C. RECOMMEND THAT CITY COUNCIL APPROVE THE COTTAGES AT THE PLAZA MAJOR SUBDIVISION PLAN AS SHOWN ON THE LANDMARK ENGINEERING PLAN, DATED DECEMBER 12, 2012 WITH REVISIONS THROUGH JANUARY 31, 2013, WITH SITE PLAN APPROVAL, AND WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS, AND WITH THE FURTHER CONDITIONS THAT THE APPLICANT;
 - INCREASE THE NUMBER OF ONE AND TWO BEDROOM UNITS.
 - REDUCE THE NUMBER OF UNITS IN THE LODGES.
 - DEED RESTRICT THE NUMBER OF OCCUPANTS TO ONE PERSON PER BEDROOM.
 - COMPLETE THE PROMISED AMENITIES PRIOR TO THE ISSUANCE OF THE FINAL CO.

Mr. Hegedus: Angela, your discussion about one bedroom, two bedrooms, reducing numbers, was that for them to consider?

Ms. Dressel: Because I don't want to give a specific number, I don't know how these buildings are going to be constructed, but to increase the number of one and two bedroom units taking place of some of those four bedroom units. I understand you need some five bedrooms but cutting back on some of the five bedroom units as well.

Mr. Hegedus: So, since we don't have a number, you want them to consider our recommendation and then address that before they get to City Council.

Ms. Dressel: Yes.

VOTE: 5-1

AYE: BOWMAN, BRILL, BROWN, DRESSEL, HEGEDUS
NAY: JOHNSON
ABSENT: CRONIN

MOTION PASSED

5. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION OF THE .781 ACRE PROPERTY AT 107-131 NEW LONDON ROAD. THE APPLICANT IS REQUESTING MAJOR SUBDIVISION APPROVAL TO

CONSTRUCT 12 TOWNHOUSE STYLE APARTMENTS AT THE SITE. THE PROPERTY IS CURRENTLY ZONED RM (GARDEN APARTMENTS).

Ms. Feeney Roser summarized her report to the Planning Commission that reads as follows:

“On December 20, 2012, the Planning and Development Department received an application from Terry Lane, LLC for a major subdivision of the .781 acre property at 107-131 New London Road. The applicant is requesting major subdivision approval in order to construct 12 townhouse style apartments to be known as Campus Walk, in place of the five single-family residential rental units currently at the site. The property is currently zoned RM (garden apartments).

Please see the attached Hillcrest Associates, Inc. major subdivision plan, supporting letter and building elevations. The Planning and Development Department’s report on the Campus Walk major subdivision follows:

Property Description and Related Data

1. Location:

107-131 New London Road

2. Size:

.781 acres

3. Existing Land Uses:

The property at 107-131 New London Road contains five single-family rental homes.

4. Physical Condition of the Site:

The site contains five single-family homes now used as rentals fronting on and with access from New London Road.

In terms of topography, the site slopes from highs at the southern boundary to lows at the northern end.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the site contains Elsinboro-Delanco-Urban Land Complex soil. This soil is described as level to gently sloping soils used for residential or other community purposes.

5. Planning and Zoning:

The Campus Walk site is zoned RM. RM is primarily a multi-family residential zoning that permits the following:

- R. Garden apartments, subject to special requirements.
- S. One family, semidetached dwelling.
- T. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- U. Nursing home, rest home or home for the aged; subject to special requirements.
- V. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding semi-trailers and similar vehicles for storage of property.
- W. Cluster or neo-traditional types of developments, included uses that many not be permitted in this district, as provided in Article XXVII, Site Plan Approval.

- X. One-family detached dwelling.
- Y. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for a rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.
- Z. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- AA. Public and private elementary, junior, and senior high schools.
- BB. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- CC. Municipal utilities, street rights of way. treatment plant.
- DD. Temporary building, temporary real estate or construction office.
- EE. Utility transmission and distribution lines.
- FF. Public transportation bus or transit stops for the loading and unloading of passengers.
- GG. One-family town or rowhouse subject to the requirements of Sections 32-13(1) and 32-13(c)(1).
- HH. Student Homes, with special requirements

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

- L. Conversion of a one-family dwelling into dwelling units for two or more families, if such dwelling is structurally sound but too large to be in demand for one-family use, and that conversion for the use of two or more families would not impair the character of the neighborhood, subject to special requirements.
- M. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed. No repair facilities are allowed except within completely enclosed buildings.
- N. Physicians' and dentists' offices, subject to special requirements.
- O. If approved by the council, property in a residential zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use, whether said business use be a nonconforming use in the residential zone or a business use in said adjacent area zoned "business" or "industrial."
- P. Police and fire stations, library, museum, and art gallery.
- Q. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- R. Professional offices in residential dwellings for the resident-owner of single-family dwellings permitted subject to special requirements.
- S. Customary Home occupations with special requirements.
- T. Public Transit Facilities.
- U. Private (nonprofit) swimming clubs.
- V. Day Care Centers with special requirements.

Please note that apartment uses in the RM district require lots of a minimum of one acre in size. Regarding this requirement and other RM area requirements, please be advised that on October 18, 2012, the Board of Adjustment granted variances for minimum lot size, maximum lot coverage, minimum open area, setbacks for parking, and building setbacks for the Campus Walk project. With these variances, the Campus Walk plan, meets or can meet the RM zoning area requirements.

Regarding adjacent and nearby properties, to the north immediately adjacent to the site and to Corbit Street is an RM zoned, State owned parcel, which is used as a planting area and a community banner pole island. To the west along Corbit Street are single-family homes, which are zoned RD. To the north, across Corbit Street, is an apartment type building, which is also zoned RD. Directly across New London Road from the site is Ray Street, south of which are RM zoned single-family homes and the Mt. Zion UAMC Church. To the south of the site on

the corner of Cleveland Avenue and New London Road is the St. John's African Methodist Church with a series of 11 RM zoned single-family homes between the site and the church, most of which are rental units.

Regarding comprehensive planning, the Comprehensive Development Plan IV calls for single-family residential (medium density) uses for the site. The Plan defines these uses as "areas designated for dwellings occupied by one family, either detached, semi-detached or townhouses, with overall densities of 1 to 10 dwelling units per acre." In this case, the zoning of the property (RM) allows garden apartments and townhouse style apartments with a density of 16 units per acre. Therefore, while there is a density inconsistency between the Comp Plan density designation and the Zoning Code density allowed, the residential designation is consistent with the Plan.

Regarding gross site density, please note that the Campus Walk plan calls for 15.36 dwelling 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, related exterior features, and existing utility lines. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, the Campus Walk development plan calls for the demolition of five existing single-family detached dwellings and construction of 12 three-story townhouse apartment units with 50 parking spaces, which include three garage spaces per unit and associated visitor parking. Although the townhome apartments front on New London Road, access to the site is from Corbit Street.

Please consult the applicant's submitted building elevation drawings and supporting letter for additional information considering the proposed 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). Because the project is located outside of the Downtown Newark Partnership boundaries, the DNP's Design Committee has not commented on the proposed elevations.

Fiscal Impact

The Planning and Development Department has evaluated the impact of Campus Walk on Newark's municipal finances. The estimates are based on the Department's Fiscal Impact Model. The Model projects the Campus Walk fiscal impact; that is total annual municipal revenues less the cost of municipal services provided. The Planning and Development Department's estimate of net revenues is \$5,947.23 annually.

Please note that the applicant already owns the properties to be developed, there will not be an impact of real estate transfer tax. In addition, please note that the analysis does not take into consideration existing conditions. In other words, the estimate provided is for the total

development completed as proposed, and not for the difference between the existing and proposed development.

Transportation

Because access to the site will be off of Corbit Street, which is a City owned and maintained roadway, the State anticipates no direct involvement in permitting. However, a DelDOT Letter of No Objection will be required. This letter should be submitted to the City prior to Council consideration. In addition, State permission to work within the New London Road right-of-way for the sidewalk and retaining wall will be necessary. The applicant should work directly with DelDOT to complete these requirements.

Subdivision Advisory Committee

The City's Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development plan and has the comments provided below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Electric Department indicates that aerial lines cannot be de-energized during construction. The developer must pay for any line coverings necessary during construction.
2. No trees over 18 ft. at maturity can be planted under aerial circuits.
3. The Electric Department indicates the developer must pay \$4,600 towards the cost of transformers and meters.
4. The Electric Department indicates that the developer must pay for any pole relocations, if necessary.
5. The Public Works and Water Resources Department indicates that the developer will be required to move the 6" water main pipe along New London Road out of the right-of-way.
6. The Public Works and Water Resources Department indicates that all existing water services along New London Road and Corbit Street need to be terminated at the main pipe tie-in in the street.
7. Existing sewer laterals need to be cameraed to check their condition for reuse. A copy of the camera work shall be provided to the Public Works and Water Resources Department for review. In addition, STP fees are due at the time of issuance of the CO. Credits will be provided for the five units currently at the site.
8. The Public Works and Water Resources Department indicates water meters are required for each unit and must be paid for by the developer. Credit will be applied for existing water meters at the site.
9. The Public Works and Water Resources Department indicates that the 20 ft. easement on the project should be maintained from the face of the retaining wall to allow as much room as possible for future maintenance of the pipe there. An additional easement on the adjacent parcel on Corbit Street, owned by the developer, will also be necessary to access the south portion of the pipe. The easement may not be necessary if the applicant is willing to maintain the pipe himself. This issue will need to be worked out before Council review.
10. The Police Department has concerns regarding the increased vehicular traffic onto Corbit Street from the development. The Department suggests that the exit onto Corbit Street be designed to discourage left turns onto Corbit Street. The Department also suggests traffic controls and/or restricted left turns from Corbit Street onto New London Road.

11. The Parks and Recreation Department does not have specific comments regarding the subdivision submittal except to say that the landscape plan will need to be diversified. Conversations with the Parks and Recreation Department should take place during the CIP process.
12. The Planning Department notes that the maximum height of buildings in the RM zone is three stories or 35 ft. The current plan shows three stories or 41 ft. A variance was not requested (nor was one granted) for the height restriction by the Board of Adjustment, and, therefore, the plans will need to be revised before Council review to reflect the 35 ft. maximum height limit or another variance must be sought and granted for height. Please note, in this regard, the Planning and Development Department is currently working on a report to the Planning Commission on building heights. We may very well make a recommendation to increase the maximum height in residential districts from three stories or 35 ft. to three stories or 40 feet, however, at the earliest, the Planning Commission may consider the report in April.
13. The Planning and Development Department notes that the office listed at the entrance of the development from Corbit Street must be accessory to the rental property onsite. Further, it may not contain both a kitchen and a bathroom when built because it will be considered an additional residential unit.
14. The Planning and Development Department indicates eliminating the curb cuts along New London and having access to the site from Corbit Street is a positive result of the project.
15. The Planning and Development Department notes that the architectural design is to be commended and should result in a significant improvement of the aesthetics of the area.
16. The Planning and Development Department notes that because the development will increase the density of the site, the developer should consider voluntary deed restrictions to limit the number of individuals who may reside there to a multiple of the number of units. The Planning Commission may wish to discuss this matter with the applicant at the meeting.
17. The Planning and Development Department notes that the project provides 50 spaces on site. The number of spaces provided exceeds the parking requirement for 12 three-bedroom townhouse apartments by 14 spaces.
18. The Code Enforcement Division of the Planning and Development Department notes that the project will be reviewed under the 2012 ICC Codes. The project must also comply with ANSI 17.1 for handicapped accessibility standards and the City's LEED like requirements. The fire protection plan will need to be submitted through the CIP process.

Recommendation

Because the proposed Campus Walk major subdivision plan, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on nearby and adjacent properties; because the project with the recommended conditions conforms in general to the land use guidelines in the Comprehensive Development Plan; and because, with variances granted by the Board of Adjustment and pending an adjustment for building heights shown, the plan meets the requirements of the RM zoning district, and because the plan does not conflict with the development pattern in the nearby area, the Planning and Development Department suggests that **the Planning Commission recommend that:**

City Council approve the Campus Walk major subdivision plan, as shown on the Hillcrest Associates, Inc. plan, dated December 20, 2012 with revisions through January 31, 2013 with the Subdivision Advisory Committee conditions."

Ms. Feeney Roser: I will be happy to try to answer any questions you may have for me. I know the applicant is here.

Mr. Bowman: Are there any questions for the Planning and Development Director? Hearing none, the applicant is here. Please state your name and address for the record.

Ms. Goodman: On behalf of Young, Conaway, Stargatt & Taylor here representing Terry Lane, LLC, with Mr. Kevin Mayhew. Rick Longo from Hillcrest Associates is the project engineer and architect.

We are here tonight requesting subdivision approval to allow the construction of the plan in front of you. The public is seeing the same thing you are seeing. This is not a rezoning, it is not a parking waiver, it is not a special use permit, it is not a site plan approval. This is a straight up Code compliant plan. It will be going to Council as such and comes to you as such.

What you see in front of you is the elevation of the proposed 12 townhouses which will be located on the west side of New London Road at the corner of New London Road and Corbit Road. The star on this map shows you the location of the project.

This is a photo of the current houses on the site. There are, as Ms. Feeney Roser indicated, five single family houses on the current area of the application.

This is what the streetscape looks like to the south on trash day.

This is one of the houses on the site. These are older houses. They have been used as rentals.

This is a townhouse property located at the Corbit Street intersection. This is five townhouses, just to give you a sense of other townhouses in the area.

This is CampusSide apartments also owned by Mr. Mayhew, also on New London Road.

To the north, to the newish hotel, again, just to give you a sense of the streetscape.

This is the site plan that is proposed. You can see the 12 townhouses. We are doing away with all of the curb cuts on New London Road, which we believe will greatly help with traffic safety on New London Road. This is currently a total of seven parcels totaling .78 acres. And, as I said, with five existing single family homes on them. We are providing on this plan 50 parking spaces. That is three inside garage spaces per unit plus 14 spaces outside for guests or overflow parking. All of the access is off of Corbit Street. We are happy to work with the police regarding their concerns about lefts and rights, and we are happy to work with the City to address those concerns. But, again, we think the access onto and off of Corbit Street greatly improves the safety.

This project was granted some variances and so it come to you as a Code compliant plan. Once the variances are granted then your purview is to view this as a Code compliant plan because the variances do make it so. The height of these buildings we will address as we go through the process with the department as to how we deal with the current design vs. where the Code is, and there may be a change in the Code. So, we will deal with that. Obviously, it has to be Code compliant when we get across the finish line.

The design of this project – and this is a 3-D view of the project superimposed on the site – is really, we think, unique. This is designed to accomplish two things. First is for it to look like different townhouses built at different times as you might see an organic development of a streetscape in a city or a town. So, that is what you have here and you see the different facades, the different angles, the different colors, the different designs. If you notice, for example, the one nearest to us, if you look at the corner of it and see the kind of turret design, some of those designs are deliberately designed to copy venerated Newark homes. The idea being to try to incorporate some of the design features that we like in and around town.

Because this is a Code compliant plan that is here for subdivision approval, we are happy to answer any questions that you might have. Let me just say one thing in closing. Because of the location of these units, these are anticipated to be student rentals. Again, we can't discriminate in either direction, but it is anticipated that this is what these will be and they are designed as such, but they will be designed to be fully convertible, if the market changes, into condo units.

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

Ms. Brown: How many students are there currently in the current units?

Mr. Kevin Mayhew: 103 Alma Drive. Currently, there are five units right now and they are all permitted for four tenants in each unit. There are probably 18 tenants there now.

Ms. Brown: You are proposing how many tenants?

Mr. Mayhew: We are going to have a mix of units on there. Some will be five-bedroom and some six-bedroom units. So, we will propose, just like we did at CampusSide, one tenant per bedroom. We have a slide here I found from the Sewer Department back in the 1950s when this property used to be homeowners, we had nine houses that used to be on this property. Back then, they put in 12 sewer laterals planning for 12 individual houses to be on this same parcel of land. So, the City planners way back in the 1950s had envisioned 12 properties on this same parcel. At that time, there were nine houses. They have the homeowners names listed on this property. So, I think, going by the five that are there currently, is unrealistic. You should look at the nine that were there before some were demolished. The last piece of property I bought from the Tuckers (131 New London Road), she reminded me when she was growing up there used to be four townhouses on that corner of Corbit coming on up. There were townhouses on this property back in the day.

Ms. Goodman: Even more importantly for purposes of what is in front of you, this proposal is consistent with the current zoning of the parcel. It is a permitted use.

Ms. Brown: How many bodies are you proposing in these units?

Ms. Goodman: I think that the number that we are proposing is in the nature of 72. One per bedroom.

Ms. Brill: The old buildings that are currently there are student rentals. They are not anything but.

Ms. Goodman: Yes, that is right. We do have, if you would like to see it, it is not in the PowerPoint, but we are happy to hold it up for the audience. We do have a handout, if you are interested, the properties that are rentals in the area. It does help you to see that this is very consistent with the area. It is not completely, but in large measure, rental housing.

Ms. Feeney Roser: Does the blue indicate rentals?

Ms. Goodman: The blue is the rental.

Ms. Brown: I have a question about the traffic on Corbit Street. Have you studied the traffic? I happen to live on West Main Street, the other side of this property, and I've got to tell you that having all those cars coming out there is a little scary to me. Even if you take out left-hand turns, there are a lot of cars, especially at rush hour, that fly up and down that road and I can just see somebody coming out of this proposed development and getting bopped. Somebody coming down the hill from New London Road and they fly up Corbit Street and you are not going to see them, they are going to come out of this proposed development and they are going to get creamed.

Ms. Goodman: This is a City street, not a State street, so we will just have to get a DelDOT letter of no objection. We are not required to do a traffic study. That is a call, again, that

when Council zoned them RM, Council made that call regarding what is permitted on this property and the density at which it is permitted.

Mr. Hegedus: This is interesting. I haven't seen this before. The two lots right at the corner, they are not shaded in blue. What is going on there?

Mr. Mayhew: The lot closest to the Corbit Street intersection is a DelDOT parcel that is currently the landscape bed that the City of Newark controls. We have been in discussion that the City would like to give over control of that and let me landscape that and take care of that and take it off of the City's work load. DelDOT is in negotiations with myself to take on a maintenance agreement with that lot to do that for the City and DelDOT. The next lot up is the one that was a vacant piece of land the City had been maintaining thinking it was there for 25 years, and found out it wasn't. It was Sara Tucker's estate. I just purchased that recently to add onto this parcel.

Mr. Hegedus: This is one of the funny things about being new on the Planning Commission, I'm not quite getting how all this works. This issue of units vs. people. How many actual three-car garages are you going to have?

Ms. Goodman: 12 – one per unit.

Mr. Hegedus: 12 garages, three cars in the garage so that's 36 cars, plus additional open space per guests behind that and 72 bodies. I am just trying to do the math in my head. So, one spot for every two people with cars. Then the other concern was the same one that was just voiced about traffic on Corbit Street and 896 backing up. Everybody kind of takes that right and cuts over to W. Main and then comes down and tries to jig around the lights. Part of your argument might be if they are renters, then they are not driving, they are just walking to class.

Ms. Goodman: Right. Part of the issue with the location of this is that these are going to be folks that walk. The Code recognizes for RM in the requirements for parking which is three spaces for units above three bedrooms that as a practical matter not everyone has a car. So, Mr. Mayhew has lots of experience in terms of numbers. You don't have any issue of parking at your other units. Why don't you talk a little bit about that.

Mr. Mayhew: CampusSide has been up and running five years and don't have any problems with cars parking over there. You tell the students when they sign the lease how many spots they get. They are going to bring those amount of cars. They are not going to bring three extras and say, hey Mr. Mayhew, where are we going to park. It is upfront. Months in advance before they sign a lease, they know how many spots they are going to get. Back to Peggy's comment about the traffic turning off of New London road turning off of Corbit. The Police Department is recommending that they exit this development, go right towards New London Road. I believe that there is plenty of sight line vision there from the exit to New London Road where they will see any car turning onto Corbit Street. So, I don't think there will be any front end collisions there. Then, those tenants will have to turn right. They prefer for them to turn right and go up Newark road so you don't have that person sneaking out in that intersection trying to go left during rush hour and getting clipped. I'm fine with that, if we can pull it off somehow and if the citizens of Corbit Street want that, I am fine with that. The Traffic Committee can listen to that and come up with a recommendation. The City can bring that item in front of the Traffic Committee.

Ms. Dressel: It is the number of bedroom per unit that has me concerned. The streetscape and the look of these buildings is beautiful and it does look as though they were built at different times. But, having six bedrooms in one of these units, I think we have done quite a few of those, and I know from the college kids that I am talking to their not interested in renting a six bedroom, and if these are to turn over to owner occupied at some time, it is very unlikely that a family would buy a six bedroom unit. So, I would propose that you reduce the number of bedrooms between four and five so that at least there is some minimum. I know that you have a cost constraints and there are twelve units. I think that that is a good faith effort to go to at least a four to five bedroom rather than a six bedroom configuration.

Mr. Mayhew: Angela, there are two points that I would like to address. The first one is the size of these things. If and when they get converted to owner occupant, the size is important. That back first floor bedroom becomes an office. Everyone wants an office. Two of the other bedrooms the wall will be knocked down and made into a master suite because most owner occupants want a much larger master suite than what a 130 sq. ft. bedroom the college kids are willing to put up with. So, that six bedroom unit will become a four bedroom unit for owner occupied with very little required maintenance because the load bearing walls are stretched out to the partition walls so everything inside can be moved around easily. The other item, when I am leasing up all the units, I have 250 tenants now that I lease to, I get a flood of people looking for six-bedroom units. I have could have leased 50 more six-bedrooms this past fall. The kids these day are more social. They have a larger group of friends and they want to live together. They are well behaving tenants. I have CampusSide as my prime example. Five years running, hardly any complaints over there, six bedroom units, six people max. It is a great performing product that I don't hear any community opposition to. I think my reputation as a landlord, I've been doing this for 15 years and plan on doing it for another 30 years.

Mr. Bowman: Are there any other questions? I have some written requests to speak to this item.

Mr. Syl Woolford: The traffic that is being directed up that street is being directed directly at my house – 71 New London Avenue. Several occasions in the last couple of years, one car went up and ran across my front lawn did \$700 damage to fence and steps and lodged itself underneath my neighbor's house. Another car went up that same street we are talking about, ran into the side of my house and knocked the house off of its foundation, knocked out the gas system and we had a gas leak in the neighborhood, and the neighborhood for four blocks had to shut down. There has been no change to that particular corner which is the corner of New London and Cleveland or New London and Hillside since those two accidents occurred and there is nothing from preventing those accidents from happening again. The traffic on that corner is without question the highest around Newark. It takes me 10 minutes in the morning at 5:45 a.m. to back out of my driveway. New London becomes one way at the top of that hill. There are five cars that go up that hill and go down a one way. I have never seen a cop stop any car on that street since I have been living there and five a day times 365 is the number you are looking. You cannot enforce traffic on that street. You are not enforcing it. To add more traffic to this street, to add more congestion to that corner, it is irresponsible of you when the law is not being enforced. There is nothing from preventing this traffic from (inaudible). There is too much traffic there. It is broken. You cannot add additional traffic when that corner is broken now. There is too much congestion on the street. The 18 wheelers that go up there go on the sidewalk in front of St. Johns Church. The corner is broken. You cannot add more traffic on New London Avenue.

Mr. James Roy: I am here representing my community first of all, but I grew up on 56 Church Street. We have been there since 1946. Like Mr. Wolford has said, traffic is ridiculous now, and I'm concerned about my mom, at this point and the feasibility of the traffic and the emergency vehicles being able to address some possible problems with her, but beyond that, I am here to say that, quite frankly, in my opinion, all of Mr. Mayhew's projects collectively have had an adverse affect on the community on which I grew up and which I lived in. Like Russell said, we have been there and it all looks really nice, but to me it is all about more rooms, more money. It is about greed and, I'm kind of tired of watching this happen for the fact that I am in that community every single day checking on my mom. When I see these things, it bothers me, but when I see things that they have allowed Mr. Mayhew to such as, an example, the Terry Manor community that my Uncle Inky built, was one of his first and most proud building projects. For whatever reason, Mr. Mayhew purchased the house then demolished that house, went down to the basement, brought it up two stories and if that is not about more rooms, more money, more greed, what is it.

Back in January of 2010, Mr. Mayhew was here with the same project and you guys turned him down, so my question is, what is so different now that makes him feel confident that he can get another project that he was already turned down three years ago. First of all, I try not to bring emotion into this but, like I said, my dad's house was one of the last projects built under the same premise that my Uncle Inky built these houses where he

salvaged parts from these homes and built homes for the normal people to live, which was our community which has totally evaporated . . .

Mr. Bowman: Ma'am, would you shut that cell phone off please. Thank you.

Mr. Roy: A cell phone shouldn't be much of a problem. We have been here for almost three hours.

Mr. Bowman: It is.

Mr. Roy: All I am saying is this, like that young kid said earlier, he came up here concerned about the demolition of the bowling alley, well, I am sort of like that young kid. I don't want these things torn down because I want to have a lot of memories in my head too, of people like Mr. Toot's house and Ms. Batson's house and these other houses that once Mr. Mayhew gets these projects, he tears them down which totally disseminates our community in which we grew up. To my knowledge, this was the only historically African American neighborhood in Newark so eventually it is not even going to be here. So, that is my question to you guys, what has changed in three years since he brought this project here that was turned down and now he is here again and, apparently, with more room and more money. Let's just stop the greed.

Ms. Feeney Roser: Mr. Mayhew never got to Planning Commission with his plan his last time out. It was the Board of Adjustment you are referring to Mr. Roy.

Mr. Roy: Whatever, it was turned down.

Ms. Feeney Roser: Yes, Mr. Roy, the Commission did not consider it.

Mr. Roy: Whatever, three years ago, he's here again, I just want to know what the big difference is and what the possibility . . .

Mr. Bowman: Sir, you really need to make your comments on that microphone.

Mr. Roy: (Inaudible, not at mic).

Mr. Bowman: That is fine, but you need to come back if you want to be recorded.

Ms. Lauren Wilson: I am a Newark native and I am the granddaughter of George Inky Wilson who was the first and the only African American to sit on Newark City Council. He is also the man responsible for building Terry Manor and the surrounding homes that were affordable to working class African Americans back in the 1950s and 1960s. I am here to respectfully ask this Commission to provide more informational hearings on this matter and would like to read and endorse the comments made by my sister, Patricia Wilson, who was a trained archeological historian and preservationist.

“This proposed development is but one of several by this particular developer that has adversely affected the neighborhood by its insensitive design, scale and massing; siting and density are also concerns. The two story duplex in Terry Manor” that Mr. Roy just spoke about “is incompatible in design and massing with the rest of the houses that share a horizontal massing and scale that is typical to ranch house design. The insensitive design of this structure visually disrupt the cohesive design and landscaping of Terry Manor that has been maintained for over 50 years. We see this design as an unwelcome encroachment and object to the approval of any more like it. The developer has presented individual projects but the collective impact of his projects together have been incremental and progressive and will eventually have an impact that must be anticipated. These impacts include parking, traffic and City services. We would like to see studies conducted on the cumulative impact of the project. The developer regularly seeks zoning variances. Spot zoning of this type is actually a slippery slope that will eventually lead to the demise of our community. The community would like to see a comprehensive plan for the development of the community that takes into consideration its historic significance, scale, traffic and pedestrian patterns. The community is an evolving one that includes its traditional family base and students. We do understand that change is inevitable but want the neighborhoods evolution to be balanced

and well managed so that both families and students continue to coexist and benefit. There are land use tools that should be investigated, an overlay district that would manage parking, FAR or floor to area ratio, and other concerns. A conservation district that will encourage compatible design, historic district designation; for example, of Terry Manor that will recognize its historic significance. The Planning Department should provide informational hearings on this and other development projects in the neighborhood to ensure sufficient neighborhood input.” Thank you.

Ms. Karen DeMonte: 801 Cambridge Drive. Every day I drive past this area. It really saddens me that the City of Newark is going to destroy their neighborhood. I don’t know the folks that live there. I raised my sons here in the City of Newark because of the diversity. To have the benefit of a positive African American community close by where we live is something that I am very sad that we are even considering destroying.

Mr. Douglas Roy: 35 ½ Corbit Street. The traffic up and down that street is horrible. It is almost like a freeway. Every now and then Newark Police do set up and they do monitor the traffic but when they see the big speed limit sign up, they slow down and don’t drive like they normally do. Since that is a City street, they should put some speed bumps in to slow the traffic down because late at night you hear them flying up and down the road as well as the loud music. The response time for the Newark Police to come over there and take care of the problems when there are parties going on is slow and very poor. Any time you have to send out a questionnaire asking how their service is being provided to you as citizens, let’s you know they worried about their job performance. As far as I am concerned Newark Police gets a zero rating as far as dealing with the citizens over where I live at because they basically watch out for the college students. And, I think that is sad. There is no real respect that some of these police officers give to the citizens on my street because we sit down and talk and discuss this. The only time that you get any type of response is if you call in there and make a statement that you are going to go over and talk to the college students that are creating the problem. Then they want take the time to go up there and find out what the problem is. It shouldn’t have to take us to do that for them to come and do it. They should do it automatically.

Ms. Florine Henderson: I grew up on New London Road. I lived at 109 New London Road. I don’t want to dig up any ditches or anything like that but I just want to say that I am appalled that you are sensitive to having college students live down at Suburban Plaza and you are sensitive to having college students live over where the Newark Shopping Center is, but you aren’t sensitive to having college students live where my people live. Ms. Purnell is over 90 years old and she’s got to put up with 72 college students living down the hill from her. Marva is in her 80s. She taught school for years. She is to be respected. Ms. Madeline down on Church Street, these are my people. These are my elders which I respect if you don’t. I really believe that it has been a strategic plan to just kind of go in and unearth our community.

Mr. Bowman: Ma'am

Ms. Henderson: I have got to say what I have to say.

Mr. Bowman: Let me interrupt you because . . .

Ms. Henderson: I will lower my voice, but I have to get this out.

Mr. Bowman: Let me interrupt you. The purpose of this hearing is to judge this project on its merits. I understand what you are saying.

Ms. Henderson: In order to judge it, you have to start at the beginning, and that is that we lived there as a community.

Mr. Bowman: We understand that.

Resident (not at mic): No you don’t.

Mr. Bowman: Yes, we do. Let me make a statement here. The people sitting on this Commission up here are volunteers. We don't get paid a nickel and we try to listen to the facts and that includes the comments that you are making now. But, when you make it personal, when you come to us and you tell us after the discussions that we have had tonight that we are totally insensitive then I'm going to ask you . . .

Ms. Henderson: Let me rephrase my sentence, not that you are totally insensitive because I can see sensitivity in a lot of faces.

Mr. Bowman: Let me finish what I am saying.

Ms. Henderson: But, somebody here in the City is insensitive.

Mr. Bowman: You are obviously speaking against the project and that is fine and that is what we hear, but let's keep it on that plain, if you would please.

Ms. Henderson: Okay, let me say that at 109 New London Road Avenue, which is what it was called at that time, I lived there with my dad and my mom. I lived in a row house and most of those row houses had two bedrooms in them. They did not have five. I don't care how many sewer lines were there. They did not have five bedrooms. Somebody needs to ask, what can I do for this neighborhood? What can I do to preserve the history? What can I do for these people to stop the hurt? Progress is eminent. We understand that, but somebody needs to ask us what we want, what we need at this point, because for me, it is a matter of need. I need someone to do something on New London.

Ms. Alberta Wilson Ponzo: I am not in favor of the proposal that is before you now for the townhouses on New London Road. You were passed out this handout that showed all the rental properties around. Did you bother to tell them that most of these rental properties have been taken over by investors like yourself, the University of Delaware, that you are just encroaching on our community with your greed and wanting to make more money. You have no . . .

Mr. Bowman: Ma'am, I am going to ask you again. We are not going to sit for personal attacks.

Ms. Ponzo: I'm making a statement, Sir.

Mr. Bowman: I understand, but you are making a statement in the form of a personal attack.

Ms. Ponzo: It is not an attack, it is a fact.

Mr. Bowman: It is a personal attack when you address the gentleman who is sitting here in that form. You have made your point.

Ms. Ponzo: Well, I am going to address the Commissioners. I am against the project.

Mr. Bowman: You have made your point.

Ms. Gwen Lane: 61 Kennard Drive. The answer is reconstruction of the New London community, but it is not in the fashion of moving 72 people or redoing that whole avenue. Parking – there is none on Corbit. There is an argument often about parking on Corbit and Wilson, not to mention the parking on Terry Lane and Kennard Drive. If you drive up there right now, there is parking on corners that have never been parked on, and I think you have to take a look at that. You talk about the existing rentals. I heard you, Mr. Mayhew, talk about one side of the corner of Corbit Street and New London where you turn in, and you are talking about the corner where the City has allowed him to take over. We didn't talk about the other side of the street that when you come down New London and you make that right, if you are not careful enough my cousin will be pulling in her driveway and you can hit her. That needs to be considered. We cannot afford any more on that corner. The lady says she lives on W. Main. When you come down New London coming from that shopping center, traffic is usually backed up. A lot of those people like to make that right and go up

Corbit and turn on W. Main. Certainly, she is aware of the traffic that is happening up there. So, we really need to look at what is going on with the parking.

These people continue to buy up existing property as quickly as they can creating a parking war. Traffic on New London, trying to get to Corbit and vice versa is a problem all day. The lady talked about W. Main, she can attest to the number of cars that use the Corbit for a bypass for the light that is at New London and W. Main Street.

Mr. Mayhew speaks of zoning that was already in place. There were people who didn't have cars necessarily and were walking for the most part. Today, everyone has a car. These children have cars that require parking. There is no room for this kind of construction in that neighborhood. There is nowhere to park. If you ride through there on any given day every space on Corbit, Wilson, Terry Manor, Kennard Drive is gone. You can't park on New London, so there are no more parking spaces. As the Planning Commission, what are you doing for the locals that live there. The majority of you don't live there and the lady that does knows what we are feeling. The young boy talked about the bowling alley. We all grew up on that bowling alley when we could because we weren't allowed in there at one point. So, we used that. We used the State Theater. All that stuff is gone. What do the children have that are left in that community? What do the seniors have? I think when you are going forward, when you are looking at this stuff, you need to look at what is there for the community. It is okay to put in new houses. It is okay to put all that construction up that you want to, but what are you leaving there? What are you giving the locals? That is all we are asking is what are you giving us?

Brad Lane: 44 Corbit Street. The project is in my backyard. Quite frankly, I could give or take the project because I know it is going to be there. My concern is – and addressed Mr. Mayhew at the last meeting we had at Mt. Zion Church – about the backyard where the parking is going to be and I asked him if in the plans will there be a fence to keep the college students from encroaching on the properties that are on Corbit Street and also is there some kind of fencing that is going to keep the college students from encroaching on St. John Church. A lot of the frustration that you hear tonight is basically because our community is kind of dissolved and it is just gone and I'm not sure if there is anything that is going to bring it back. We just want you to know where we are coming from. It is not personal, it is just the way it is.

Ms. Sandra Patrick: I own a home at 64 Kennard Drive. As, I said, when we were growing up you had to have permits to even come to visit somebody at their home. You couldn't just park in front of their driveway or the curb without having a permit or we would get a ticket. But, now, there is no place for the kids to even play at. The kids get dropped off by the bus at Corbit and Terry Lane. I see now that they have put a stoplight. I don't know what they think that's going to do coming down Terry Lane. That has never been there before. Corbit Street is a small street. It already has two lanes but the cars are close together so we add 72. And, I know a lot of students might be walking but out of that 72 students I'm sure there is going to be at least half of them that are driving. I went to the house to check on it on Sunday after church, I am at the stop sign that they put there on Terry Lane and the student pulls out from behind part of the projects that Mr. Mayhew has already onto Corbit Street. They back out, they never looked. They never saw me. So, if I hadn't of seen them, then there would have been a collision and that is just one incident. So, that is one person. If there are 30 kids going here, there and everywhere coming out of Corbit Street or going here, there and there and going into their parking space from Corbit Street, it is asking for a disaster, and there are children that are still being raised in that community. It may be that you can count them on your hands but there are some on Corbit Street and there are some in Terry Manor and they are babies. So, I disapprove of the project and I just wanted you to know my opinion.

Ms. Nancy Willing: 5 Francis Circle. This is a day that I dreaded but I could see it coming. Probably about 20 years ago these sensitivities started up with the students. I didn't frequent the Newark Council or Commission meetings but I read the paper, and I also own a property and I rent rooms in my home. That is pretty much my income. I like being able to rent a couple of rooms and I know there is a system and process in place. I don't know where the initiative started but when it was decided eventually through Council that this Black community, this precious community in our town, and one of the things you probably don't

know about Syl Wolford that he has taken on a second career as an historian and just last week in this very week gave a wonderful presentation about African American communities in Newark – Iron Hill, Cooches Bridge and White Clay. So, he is very knowledgeable. This hit home. My point is that the City decided at one point that these suburban neighborhoods had to be protected from student rental and went to huge lengths to keep most of our residential suburban areas free from a density of rentals and you guys decided – not necessarily this Board – but I am looking at Planning people that are paid, this is their career are also in this room – that this Black community would be appropriate to have been zoned for dense student population. I knew this day would come and this day is here. It is really too bad that they didn't get organized 20 years ago when this was first put in place, to say we would like an overlay, we would like a bit of control, but that didn't happen. I would say that what they are asking for today is reasonable, that something be done. This project is evidently Code compliant. I am involved quite frequently on the County level of this kind of thing, so I would say listen to them and whatever we can do as a city for this community to help preserve it, not just a plaque on the Elks Club, but something really significant.

Mr. Errol Johnson: 4 N. Wynwyd Drive. My grandmother is 90 years old. She lives at the top of Terry Manor. I'm going to flip the script a little bit and talk about the students, not the traffic so much, but the students. I am pretty sure that the City of Newark knows what goes on with the students. They treat the streets like it is a campus. It is not. They put their selves in harm's way. The police watch, looks, protects them. They drink out in public, and you talk about adding 72 more students on that small corner, on that busy street, and the parties they have. The fence needs to be there. They get to partying, we know, you know, everybody knows, and they just spread out everywhere. It is a small community. They were all up in my grandmother's carport and driveway. I had to go there at three o'clock in the morning. If the City could just think about the community for a change and not lining somebody's pockets with money. The bottom line, what if it were the City's community? It is sad. Do they really need it. That is the question. Do we really need that project on that street? What is the main purpose for it? Look at how much can go wrong. Let's weigh the pros and cons. That is what I want you and a Board to look at. It looks good. Mr. Mayhew is going to make a lot of money. That is what he does. That's fine, but let's look at the negatives of this; the traffic, the elderly residents that still live in the community, they've got to suffer; the college kids putting themselves in harm's way, that's not good; the drivers, what they have to go through driving up and down the street, Newark, Cleveland Avenue, Chapel Street and the cops go up and down the street and watch these kids drink. Let me walk up and down the street with an open beer can. I will get arrested.

Ms. Peggy Schultz: I am speaking on my own behalf now. I live outside the City now. I used to live on Kells Avenue and we had a lot of students in the area and I thought it would be helpful to mention some of my experiences. We had students who routinely peed in our yard. We had students who upchucked in our yard. One time – my family still laughs about this one – there was a young man and a young woman out in front of our yard just outside our gate and I heard them from our bedroom because had an open bedroom window and they were screaming at each other and I went to the bathroom window where I could look right out and the man had a knife out so I ran downstairs and ran out to the front yard and insisted that he put down that knife. He said it was okay because this is my girlfriend. These are students.

Mr. Bowman: I understand your historical perspective on this but the hour is late and what I am asking is are you speaking in support of the project or against the project? That is the key issue.

Ms. Schultz: I guess I would be speaking in opposition.

Mr. Kenneth McCullister: I am against the project and I will tell you why from firsthand experience. I retired from the University as a bus driver recently. Every five minutes is a bus going north or southbound on New London Road past the project on New London Road, Corbit Street and Hillside. Were you looking to add to that issue? Every time a new development goes up, my stress level goes up. I remember when North Campus was the Towers, one or two buildings. That was 17 years ago. Now look at it. It has tripled, quadrupled and in essence the traffic has to. We don't need to add more to that. It is an accident ready to happen and it is going to happen. Coming northbound, people go up

Corbit Street to take the shortcut. They cut in between cars at the intersection when they get ready. We have people from California, Arizona, Nevada, you name it. They bring their issues with them the way they drive. You have to take all of that into consideration when you are looking at this project being built. I am purely against.

Mr. Bowman: I am going to bring it back to the members of the Commission.

Ms. Brown: I think the buildings look lovely. Kevin is a good landlord. I know from talking with him and interactions and other things, but after listening to some of the people here, I think these buildings are too large and they house too many bodies. They are quite large. They are the size of my house which is on the other side and they are three stories. The houses surrounding this (Terry Manor) are all ranch houses. The houses up Corbit Street for the most part are either one floor or just two story smaller houses. I also have an issue with the fact that we are going from 18 bodies to 72 bodies. I think it is too many people in a little space. I could agree with this project if the building size was decreased and the number came down to about 32 to 36. I think it is far too large for the neighborhood. I realize that Kevin's other buildings are a little further up the street but there is a difference in the character of this neighborhood, so I would suggest that these buildings be decreased in size and that the number of bedrooms be decreased to about three per unit. If it can't be done for that, maybe it shouldn't be done at this time.

Ms. Brill: I was thinking that that is a fairly good compromise. There are 18 students there now. It is not part of the Black community now, so changing it from students to students is just the number and 72 seems like a very large number to me. I am thinking that that might be a reasonable compromise.

Ms. Dressel: I agree because when I first looked at it, I read that each unit would have at least three bedrooms, so I figured three to four. I think it is just too big for that corner, for the neighbor. It is a little further down. The other developments are up right across from the Towers and it didn't really have anything behind it. I think this being really part of a neighborhood it needs to be more in keeping with that, so I am thinking that the three bedroom restriction with one person per bedroom would make more sense.

Mr. Hegedus: In preparation for coming tonight, this the second development project in a row – there was one last month – where it had to go to Board of Adjustment first to get some variances approved and there was a minimum lot size, maximum lot coverage, minimum open area, building setbacks. The ones that bothered me a little bit were the maximum lot coverage and the minimum open area. You can't change the size of the plot but you can change the size of the building you put on the plot so that you comply with the existing Code for it. So, knowing the Board of Adjustment can make that and they are an appointed body, and they did that separately, and if they do it comes to us and now it is pro quo compliant. I went back and looked at the minutes to see what the discussion was at the time and Lisa you were there and Mr. Hudson asked if the issues could be resolved by reducing the number of units, and you said the bottom line on the parcel is that it is less than one acre so it can't be changed by reducing the number of units. Well, that is an appropriate answer for the minimum lot size, but it doesn't address the other issues of coverage and there is nowhere in the minutes where it talks about any justification for why they exceeded the coverage requirement. So, I struggle with the numbers like we said up here, but really, the struggle I have is that we set the Code in place for coverage because there is supposed to be a density and there is supposed to be some sense of community and it is not supposed to be overbuilt. For me, those were the places that I struggled as I went and looked at this issue before the presentation tonight.

Ms. Brill: Did we talk about a fence? There is a lot of discussion about the fence.

Ms. Goodman: Mr. Mayhew is happy to provide a fence. He is working through the issue that there may be sewer easement back there. That is going to be a discussion with the City regarding a fence but that is something that he is happy to do provided the City will permit it with the easement.

If I might just in response to all the public comment we heard and in response to Mr. Hegedus' comments, this comes down to a question of property law. The bottom line is that

the Code gets set in place and the market operates according to the Code that the City sets in place and property owners are entitled to sell their property and that has happened in this community, and other people are entitled to purchase that property, and when they purchase the property they then are entitled to follow the rules in terms of the Zoning Code and the zoning and the density rules for that including the opportunity to go to the Board of Adjustment and make your case that the City sets forth. And, if a landowner complies with all of those requirements that the City sets forth then they have what we call a Code compliant plan and that plan is then a plan because of our rules regarding predictability that they are entitled to put forward and have approved. Setting aside all of the history and how we got here, which is a much longer and separate issue relating to long-term planning for this area of the City and the community that lives in it or lived in it in the past. Where we are tonight is, we are here with a Code compliant plan that is a by-right plan and conditions regarding number of bedrooms and number of occupants, etc., don't really apply to a by-right plan. You are free to make whatever recommendation you see fit and we will take it into account. Council, when they have a by-right plan in front of them, it is ministerial act to approve that plan. Just so you folks know – and I have been through this before – for you recommend against or significant changes to a by-right plan at the end of the day that plan goes to Council and it is still a by-right plan. It is important for landowners to understand when they own property what they can do with it. That applies to everyone equally. That is an important level playing field here. That is what is going on here, that you have plan that is zoned for this purpose. Mr. Mayhew has been to the Board of Adjustment. He has received the variances. He made the case that it is that Board's to do that job. And, now he stands in front of you with a plan that meets the Code.

Mr. Hegedus: Help me understand then why he has to come here at all.

Ms. Goodman: That is a great question. Because the way that the City of Newark's Code is set up and the way the County Code is also set up is that your job is to conduct a public hearing. So, the public is entitled to come, and in theory, the public's comments are supposed to be on a subdivision plan directed at whether or not the plan complies with the Code. You obviously heard a lot more than that tonight, and that is the Chairman's decision as to how much he wants to allow public comment on other topics, but City Council and County Council when similar plans are in front of them, that is why it is a ministerial act. So, when they are deciding on a rezoning they are entitled to turn it down. They are entitled to put conditions on it. They are entitled to turn down a Comp Plan amendment. They are entitled to turn down a special use permit if you don't meet the conditions, but on a plan that otherwise complies with the Code, if the department certifies that the plan complies, then they are conducting a public hearing to take testimony on whether the plan complies and then they are required to approve it.

Mr. Bowman: Sir, if you wanted to make a comment you had to come to the microphone and the public comment at this point is closed.

Resident: (off the mic) Can I make a comment?

Mr. Bowman: We had it open and the opportunity was there.

Ms. Brown: Maureen, I have a question. On page 3, it says, "Regarding comprehensive planning . . ." that where it starts, down toward the bottom, the second to the last paragraph. It calls for single family residential for this site and then it continues on. Explain all of that to me again.

Ms. Feeney Roser: The Comp Plan calls for residential development (medium density) at this location. The definition for medium density is 4 to 10 units per acre. However, the Zoning Code which has the letter of law behind it says that it is RM zoning, and RM zoning allows 16 units per acre. So, there is an inconsistency between what the Comp Plan was talking about in terms of density and what the Zoning Code allows. There is no inconsistency in terms of use, which is residential. Therefore, because the force of law is with the Zoning Code, they are allowed 16 units per acre.

Ms. Brown: And, how much property is there?

Mr. Bowman: Not quite seven tenths of an acre.

Ms. Feeney Roser: So, when you calculate their density it is 15.36.

Mr. Bowman: What is your pleasure?

Ms. Brown: I have another question for Maureen. Isn't it the duty of the Planning Commission to consider what is best for the community – I am trying to get this in my head – and consider how this will affect the surrounding community and is it consistent with what is already in place? That is what I am asking you. Is that what we should be doing?

Ms. Feeney Roser: Certainly, that is the reason you hold a public hearing is to hear from the community and see what they have to say. You also need to weigh the plan against the Codes that are in place. So, you can make a recommendation to approve it and limit the number of individuals in your recommendation and then, Council will have to decide that, but as Lisa said, it is a matter of the plan being Code compliant.

Mr. Hegedus: I am going to make a recommendation. This is what I want and I don't know how to word the recommendation. What I want is that Mr. Mayhew take the plan back and look at redesigning it so that it complies with the minimum lot coverage, the percentages that are there, to address the size of the unit. I understand the Board of Adjustment already passed it. In my review of my notes, their work wasn't adequate in this case. So, Council can overturn that recommendation if they so see it because it would be Code compliant (inaudible).

Ms. Feeney Roser: The Board of Adjustment is quasi legal. They have the power to grant variances. I don't know that Council can overturn variances. I don't think they can.

Mr. Hegedus: So, Council may be obligated to go ahead and approve it because the Board of Adjustment did their job and it is now Code compliant. It is, right?

Ms. Feeney Roser: Yes.

Mr. Hegedus: So, we use our best judgment to make a recommendation to Council and so my motion is to have the applicant review the project against the restrictions for percent lot coverage and the minimum open area.

Ms. Feeney Roser: If the Board of Adjustment has granted a variance for those things, then the plan that comes before you is Code compliant, which means you can't make him go back – he could rethink it, certainly – but you can't make him do it.

Mr. Hegedus: We can't make anybody do anything.

Mr. Johnson: Maureen, Why are we here until midnight if we are to rubber stamp things?

Ms. Feeney Roser: It is the process. I'm sorry it has been frustrating for you, but at this point, if they were asking for something beyond what was Code compliant then I would say that you have more leeway. Having said that, however, you can recommend however you see fit and Council will have to take your recommendation into account, but with a Code compliant plan, unless you can prove that it is going to be detrimental to the community in some other way, your options are limited.

Mr. Bowman: I believe one of our options is to let it go forward with no recommendation to Council, and that puts it in their lap. I don't believe tabling is an option here because what is going to happen that is different? If we recommend against the project, they still have the option of taking it directly to Council. That doesn't stop that process. So, that is an option to recommend against for whatever reasons we think we can. The other option would be to approve with the restrictions on a reduction in bedrooms and the number of bodies. That is a possibility. Then the Council will still have to deal with that in the form of a recommendation there. So, those are the two options as I see it. I'm not the definitive authority, but the rest of it is up to you. I'm not the one who should make the motion as the Chair. It should come from one of you five.

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

RECOMMEND THAT CITY COUNCIL APPROVE THE CAMPUS WALK MAJOR SUBDIVISION PLAN, AS SHOWN ON THE HILLCREST ASSOCIATES, INC. PLAN, DATED DECEMBER 20, 2012 WITH REVISIONS THROUGH JANUARY 31, 2013, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS, AND WITH THE ADDED CONDITIONS TO REDUCE THE SIZE OF THE UNITS, AND TO RESTRICT THE TOTAL NUMBER OF INDIVIDUALS PERMITTED TO RESIDE AT THE CAMPUS WALK DEVELOPMENT TO 36.

VOTE: 5-1

AYE: BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON

NAY: HEGEDUS

ABSENT: CRONIN

MOTION PASSED

**6. DISCUSSION REGARDING THE UPDATE OF THE CITY'S
COMPREHENSIVE DEVELOPMENT PLAN.**

Mr. Fortner: The next Workshop for the Comprehensive Development Plan update will be held on March 26th, 7:00 p.m., Council Chamber, Newark Municipal Building, 220 S. Main Street. It will be focused on Economic Development. I am working with the neighborhood that was here today to do a community neighborhood workshop. I have done one at the George Wilson Center but have not reached that neighborhood. I am meeting with some of the leaders and hopefully we will have a more targeted neighborhood discussion with them as well to get them incorporated.

Mr. Hegedus: Mike, when we have that strategy meeting. Right now you doing individual workshops. We talked a couple of months ago about pulling stakeholders together in a room. You need representatives of this community to be in that room with us for the conversations.

Mr. Fortner: Yes.

There being no further business the Planning Commission adjourned at 11:45 p.m.

Respectfully Submitted,

Elizabeth Dowell
Planning and Development Secretary