

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

April 2, 2013

7:00 p.m.

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

Acting Chairman: Angela Dressel (Vice Chair)

Commissioners Present: Peggy Brown
Bob Cronin
Andy Hegedus
Edgar Johnson

Commissioners Absent: James Bowman
Patricia Brill

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

Acting Chairman Angela Dressel called the Planning Commission meeting to order at 7:00 p.m.

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

Mr. Andy Hegedus: There is a correction on Page 29, first paragraph, middle of the paragraph, it says, "It has me kind of concerned as to whether it is a density issue is the way to get at this. . ." Then it says, ". . . your professional senior thing that works on the traffic." I don't think I said your professional senior thing that works on the traffic. So, I would just request that that be struck and I believe that that gets at the intent of what I was saying.

Ms. Dressel: Are there any other changes or corrections?

ON MOTION BY MR. HEGEDUS, SECONDED BY BROWN, THE MINUTES OF THE MARCH 5, 2013 PLANNING COMMISSION MINUTES WERE APPROVED AS CORRECTED.

VOTE: 5-0

AYE: BROWN, CRONIN, DRESSSEL, HEGEDUS, JOHNSON

NAY: NONE

ABSENT: BOWMAN, BRILL

MOTION PASSED UNANIMOUSLY

2. REVIEW AND CONSIDERATION OF A MINOR SUBDIVISION OF .469 ACRES AT 65-67 E. CLEVELAND AVENUE IN ORDER TO REPLACE THE EXISTING TWO UNIT DUPLEX RESIDENTIAL BUILDING WITH FOUR (4) TOWNHOUSE STYLE APARTMENTS.

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

“On November 8, 2012, the Planning and Development Department received an application from Frank and Sandra Krohe for the minor subdivision of the .469 acre property they own at 65 and 67 E. Cleveland Avenue. The applicants are requesting minor subdivision in order to demolish the existing twin building containing two rental units at the site, and replace them with four townhouse style, six-bedroom apartments.

Please see the attached Hillcrest Associates, Inc. minor subdivision plan, supporting letter and building elevations. The Planning and Development Department’s report on the 65-67 E. Cleveland Avenue (Krohe property) minor subdivision follows:

Property Description and Related Data

1. Location:

65-67 E. Cleveland Avenue; south side of E. Cleveland Avenue just east of the intersection of Cleveland Avenue and Wilbur Street.

2. Size:

.469 acres

3. Existing Land Use:

65-67 E. Cleveland Avenue contains a three-story, single family duplex (2 units) with driveways and yard area.

4. Physical Condition of the Site:

The Krohe property is a developed site that contains two attached residential buildings with driveways on either side, associated parking and a small accessory building in the rear yard of 67 E. Cleveland Avenue. The rear of the property is adjacent to the CSX Railroad right-of-way. The site is relatively flat with a steep embankment leading up to the railroad along the southern property line.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the northern portion of the site contains Elsinboro-Delanco-Urban Land Complex and Udorthents soils. The Natural Resources Conservation Service indicates “slight” development limitations for these soils for the proposed use.

5. Planning and Zoning:

The property is zoned RM. RM zoning permits 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 the RM district require lots of a minimum of one acre in size. Regarding this requirement and other RM zoning requirements, please note that on September 15, 2011, the Newark Board of Adjustment approved the required variances for minimum lot size, open area provided and minimum side yards for this property. With these variances, the Krohe subdivision plan meets all applicable Zoning Code specifications.

Regarding comprehensive planning, the Newark Comprehensive Development Plan IV calls for "single family residential (medium density)," land uses at the Krohe property location. Plan IV defines, "single family residential (medium density)" as a residential use with densities ranging from 4 to 10 dwelling units per acre. Please note, in this regard, that the Krohe property minor subdivision plan calls for 7 units per acre.

In terms of zoning and land uses of nearby properties, the lands immediately to the east of the Krohe property on Cleveland Avenue are zoned RM and contain 5 recently built townhouse apartments; adjacent to the west is a single family detached rental dwelling also zoned RM. The MI (general industrial) zoned right-of-way of the CSX Railroad is located above a steep embankment just south of the site. BC zoned properties containing the Bookateria and Herman's Quality Meat Shoppe are located north of the Krohe property across E. Cleveland Avenue. An RM zoned parcel with a small nonconforming

apartment building is located across Cleveland Avenue north of the eastern side of the site.

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. 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.

While not required for a minor subdivision outside the boundaries of downtown, the applicant has provided the proposed architectural design of the four units for Planning Commission consideration.

Be that as it may, the Krohe property subdivision plan calls for the demolition of the existing duplex building on the site, and the construction of four townhouse style apartments.

Traffic

DelDOT has reviewed the Krohe property plan (65-67 E. Cleveland Avenue) and has the following comments:

- Provide 30’ of right-of-way from the center line and permanent easements need to be noted on the plan;
- Relocate the crosswalk across Cleveland Avenue to the western side of Wilbur Street;
- A trip generation diagram should be provided on the plan.

Departmental Comments

The City’s Management, Planning and Operating Departments have reviewed the Krohe property minor subdivision plan and have the comments provided below. Where necessary, the subdivision plan should be revised prior to its review by City Council. The Departmental comments are as follows:

1. The Planning and Development Department notes that the proposed Krohe property minor subdivision plan conforms to the land use recommendations of the Comprehensive Development Plan IV and corresponds to the development pattern of the area.
2. The Planning and Development Department suggests that appropriate noise attenuation measures shall be included in the portion of the proposed dwelling units adjacent to the CSX Railroad right-of-way.
3. The Planning and Development Department suggests that in order to separate the site from the adjoining CSX Railroad right-of-way, the landscape plan should be revised to show a 6 ft. solid fence running along the southern boundary of the property.

4. The Planning and Development Department indicates the architectural design of the proposed facades should be carried out on all building elevations visible from public ways.
5. Because the development will significantly increase the density of the site, the Planning and Development Department suggests that the developer 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.
6. The Planning and Development Department indicates that the units be constructed so as to be easily converted into condominium units, should market conditions change.
7. The Electric Department indicates that meters must be located together on the east side of the property.
8. The Code Enforcement Division indicates that the project will be reviewed under the 2012 ICC Codes.
9. The Parks and Recreation Department indicates that additional comments will be provided during the CIP phase.
10. The Public Works and Water Resources Department indicates:
 - A letter of no objection must be obtained by DelDOT. If not provided, owner assumes all responsibility for proceeding without one.
 - An easement agreement will be required that stipulates that the owner will be responsible for the maintenance of the storm drain pipes on the property.
 - The public sidewalk is required to be 5 ft. wide and ADA compliant.
 - A note needs to be added to Sheet #3 of 4 that the existing sewer lateral shall be video recorded to determine condition. A copy of this recording shall be submitted to the Department for review.
 - The existing water service shall be terminated at the main pipe and shown on the plan.
 - The water lateral detail (Sheet #3) does not match plan, and will need to be revised.

Recommendation

Because the Krohe property minor subdivision, with the Departmental recommended conditions, will not have a negative impact on nearby and adjacent properties, because the project conforms to the land use recommendations in the Comprehensive Development Plan IV, because with variances granted by the Board of Adjustment, the proposal 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, subject to the Departmental conditions, **the Planning Commission recommends that City Council approve the Krohe property minor subdivision at 65-67 E. Cleveland Avenue, as shown on the Hillcrest Associates, Inc. plan, dated November 7, 2012, with revisions through February 5, 2013.”**

Ms. Feeney Roser: Also regarding density, although not included in this report, based on recent conversations at this table and at Council, and because I provided this information in a report in another development proposal you will consider tonight (which was prepared after this report based on those conversations), the Krohe proposal translates to 51 bedrooms per acre which is less than the recently approved subdivisions of Rupp Farm, which was 88 bedrooms per acre; South Main Commons, 61 bedrooms per acre; and Campus Walk, 77 bedrooms per acre.

Ms. Feeney Roser: I will be happy to answer any questions that the Commission may have for me, and of course, the developer is here ready to present.

Ms. Brown: Tell me what a trip generation diagram is.

Ms. Feeney Roser: Perhaps their engineer will address that.

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

Mr. Matt Longo. I am general counsel with Hillcrest Associates. Here with me tonight are Mr. and Mrs. Krohe. I have pronounced that wrong plenty of times for five months now.

Ms. Feeney Roser: I have, too, then. My apologies.

Mr. Longo: "Kroy" is the phonetic spelling. This is the Hillcrest team: Allen Hill who is our director of engineering; Barry Stingle, our director of land planning at Hillcrest; and Rick Longo who is the architect behind all of those projects and who is the architect on this one as well.

Maureen summarized this in full. It is 65-67 E. Cleveland and is approximately a half acre. I won't touch on all the points again but they are looking to do a minor subdivision to demolish the existing duplex and propose what you see now on the screen – four townhouse style apartments.

There is the existing house. It is a dated structure. Mr. and Mrs. Krohe looked into trying to rehab it. It is beyond that. Originally, they were thinking about adding onto a side or both sides, however, this structure would be more work than it is worth in its current state.

This is the existing site plan. It is a little hard to read. I apologize for that. You can see that the dark grey is the existing building right here. The negative about this is not only the age of the structure, but it has two curb cuts, there are two driveways for this, and there is no parking except for on those driveways.

The good news about what we are doing, and there is the proposed site plan, is we are combining two curb cuts into one with one driveway leading to parking in the rear.

DelDOT has requested a trip generation diagram and for that, we just have to do calculations to determine what the proposed number of cars in and out of that new driveway will be and what direction they will be turning. So, it is a study in terms of the number of vehicles and where they are headed. The comments from DelDOT were very minor, and the no objection and approval from DelDOT will certainly be forthcoming.

The other positives from the construction. This system right here that you will see at the bottom is the stormwater management system. It is a subsurface infiltration system purposed to handle all the rate and volume runoff from the new construction. When I say it is subsurface, it is fully below the parking area so you don't see it. It is fed by surface inlets that send that water in there and it is a chamber and stone system. So, it can handle the weight of even a moving truck.

Here is a color site plan, now you can actually see what is going on. Again, taking the two driveways, making them into one, with the parking in the rear. This project proposes four units, six bedrooms each. So, it is a total of 24 bedrooms, 24 occupants and the great news is it also proposes 24 parking spaces. So, ample parking. As Maureen said, it did receive variances for side yard setback and that is for this over here to the east, and for open area and minimum lot size for garden apartments in an RM zoning district. Now with those variances in hand, it is an otherwise Code compliant plan, and the comments from the other departments, we feel, are very minor and easily addressed.

Also, the comprehensive plan for this area is single family, medium density, which is 4 to 10 units per acre. This plan calculates to 7 units per acre, so it falls right in between that four and 10 that is mentioned in the Comprehensive Plan.

Here, again, is the proposed rendering. The architecture, the materials are stucco and stone; and what Rick Longo really wanted to do was capture what was a lot of what was already there in terms of the existing building. You will see with those columns on the porch and this is other designs you will see in some older homes along Cleveland Avenue in the area. So, it is really in keeping with the area in terms of that timeless architecture. He wanted to duplicate that philosophy. It looks like it has been there awhile.

Also with this proposal, they are easily converted into owner occupied units. I say that because there are no load bearing walls in the interior of this design. You can ask any questions that arise – I’m not a structural engineer – but I do know that there are no load bearing walls. What that means is that it is a full span of floor joists so walls can be moved. So, these are easily converted then if they are up for sale one day in the future. They are proposed for student rentals now, but if they are converted, walls can be moved without issue.

Again, just quickly like Maureen stated, to the north is the BC zoned Herman’s Meat Market; to the south MI zoned CSX Railroad right-of-way; to the east, this is Hal Prettyman’s new townhouse style apartments, also zoned RM, also a Hillcrest project; and over here to the western side is also a rental structure – I believe that one is owned by Matt Dutt.

The architecture here is different from the ones done for Hal Prettyman so there is not going to be any type of monotonous feel because of Rick trying to take that existing design and make it still have that feel but, obviously, new materials.

The nice thing is it is less bedrooms on a per acre count when compared to many recently approved projects. The other positive, many projects in terms of their total bedrooms and occupants don’t have one parking space per occupant, and this does.

With that being said, we will be happy to answer any questions that the Planning Commission or the public has.

Ms. Feeney Roser: Matt, would you please address the question that Mrs. Brown asked about – the trip generation diagram.

Mr. Longo: The trip generation diagram is on an entrance plan, which is one of several plans that go to the Department of Transportation. We have to simply show lefts in, rights in, lefts out, rights out and through calculations can determine the approximate number of vehicles going in each direction. And, that is what they want to see on the entrance plan, the arrows for lefts in, rights in, lefts out, rights out.

Ms. Feeney Roser: And, this is the plan that DelDOT requires, not this particular plan?

Mr. Longo: The plan with the trip generation diagram on it, we look at it from an existing standpoint in terms of how many cars are coming in and out, and we look at it from a proposed standpoint as well. It is on an entrance plan that also does go to the City Public Works Department not just DelDOT; but it is not the plan before the Commission this evening.

Ms. Brown: Does that trip plan also take into consideration the in and out cars out of Wilbur Street, the in and out cars out of the Bookateria, and the in and out cars of the surrounding properties?

Mr. Longo: No, the trip generation diagram is just looking at what you have proposed and your access point. When they request that trip generation diagram that is what they are focusing on.

Ms. Brown: So, it doesn't actually take into consideration the existing traffic and the traffic that is coming in from the surrounding properties and streets.

Mr. Longo: It does in terms of how many are turning in because you have to anticipate in your calculations how many are going to be driving into your new entrance. If you mean in terms of an overall study, that would be a result of hitting a certain number so when you do your trip generation calculations to see how many are exiting and entering on your site, if that hits a certain threshold, then you are in more of a larger study area that DelDOT would require you to study, such as, what is happening on Wilbur, maybe even study what is happening down on N. College. They would notify us and we would have known by now if they wanted a larger area wide study.

Ms. Brown: Does that also take in trips, for instance, of guests or parents?

Mr. Longo: Yes, the trip generation does take into account all of that because through the ITE Manual, which is what the traffic engineers will use, has certain factors in there when you are talking about rentals. So, you know there is going to be more in terms of invitees and guests.

Ms. Brown: Does it also consider the pedestrian traffic and the crosswalk there?

Mr. Longo: Not in the trip generation diagram or the traffic generation diagram, but pedestrians are certainly studied and designed for as a separate analysis. So, what we do is look at the foot traffic, they tell us where the crosswalks need to be and if a button needs to be placed there with a signal.

Ms. Brown: Has the State said anything about, for instance, having a signal there at the crosswalk because it is already an issue that the students are having trouble getting across Cleveland Avenue?

Mr. Longo: They have not instructed us in any of the comments to place a signal. There have been comments with regard to the crosswalk and it was designed according to their comments, but no signal requests.

Mr. Hegedus: I will speak for myself. I get confused in the language that we use so if you can help me. In here we are talking about things like units, bedrooms, occupants, and density which are about units, right?

Mr. Longo: Right.

Mr. Hegedus: Maureen mentioned when we started that she did a calculation and there are 51 bedrooms per acre. If I heard you right you were saying that there are 24 bedrooms proposed, and I think I heard this twice, and you are providing 24 parking spaces, which is the same as the number of occupants.

Mr. Longo: That is right. The four units, which falls right in the middle of what the Comprehensive Development Plan calls for in terms of units per acre. This is proposed as six bedrooms per unit. That is the way it works for Mr. and Mrs. Krohe. It is a good design. It is what helps this project go along and it is what they are used to. When you look at that and you do the multiplication (6 bedrooms in four units each), you have 24 bedrooms, and they do not allow more than one occupant per bedroom. That is a perfect equation of 24 bedrooms is 24 occupants. Allen and Barry have been able to design it for 24 parking spaces as well, which is ideal.

Mr. Hegedus: Okay, because one of the comments that the Planning Director made is that we should talk about whether we should have a voluntary deed restriction on no more than one person per bedroom. It sounds like that is your standard practice anyway.

Mr. Longo: I think Mr. and Mrs. Krohe would certainly be open to discussing that with the Department. I don't know if they would have any objections to that. They had no intention of putting seven people in here. They want it to be comfortable as well. The 51

units per acre, this is about a half acre, and so Maureen was doing the math just to do a comparison to other projects recently approved.

Mr. Hegedus: I'm sure the word is getting around based on these meetings and having calculations like this, but one of our big concerns is, as we are going through the new development of the Comprehensive Plan, that we are starting to hear data about how much student housing is available vs. other types of housing. At the last three meetings we have had projects that have already gone through the Board of Adjustment and have had variances granted that would allow bigger buildings to be built than the Code would typically allow. I think in this case you had one that was 40% coverage and you went to 29%. The Board of Adjustment already approved that and I understand that, but our concern is about the number of bedrooms, and the number of kids, and the amount of student housing because every time we turn around it goes up and we have other issues in the City that we would like to have housing for, so I appreciate you tolerating my questions. For the buildings that are coming down, how many bedrooms are there in those two units?

Mr. Longo: There are five each.

Ms. Dressel: I'm sorry. Can you come to the microphone, please. Your comments won't be recorded without that, and please state your name and address.

Mr. Frank Krohe: 132 Reynolds Lane in West Grove, Pennsylvania. The current house has, actually, five bedrooms but there are only four being used because we have been restricted to a four person rental. The fifth bedroom is on the third floor. It has not fire escape so it stays empty and we make sure of that.

Mr. Hegedus: So, we are going from renting to 8 to renting to 24.

Mr. Krohe: Yes.

Mr. Longo: If I could also follow up in terms of your questions. There was a variance in terms of open area and building coverage. That was because they want to really provide one parking space for each occupant. So, paving more, that is kind of what the Board of Adjustment hung their hat on. I don't want to speak for them, but they liked that idea of, okay, if it is because of paving and it is because each person then can, in theory, have their own car – I don't know if they will – that sounded like a positive.

Ms. Brown: The adjoining properties, do they have fences along the railroad tracks?

Ms. Feeney Roser: The Prettyman property does.

Mr. Longo: This is the new one, which would be the Prettyman property, over here to the east has because it was recently developed. One of the comments I believe from either Parks and Recreation or Public Works for this project was, a fence should be installed at the back of this one as well to help shield from the CSX Railroad.

Ms. Brown: It is not just shielding. It is a safety issue because we have students who go up the bank and walk on the railroad tracks; so, my suggestion is if you have a fence on the adjoining property to join to that fence. I don't think six feet is tall enough. I think it should be taller than that. Six feet is easily scaled. I could get over a six foot fence. My second suggestion is if you do not have a fence on the other side that you bring the fence down along the property line so that it makes it inconvenient for students to go up and over the railroad tracks. This is a safety issue. I don't know how far by Code you could bring it down, but I think it needs to be brought down far enough so that the students will not find it easy to go around it.

Mr. Longo: Just so I am clear on my notes, what do you mean when you say down, down the embankment?

Ms. Brown: No, down the side property line.

Mr. Longo: I understand.

Ms. Brown: If there is not a fence in the back of the adjoining property, I would suggest that you have a fence that goes down the side yard so it is not easily navigated. It may not be pretty but it is a safety issue.

Mr. Longo: Sure, understood.

Mr. Edgar Johnson: Looking at that driveway. It takes sort of a dog leg to the right rather than coming out directly across from Wilbur Street. Is there a legal reason for that or an architectural reason?

Mr. Longo: It is in response to a comment we received from DelDOT. Allen did originally have it aligned directly across from Wilbur and DelDOT and Public Works from Newark as well initiated it because it is the low point and, on our side of Cleveland directly across from Wilbur Street, there are existing catch basins with a throat, which is when the back of inlets open along the curb. They didn't want to try to move them so they said to dog leg the driveway over such that those catch basins are still in the same location, drainage works property, and it is still relatively across from Wilbur creating safe turning movements.

Mr. Johnson: On the other side of your property on the other side of the CSX tracks, the University of Delaware has a fence, do they not? Does it go down that far?

Mr. Longo: I am not sure – at the athletic fields on the other side of the train tracks?

Mr. Johnson: The athletic fields, yes.

Mr. Longo: I believe there is a fence there.

Mr. Johnson: There is. My question is, is it on the back of that property? I'm not sure. And, secondly, if it is on the back of that property, how tall is that fence on the University of Delaware side?

Mr. Longo: I am not sure. I'm sorry.

Mr. Johnson: My final question is, you said DelDOT only had some minor comments, but you didn't share what they were. Could you share with me what they were?

Mr. Longo: They requested a 30 ft. right-of-way from the center line of Cleveland Avenue and they also requested a couple of permanent easements in addition to the right-of-way for future maintenance of the sidewalk, utility lines, and things of that nature. The second comment was relocating the crosswalk across Cleveland Avenue. We had it here. They requested us to move it over to the western side of the intersection with Wilbur Street. And, the third was the trip generation diagram.

Ms. Brown: What about restricting the exit on the right hand side to right turns only. I was there today on Wilbur Street and getting in and out is very difficult. Two people did that today and it backed the traffic way up. We are adding at least 20 more cars and that is not counting visitors. There comes a saturation point, so you have come to the point where somebody is going to get hit.

Mr. Longo: Because it wasn't required by DelDOT, we wouldn't want to self impose a restriction in terms of turning movement because then we are funneling them all to the east and the intersection in that direction. If they are all existing at a certain passing level of service, I believe that is why DelDOT wants to keep the peace, so to speak, at each nearby.

Ms. Dressel: We will open it up to comments by the public. At this time I have just one person who has requested to speak and that is Christine Herman.

Ms. Christine Herman: Owner of Herman's Quality Meat Shop directly across the street from this property. I would like to thank you for giving me this opportunity to speak. I would like to speak mainly on behalf of the traffic situation on Cleveland Avenue. I think the proposal is beautiful. I think you folks have been great landlords. I have seen you in the area doing a lot of work to your property. Any renovations and proposals that we can make to upgrade the area are certainly beneficial to all of us in the City of Newark. However, from my perspective as a business owner with regards to the traffic, the amount of cars that come in and out on Cleveland Avenue as well as on Wilbur Street, from my business perspective, from 2:00 p.m. to 7:00 p.m. the traffic is backed up and it makes my business decrease. So, naturally, that is an issue for me that I see and adding 20 more cars to the situation, as well as any other improvements on Cleveland Avenue. Yes, this is the issue at hand, but any other improvements that come along, even if it happens to be the Newark Shopping Center, adding more traffic to Cleveland Avenue without implementing additional means to compensate for that whether it be stop signs, traffic lights, I feel like it is imposing that much more of a safety issue for one thing because you have pedestrians that do not pay attention when they cross the street. Right now, the crosswalk is to the right of that driveway area. I watch them daily daring the traffic. They stand there and they force traffic to stop. They walk out in front and I hold my breath as I stand in front of the store and pray that no one is hurt. I don't have a police report to verify this but it seems to me that once a month there is a fender bender on Cleveland Avenue. For any of you that travel Cleveland Avenue often enough you know that is such a factor. Those are my concerns. I would like to bring to light again that has already been mentioned, the crosswalk is useful but I don't know how that can be addressed. Another one of my concerns as cars come out of Wilbur Street coming in and out of the driveways that are there, there is always that tension as to who is going to go first. I see that as a potential concern especially if we increase those cars to 20 more. I would like to thank you for giving me this chance to tell you about how I see it. I don't have an answer. If there is an opportunity to put a traffic light, I think that might be helpful. If that could possibly work directly with the driveway, then that might be an option, but I don't know if DelDOT is interested in doing that. I would just like to remind Council and everyone that we have a lot of issues and the pedestrian one is a very big concern as well.

Mr. Robert Anderson: I am the President of the Trustee Board of St. John Church in Newark on New London and Cleveland Avenue.

The reason I want to speak to you tonight, is that I wonder as you develop plans for improving properties and improving everything for the Commission, do you also take into account the human perspective of what goes on and what we are talking about? I was on the Planning Commission many, many years ago, so I have an idea of what work you do. But, one of my concerns is that we keep developing the area around Cleveland Avenue and New London Road and the amount of vehicle and human traffic is unbelievable. So, what I wonder is, as we go through these studies, do we look at the traffic patterns, the land use and all that, but do we also take into consideration the fact of the human character, of what is going on, because I would suggest to you that that neighborhood has totally changed in many, many ways over the last 20 years. If you walk that area at night from 2:00 to 6:00 in the morning, the amount of people out there on the street has changed greatly. The way the neighborhood has changed is that many people who lived in the community for years don't come out at night. That ought to be a concern of the City and for all of us because what it's done is taken out original residents and really put them in their housing late at night. They don't walk the street. Me, personally, I used to come down to the City of Newark and walk Main Street any time that I wanted to, any time of night and there was never an issue. But, if you talk to the people in the community, they will tell you that they are not coming out at night. Some only come out during the day time because the amount of people is huge. So, as we go through these building permits and approve these plans, I hope we also ask the question again about the human part of it because I would suggest that there are a lot of things going on that I am not even sure you are aware of. I think you ought to ask the University Police. I think you ought to ask the Newark Police what has been their assessment, what has changed in the community in this case, in the last ten years. I am just saying to you that it is different. I am a big fan of the University of Delaware and a big fan of the City of Newark, so I don't have any complaints about that and I'm not

complaining about that. I'm just saying I believe we have changed what our residents feel free and comfortable doing in the City of Newark by a lot of the building and a lot of ways we have done things. For example, if you take the new development going up on New London Road, those people that live on Corbit Street, once it is developed are going to have to go all the way around Main Street to get to Super Fresh. It's only a few miles but it is a difference. As we go through this process, let's make Newark the best that it can possibly be. Let's be very considerate about the impact on human beings in the Newark area.

Syl Woolford: 71 New London Road. Let me just add a couple of things to what Bob Anderson said. I was never on the Planning Commission but let me act, at this particular time, as if I were. The votes that I have seen you make are yes, no votes. Yes, no, you approve it or you don't approve it. The issues of traffic never get addressed. There is never a rider that says that someone should fix the traffic, someone should evaluate the traffic, someone should make sure that if we are tearing down single family residential low income and middle income housing that maybe someplace else in the City there should be some construction of those houses. No one has said that increasing the density in this part of the city doesn't mean that we need more policing, more surveillance or more lights. What I have heard here are yes, no answers to a problem which is complex as Bob has just pointed out.

One night I am sleeping, as I usually do, and at four o'clock a light comes on in my house. I don't know if I left my door unlocked or not but an eighteen year old kid in Bermuda shorts drunk as he can be, came in, turned on the light, laid down on my couch in the living room. This is the environment we are living in and we have to put up with beer cans on the lawn every day and this should be addressed. We cannot say yes or no. We have to consider the entire community and the quality of life in the community. One Councilman, when the other bill was approved, said they were talking Capitalism. This is a capitalistic system. The guy bought the land to build the house and we can't stop him from building a house. This is not a capitalistic system. This is a (inaudible) capitalistic system. If we sit around letting the rich get richer and poor get poorer, we will destroy this country, so we have to manage the system and that is your job as I see it.

Mr. Dressel: We will bring it back to the Commission.

Mr. Hegedus: Being one of the new Commissioners on the panel, I know we are going through the whole new comprehensive planning process where all the issues of the City are talked about and balanced and we try to figure out what the right zoning is. Maureen, can you give me a little history about DelDOT and traffic in this particular part of town? Has DelDOT looked at things over the years? Have there been changes?

Ms. Feeney Roser: If it is a State roadway as Cleveland Avenue is, DelDOT gets the plan, they look at it, they make comments, they ask for studies if they believe they are necessary and then they make their comments. Since they are not City roads, unless City departments have issues with what DelDOT might say, then we accept DelDOT's recommendation based on the fact that they are their roadways (State-owned and maintained). Our Public Works and Water Resources Department does look at them, does make traffic comments if they have any, as does our Police Department. In this case, DelDOT's comments were the only ones we received regarding traffic impact for the Krohe project, except that the Public Works and Water Resources Department said they will need a Letter of No Objection from DelDOT.

Mr. Hegedus: I understand that that is the process on a submittal by submittal basis, what triggers a comprehensive review?

Ms. Feeney Roser: That would be up to DelDOT. They look at the traffic generation of each plan. They also look at the traffic in the area and they decide, if it is their road, whether or not a traffic impact study would be necessary. In this case, they indicate that the plan didn't warrant a study.

Mr. Hegedus: So, this is one project and I understand from the developer's and owner's perspective this is the only thing they worry about, and so the Solicitor's letter that he

gave us to talk about the statutes around subdivision applications and what we can look at says, for things that come through, we can't deny it on general welfare grounds but we can put reasonable conditions in place to minimize adverse impact on nearby landowners and residents. But, again, we would have to do something specifically for this property, for this landowner, for residents. I think the concern that we heard last time we were here, and as part of the comprehensive planning process, is that we have three projects coming through tonight that are all expanding, all putting more traffic onto Cleveland Avenue and I don't know how to manage our way through when we have to approve things based on individual project by project when it is more of a global issue other than the comprehensive planning that we are also in the middle of that isn't finalized yet.

Ms. Feeney Roser: We can ask DelDOT to do a more comprehensive analysis of the Cleveland Avenue area, a study perhaps, but they are charged with doing that when they look at adding 24 new residents or however many units. They have all that information when they look at it, and they do analysis to determine if additional study is warranted - because if they thought there was something that needed to be done, they would have told us that. They are not shy about telling us what to do to mitigate the impact of development on State-owned roads, but certainly, we can ask as part of the Comp Plan process for them to consider looking at the entire corridor. We can talk with them at the Transportation Workshop for the Comp Plan update, but I don't know that that is going to help you tonight.

Mr. Hegedus: So, if we could do that as a minimum that would help me. I don't know what the other Commission members think of that, but that is one little corridor in this part of town that is the most congested whether you are coming from the Deer Park up or the other way. If, as part of the comprehensive planning process, we had that data to factor in, that would be beneficial to me at least.

Ms. Dressel: Maureen, wasn't there a study done about 8 or 10 years ago. Cleveland Avenue keeps coming up. It keeps being an issue.

Ms. Feeney Roser: Cleveland Avenue has been looked at over the years but, off the top of my head I can't remember I haven't seen anything that came through that says you should do X Y and Z and that will make it better. The Newark Transportation Study was just a couple of years ago as well. We can look at that and see what they said about Cleveland Avenue, but generally how it works is, they make recommendations for improvements as part of a Study, then we go through the process of trying to get it funded. Cleveland Avenue was referenced in the latest area study as a place that we needed to work on other than spot improvements as I recall, like at the intersection of New London Road where the turning lane was added.

Mr. Johnson: I want to ask a question about the driveway, again. You are taking a left turn out of that driveway going west on Cleveland Avenue. You are allowed to park on Cleveland Avenue as I understand it and I see cars there every day. What is the setback from the driveway - the closest that a car can park at the end of the driveway?

Mr. Longo: Let me make sure I understand your question correctly. You mean where the proposed driveway apron that touches the asphalt for Cleveland Avenue?

Mr. Johnson: Correct. I am parking on Cleveland Avenue. Obviously the cars will be facing east. What is the setback so I can see cars coming from the left? If the car is parked right there and I am in a small car and I park an SUV there, I can't see around it to see the traffic coming from the left. How far back will the closest parking space be on either side of that driveway?

Mr. Longo: As of right now, they just can't park the width of the driveway because we are not at the construction stage yet with DelDOT which is where something like that will be addressed. Maybe they might say you have to do a painted restriction area from each edge of the driveway, maybe ten feet on each side, where they painted a restriction area of no parking. That would come up at the construction stage. We are a little early in terms of specific linear feet at this point.

Mr. Johnson: There isn't a code for that?

Mr. Longo: Not at the initial stage which is our submission now.

Mr. Johnson: There is not a code for every driveway, setback for parking?

Mr. Longo: No, what that would be is at the discretion of the review engineer from DelDOT in the construction stage. They can put an arbitrary number. It could be zero; it could be ten.

Ms. Feeney Roser: Our previous Planning and Development Director is signally from the rear, saying to us that the restriction is ten feet.

Mr. Longo: That has evolved. I don't know of that written in terms of City Code. That is not a comment. Thank you, Roy. Obviously, we want this to be a Code compliant plan.

Mr. Johnson: Is ten feet enough if you are going to allow left-hand turns, to see the traffic coming to the right and to the left?

Mr. Longo: Certainly in a western direction there are inlets.

Ms. Feeney Roser: And the crosswalk.

Mr. Longo: We are talking about that location right there, there are inlets. Maybe there will be a painted tapered restriction right here in terms of no parking.

Mr. Johnson: The point is, will there be a car between the driveway and the crosswalk? And that distance is more than ten feet it looks like.

Mr. Longo: Yes, it is. It is more than ten feet.

Mr. Johnson: And the curb will be painted yellow.

Mr. Longo: I would imagine through the construction stage process with DelDOT, I would anticipate that to be prohibited.

Ms. Brown: On the front view, you have porches. Are they usable porches or just a façade?

Mr. Longo: There is a five foot width and a five foot depth, so to speak.

Ms. Brown: Will they have railings so that the residents cannot use the porches? Will the access to the porches be limited or are they usable porches?

Mr. Longo: It a functional front porch in terms of a five foot depth.

Ms. Brown: I would suggest that you put a railing up there so that the porches are not usable and I will tell you why. There is a house across the street diagonally on Wilbur Street but it faces Cleveland Avenue that has a large porch, and it is party central. A lot of people spill out of that porch. Mrs. Herman will tell you that. Sometimes they are not completely in control of their faculties. They present a real hazard to the cars and to themselves. I like the look of the porches. I think it is a really lovely design, but I am concerned about being close to the street and people having parties on the porches and not being safe.

Mr. Longo: So, your suggestion is for more of an aesthetic feature and that is all.

Ms. Brown: Yes, the aesthetic is good, it looks great, but I am just concerned about having a party and people spilling out onto the street. We have been talking about this. It is a very congested area. It is just for the safety. I would think that the landlords would not want their tenants to be hurt, either.

Mr. Dressel: Is there any other discussion or is anyone ready to make a motion.

Ms. Brown: I have one more question. Did you attend the variance meeting?

Mr. Longo: Yes, I presented on behalf of our clients.

Ms. Brown: Were there any neighbors at the variance meeting or any objections. Was Ms. Herman at the variance meeting?

Mr. Longo: No, Mrs. Herman was not.

Ms. Brown: I just wanted to know if there were any objections there.

Mr. Longo: I do not believe there is any objection on record.

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

TO APPROVE THE KROHE PROPERTY MINOR SUBDIVISION AT 65-67 E. CLEVELAND AVENUE, AS SHOWN ON THE HILLCREST ASSOCIATES, INC. PLAN, DATED NOVEMBER 7, 2012, WITH REVISIONS THROUGH FEBRUARY 5, 2013 WITH THE DEPARTMENTAL COMMENTS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AND WITH THE ADDED CONDITIONS THAT A CONTINUOUS FENCE BE PLACED FROM PROPERTY LINE TO PROPERTY LINE ALONG THE REAR YARD AT THE CSX RAILROAD RIGHT-OF-WAY, AND IN THE EVENT THAT INSTALLING A FENCE ALONG THE REAR PROPERTY LINE DOES NOT CREATE A CONTINUOUS BARRIER, A FENCE ALONG THE SIDE YARD PROPERTY LINE BE INSTALLED; AND IN ADDITION, TO DEED RESTRICT THE NUMBER OF TENANTS TO ONE UNRELATED PERSON PER BEDROOM.

Ms. Dressel: Are there any comments?

Mr. Cronin: I don't think the fence should come on the side property line clear out to the street. I think maybe three quarters of the way to the street or half way to the street on the property line. And, if we deed restrict it to one person per bedroom, what happens in the years ahead if it does become a condominium use and somebody does want to put a family in the condominium and you have two kids in the bedroom when it is deed restricted to one per bedroom.

Ms. Feeney Roser: These are unrelated individuals.

Mr. Cronin: We didn't say that, but maybe it was implied. For rentals, I can understand one person per bedroom, but I think we should put that wording in there if we are going to have it – a tenant per bedroom. I guess you need a motion to alter the motion. What are you going to do with that?

Mr. Johnson: Amend the motion regarding the length of the fence to the street from an aesthetic standpoint. That makes eminent sense.

Ms. Feeney Roser: So, to keep it out of the front yard, but the side yard is okay.

Ms. Dressel: And one unrelated occupant per bedroom.

Mr. Cronin: Tenant, if you will, because if it is owner occupied at some point in the future and you have two or three kids in there, they are not tenants.

VOTE: 5-0

AYE: BROWN, CRONIN, DRESSEL, HEGEDUS, JOHNSON
NAY: NONE

ABSENT: BOWMAN, BRILL

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF A PARKING WAIVER FOR THE PROPERTY LOCATED AT 46 E. MAIN STREET. THE APPLICANTS ARE REQUESTING AN 11 SPACE PARKING WAIVER.

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

“On February 7, 2013, the Planning and Development Department received an application from Lend Lease, a project management firm representing 7-Eleven, Inc. for a parking waiver for the property located at 46 E. Main Street. The applicants are requesting an 11 space parking waiver. The vacant 46 E. Main Street property was previously occupied by the Delaware National Guard Recruiting Station. Please see the attached 46 E. Main Street site plan and supporting materials.

The Planning and Development Department’s report on 46 E. Main Street/7-Eleven project follows:

Property Description and Related Data

1. Location:

North side of E. Main Street adjacent to Peace a Pizza.

2. Size:

Total site: .15 acres

3. Building Size:

The building contains approximately 2,917 sq. ft. of total leasable area. The proposal is to use 1,476 sq. ft. for sales area, and 118 square feet for seating. The remainder is office, storage and restroom.

4. Existing Land Use:

Vacant commercial site.

5. Physical Condition of the Site:

44-46 E. Main Street is a developed site including a two-story mixed use building. The ground floor of the building is demised into two spaces: 44 E. Main Street is the existing Peace a Pizza business and the other vacant space (46) was formerly occupied by the National Guard Recruiting Station. The second story is occupied by residential uses (3 apartments) which will remain.

6. Planning and Zoning:

46 E. Main Street is zoned BB. BB is our downtown central business zone that permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.

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

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

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb 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, except for off-street parking, the 7-Eleven Store development plan meets all applicable stipulations.

Regarding adjacent and nearby properties, the land to the north of 46 E. Main Street is zoned BB and contains a monthly municipal parking lot partially owned by the City. The parcels east and west of the site on the north side, and across E. Main Street from it are all zoned BB and contain a variety of commercial uses.

Regarding comprehensive planning, the Newark Comprehensive Plan IV calls for “commercial (pedestrian oriented)” uses at the 46 E. Main Street location. In addition, the Plan’s Downtown Economic Enhancement Strategy suggests, “Downtown Core District” uses for this site described as: “first floor specialty and traditional retail shops with a balanced concentration of food and entertainment.”

BB District Off-Street Parking Option Procedure

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

- A. Whether the applicant has demonstrated the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City;
- B. Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character of the development pattern of the central business district;
- C. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business;

- D. That the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property improvements in the vicinity;
- E. The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet) that may be shared by the applicant and an existing or proposed use. In considering this subsection the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the City, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve;
- F. The Planning Commission shall consider the advice and recommendation of the Planning Director.

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

Regarding the 11 space parking waiver, our procedure specifies that applicants receiving such approvals must make a “lieu of spaces” payment to the City to be used to improve downtown parking. The required payment for the requested parking waiver, based on an estimate of the cost of construction of surface level parking spaces provided by the Public Works and Water Resources Department (\$5,833*) is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 1,458.25 (5% of cost)
Six to Twenty-five (6)	<u>\$17,499.00</u> (50% of cost)
Total:	\$18,957.25

*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 Public Works and Water Resources Department revised the estimate of the current 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. In this case, the application was received the day before the estimate was completed.

Comments regarding this “payment in lieu of spaces” and related comments regarding this issue appear below.

History of the Site

In 1997, the Planning Commission approved a 10 space parking waiver for 44 E. Main Street for Peace A Pizza. Later, this 10 space parking waiver was increased to 14 spaces, also for Peace A Pizza, by action of the Planning Commission. Further, an additional parking waiver was granted by the Commission for the property at 44-46 E. Main Street in 2009, when the owners requested minor subdivision approval to install three apartments on the second floor of the building. At the time of that application, the National Guard was leasing 46 E. Main Street as a recruiting center, and therefore, no waiver was requested (nor was one provided) for the first floor commercial space. The Planning Commission approved the six space parking waiver for the apartments, and in lieu of paying the parking waiver fee at that time, the property owners, Mr. and Mrs. Yong, donated the land at the rear of the building to the City for continued use and ownership of it as a monthly permit only parking lot. After the parking waiver was approved, the Delaware National Guard vacated the property and the space has remained vacant for more than a year. Had the property not been vacant for longer than a year, the number of parking spaces to meet Code for the National Guard Recruiting Office use would have been grandfathered to the site. Therefore, while a 7-Eleven would still

require more parking based on its intensity of use, it may not have required the full 11 spaces now requested. Be that as it may, the 7-Eleven use will require an 11 space parking waiver to operate at 46 E. Main Street.

Departmental Comments

The City's Planning and Operating Departments have reviewed the 7-Eleven plan and parking waiver. The departmental comments are as follows:

1. The Planning and Development Department notes that the use does not conflict with the purposes of the Comprehensive Development Plan of the City and is in character with the development pattern in the surrounding area. The Department also notes that the proposal will fill a long-standing vacancy on the street.
2. The Planning and Development Department indicates that the applicant contends that the bulk of their customers will be pedestrians and further, that pedestrian traffic will be adequate to make the business successful. Because the location has been vacant since 2009, any use at 46 E. Main Street will require a parking waiver to occupy the site. The proposed 7-Eleven use is defined a retail store, and because the parking waiver runs with the land and not the business, should 7-Eleven vacate the premises after approval, another retail use of similar or less intensity could be accommodated at the location.
3. Because there is no parking associated with the location, non-pedestrian 7-Eleven customers will have to park at a downtown meter or in Municipal Lots 1 or 3; and therefore, as a condition of approval of this waiver, the Department recommends that the Planning Commission require that the landowner deed restrict the site to specify that City of Newark validated parking will be provided during all hours of operation for the 7-Eleven or any other Code permitted uses operating at the location.
4. The Parking Division of the Planning and Development Department indicates that the applicant's materials make reference to customer parking in the adjacent lot at the rear of the property. This assumption is inaccurate. The lot (Municipal Lot #2) is a monthly pay-to-park permit only lot, and no customer parking for 7-Eleven will be allowed in the lot. The Division further indicates that one parking space in that lot can be made available for annual lease by the tenant (7-Eleven) at the established monthly permit rate, which is currently \$85 per month. No other spaces are available in Lot #2 for the use.
5. The Parking Division is concerned about deliveries. The parking lot and access driveway are inadequate to handle 7-Eleven truck deliveries and further, as an access to the municipal parking lot, the driveway cannot be blocked by delivery vehicles, regardless of their size. Therefore, all deliveries to the store will have to be made from the nearest Main Street loading zone, which is located on the south side of the street, and delivered to the store via hand truck. No exceptions will be permitted.
6. The Parking Division indicates that trash and recycle dumpsters are already an issue in the lot, and recommends that as a condition of parking waiver approval that all uses at 44-46 E. Main Street be required to participate in a consolidated trash and recycling compactor program on the business property, not in the parking lot. These arrangements must be made, and the consolidated dumpster program operational, before the issuance of a CO for the retail store at 46 E. Main Street.
7. The applicant has requested an installment payment plan for the \$18,957.25 parking waiver fee, if approved. Should the Commission see fit to approve the parking waiver and the requested payment plan, the Planning & Development Department suggests 50 % shall be due at issuance of the building permit, and the balance due at issuance of the CO. The Commission may wish to discuss this suggestion with the applicant at the meeting.

8. The Code Enforcement Division of the Planning and Development Department indicates that the site and floor plans may need to be revised as the wheelchair lift and the dumpster pad appear to occupy the same space. Building plans will be reviewed in detail against the 2012 ICC Codes, at such time as the required parking waiver is approved and building permit application is made. Approval of a parking waiver for the project does not indicate building permit approval.
9. No other departmental comments were submitted.

Recommendation

Because the proposed 7-Eleven convenience store conforms to the land use recommendations in the Newark Comprehensive Development Plan IV, because the proposed use does not conflict with the development pattern in the immediate vicinity of the site, and because the project will occupy an existing vacant downtown storefront, the Planning and Development Department suggests that **the Planning Commission approve the 46 E. Main Street parking waiver, as shown on the 7-Eleven existing conditions plan dated February 6, 2013, with the conditions in this report.**”

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

Ms. Brown: I’m a little confused about the trash. I don’t understand the consolidated trash and the fact that there is a wheelchair lift. Why do we have a wheelchair lift there?

Ms. Feeney Roser: On the plans that were submitted, it shows a handicapped accessible entrance there, which will be required, but it also shows trash dumpsters in the same area. So, that can’t happen. The consolidated plan is that there are already trash and recycling dumpsters there for the current business and residential uses on the property and with the new business, generally what happens is people try to bring in new trash and recycling dumpsters to add to it. There is not enough room for that so since it is all one property, it makes sense that all trash and recycling be consolidated and maintained on that property, and not in the parking lot.

Ms. Brown: Now I understand, but why do you need a wheelchair lift?

Ms. Feeney Roser: It is part of the ICC Building Code. It has something to do with the elevation of the building and how they plan to get handicapped access into it. It is a Building Code requirement.

Ms. Dressel: Just from the back.

Ms. Brown: And, that accesses the building?

Ms. Feeney Roser: Yes.

Ms. Brown: A ramp in the front won’t do the job?

Ms. Feeney Roser: No. There is a considerable grade difference to get into the building, so it is part of the ICC Codes.

Ms. Brown: I had a question about the parking. Who parks there now with a monthly permit?

Ms. Feeney Roser: Mainly they are business owners and employees who are parked there. There are only a few spaces in the lot, and they are rented out on a monthly basis.

Mr. Hegedus: On page five of the comments, comment #2, it talks about if we approve this, it is really being approved essentially for the building for the space so if a 7-Eleven comes and a 7-Eleven goes. . .

Ms. Feeney Roser: Hopefully, it won’t.

Mr. Hegedus: I know but, if it does, our approval is for an 11 space waiver that lasts how long?

Ms. Feeney Roser: It runs with the property.

Mr. Hegedus: So, if 7-Eleven comes and 7-Eleven goes, as long as whatever comes in doesn't need more than 11 spaces, it is a done deal.

Ms. Feeney Roser: Right, with the waiver, they will have met the parking requirements.

Mr. Hegedus: How does it work with a year of vacancy? I got confused about that.

Ms. Feeney Roser: That was not a parking waiver situation. What happened was you had a tenant in there before the current parking requirements were adopted and it was continuously occupied so those parking spaces are "grandfathered." When that property was vacant for more than a year, they lost those "grandfathered" spaces. That is why the 7-Eleven is required to get all 11 spaces that are required by Code. In fact, if the previous use had required 6 spaces and the property had been continuously occupied, then the 7-Eleven would only be 5 short, and be coming to you for a 5 space waiver, but since it was vacated for more than a year, they lose the grandfathered status of that, so anything that goes into this store, anything at all, is going to need a parking waiver.

Mr. Hegedus: So, if we grant it now, we grant it for 11 and that stays permanently with the building.

Ms. Feeney Roser: Yes, unless they come back to request more.

Mr. Hegedus: On #3 you talk about there is no parking associated deed restriction, the site to specify City of Newark validated parking will be provided during all hours of operation. Explain that to me.

Ms. Feeney Roser: We have a validation program so you can park for free in municipal lots if you frequent a store that validates. So one of the requirements – we have been doing this since the beginning of the parking waiver system – is that if the City was to grant a business a parking waiver, that business would validate parking. So, it is a matter of participating in the existing program. If I came in and bought something there and showed them my municipal parking lot ticket, then they would have to validate at least one half hour of my parking fee.

Mr. Hegedus: Regardless of whatever lot they parked in.

Ms. Feeney Roser: Yes, but it has to be a municipal lot.

Mr. Hegedus: We talked about the concern about the deliveries and that the deliveries would have to be over on the other side of Main Street and hand trucked over.

Ms. Feeney Roser: It would be up to the delivery driver, of course, but the loading zone on the south side is the closest one to the property.

Mr. Hegedus: Is that how other businesses in that area do things now? Do they have the same restrictions?

Ms. Feeney Roser: Some of the businesses that are there don't require the kinds of deliveries that a retail food store is going to require. Some of them probably bring supplies in their own car, like the hairdresser, but it is a concern and in the information that was provided to you, it talked about deliveries as being taken in the back of the building. It is a very tight location. Certainly, the 18 wheeler is not going to get back there. At any rate, we didn't want people blocking the driveway to do the deliveries, therefore we recommend restricting deliveries.

Mr. Hegedus: I didn't know if the Peace A Pizza had the same restriction on it or not. Again, I'm sure it is a much lower volume than 7-Eleven.

Ms. Feeney Roser: I did review their parking waiver. I don't remember seeing it.

Ms. Dressel: The applicant is here. Please step to the microphone and state your name and address.

Mr. Rob Blake: Lend Lease, Inc., P.O Box 676, Uwchlan, Pennsylvania, 19480.

On behalf of the tenant, 7-Eleven, I am here to represent Ms. Suwanna Yong, the landlord. We propose to put in the 7-Eleven at 46 E. Main Street and we kindly ask for your support for this parking waiver tonight.

Ms. Dressel: Are there any questions for the applicant? Are there any comments from the public?

Mrs. Suwanna Yong: I am the owner of the building. Since the first time I applied for the permit to build a second floor, I already made a donation of my land in the back to the City. And now I have a . . .

Mr. Blake: What Mrs. Yong is trying to say is, if there is a credit that you can provide towards the 11 spaces that are required for the use, being that she has already donated 8 spaces in the back, we would appreciate that you consider that as well.

Ms. Feeney Roser: Let me speak to that, if I may. Mrs. Yong donated the spaces in the back of the store during the parking waiver request for the three apartments on the second floor. So, she did not pay a fee for that waiver. At the time, there was a business in 46 E. Main. Since that time, the tenant left and the space lay vacant for more than one year, and therefore, the parking spaces grandfathered for the property has gone away. We (the Planning Commission) don't have a provision for reducing fees. Mrs. Yong could take it to Council if she would like to, but we don't have that luxury. If the Planning Commission approves it, Ms. Yong can go to Council and ask them to consider that, but this Board can't change the fee. They can recommend that it be paid in installments but not change the fee amount.

Ms. Brown: I have a question about the parking waivers being grandfathered if the building use changes.

Ms. Feeney Roser: For example, if, there was an office use it is being replaced by another use, what we would do is calculate what the office required and that number of spaces would be grandfathered, and for the more intense use, we calculate the difference between the two and the new user would have to come to you for a waiver or it would have to supply the spaces somehow.

Ms. Brown: So, if the building use substantially changed, it would have to come back.

Ms. Feeney Roser: Yes, if a use were to go in there that would require more than 11 spaces, they would have to come back.

Ms. Dressel: Would anyone like to make a motion?

MOTION BY BROWN, SECONDED BY HEGEDUS, THAT THE PLANNING COMMISSION APPROVE THE 46 E. MAIN STREET PARKING WAIVER, AS SHOWN ON THE 7-ELEVEN EXISTING CONDITIONS PLAN DATED FEBRUARY 6, 2013, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT."

VOTE: 5-0

AYE: BROWN, CRONIN, DRESSSEL, HEGEDUS, JOHNSON

NAY: NONE

ABSENT: BOWMAN, BRILL

4. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT, AND THE REZONING AND

MAJOR SUBDIVISION OF .457 +/- ACRES AT 63 W. CLEVELAND AVENUE AND 60 NEW LONDON AVENUE TO REZONE THE PARCELS FROM BN (BUSINESS NEIGHBORHOOD) AND RM (RESIDENTIAL MULTI-FAMILY) RESPECTIVELY TO BLR (BUSINESS LIMITED RESIDENTIAL), TO CREATE ONE TAX PARCEL AND CONSTRUCT SIX (6) TOWNHOUSE STYLE APARTMENTS, WITH ASSOCIATED PARKING AND ACCESS WAYS.

Ms. Dressel: Maureen has her report.

Ms. Feeney Roser: Chairman Dressel, the applicant has asked to speak at this point.

Ms. Lisa Goodman: Madam Chair and Members of the Planning Commission, having heard some of the issues raised tonight the applicant is going to continue this matter to go back and have some additional conversations and bring some additional information when we come next time in front of the Commission.

MOTION BY JOHNSON, SECONDED BY BROWN, TO CONTINUE ITEM #4 (63 W. CLEVELAND AVENUE AND 60 NEW LONDON ROAD REZONING AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT).

VOTE: 5-0
AYE: BROWN, CRONIN, DRESSEL, HEGEDUS, JOHNSON
NAY: NONE
ABSENT: BOWMAN, BRILL

MOTION PASSED UNANIMOUSLY

5. REVIEW AND CONSIDERATION OF THE MINOR RESUBDIVISION OF A PORTION OF THE KERSHAW COMMONS SUBDIVISION LOCATED AT KERSHAW STREET AND E. CLEVELAND AVENUE IN ORDER TO REMOVE PARCEL LINES, RECONFIGURE PARKING SPACES, AND CONSTRUCT FIVE (5) TOWNHOUSE STYLE APARTMENTS.

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

“On July 26, 2012 the Planning and Development Department received an application and development plans from NCG, LLC for the minor resubdivision of a portion of the Kershaw Commons subdivision located at Kershaw Street and E. Cleveland Avenue. The attached revised plans were subsequently submitted on February 7, 2013. The applicant is requesting minor resubdivision in order to remove parcel lines, reconfigure parking spaces and construct five, four-bedroom townhouse style apartments.

To assist in understanding the proposal, the applicant’s engineers, Karins and Associates, have labeled the various Kershaw Commons parcels A through F (see Map Inset on subdivision plan). The new buildings on the site are shown at the rear of parcels A – D.

Please see the attached Karin’s and Associates minor resubdivision plan and supporting letter. The Planning and Development Department’s report follows:

Property Description and Related Data

1. Location:

88 – 100 E. Cleveland Avenue.

2. Size:

Total Site: 2.25 acres

3. Existing Land Use:

Residential rental subdivision consisting of townhouse apartments, semi-detached and single-family style dwellings, with associated parking areas.

4. Physical Condition of the Site:

The properties are part of the Kershaw Commons major subdivision originally approved by City Council in 1985 and later revised. Kershaw Commons is a developed site with rental housing and associated off-street parking areas.

Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) the Kershaw Commons site contains Manor-Glenelg-Chester Urban Land Complex soil. According to the NRCS, this is a disturbed soil that has been used for development purposes. No limitations are noted for the use proposed.

In terms of topography, the Kershaw Commons properties slope in general from high points at E. Cleveland Avenue gently to the north.

5. Planning and Zoning:

The Kershaw Commons site is zoned RM. RM is the City's multi-family, garden apartment zone 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 are permitted in this district, as provided in Article XXVII, Site Plan Approval.
- X. One-family detached dwelling.
- Y. The taking of no transient 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 roughhouse subject to the requirements of Sections 32-1 (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:

- A. Conversion of a one-family dwelling into dwelling units for two or more families, subject to special requirements.

- B. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed.
- C. Physicians' and dentists' offices, subject to special requirements.
- D. Off-street parking for property in this zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use,.
- 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.

Regarding RM zoning area specifications, on December 20, 2012 the Board of Adjustment approved variances for maximum lot coverage and minimum open area for the Kershaw Commons resubdivision. With these variances, the plan meets all the applicable area requirements.

Regarding adjacent and nearby properties, the lands north and northeast of the Kershaw Commons site are zoned PL (park land) and contain the Pomeroy pedestrian and bicycle trail linking this area with the State's White Clay Creek Park to the north and the James F. Hall Trail to the south. The RR zoned Varsity Townhomes complex, formerly the Foxcroft Apartments, lies northwest of the site. Several small RM zoned rental dwellings are located west of the site fronting on E. Cleveland Avenue, as are several small RM zoned single-family dwellings located east of the site. Several small single-family and semi-detached rental dwellings are located on RM zoned lands south of Kershaw Commons across E. Cleveland Avenue.

Regarding comprehensive planning, Comprehensive Development Plan IV recommends "single-family residential (medium density)" uses for the Kershaw Commons location. The Plan suggests a density of 4-10 dwelling units per acre for this use category. In this case, the zoning of the property (RM) allows garden 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 permitted density, the residential designation is consistent with the Plan. Please note, in this regard, that the Kershaw Street subdivision calls for a gross density of 15.6 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. 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 Kershaw Commons resubdivision plan calls for the construction of five, four-bedroom townhouse apartments on the northeastern part of the property.

Although not required for minor subdivisions outside downtown Newark, the applicant has submitted building elevations. The Planning Commission should consult the applicant's site plans, building elevation drawings and supporting materials for additional site design details. The DNP Design Committee did not review this proposal as Kershaw Commons is located outside the boundaries of downtown Newark.

Traffic and Transportation

The Planning and Development Department requested DelDOT review of the Kershaw Commons resubdivision plan. Their comments are provided below:

- A Letter of No Objection is required, as well as entrance approval.
- A permit is required for work in the East Cleveland Avenue right-of-way.
- A cross access easement should be established with the parcel to the east and shown on the plan.

Departmental Comments

The Subdivision Advisory Committee – consisting of the City's Management, Planning, and Operating Departments - has reviewed the Kershaw Commons minor resubdivision plan and has the comments below. If necessary, the development plan for the site should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Planning and Development Department notes that the proposed land use at the site conforms to the land use recommendations in the Newark Comprehensive Development Plan IV.
2. The Planning and Development Department notes that the proposed minor resubdivision conforms to the development pattern of the site and of the nearby community.
3. The Planning and Development Department suggests that the Planning Commission consider the following conditions of subdivision approval:
 - The architectural design for the proposed new building should be carried out on all portions of the facilities visible from the public right-of-way.
 - Mechanical and utility hardware should be screened from public view with materials harmonious with the proposed architectural design or such equipment shall be located as not to be visible from adjoining streets and public rights-of-way.
 - Refuse storage bins shall be screened from public view with materials harmonious with the proposed architectural design.
 - Any exterior lighting should be designed as an integral architectural element and other proposed architectural façade. All such lighting to be shielded to limit visual impacts on adjoining residential properties.
4. The Planning and Development Department suggests that the Planning Commission recommend that the subdivision agreement specify that the proposed units be designed so they can easily be converted into condominium units, should market conditions change.
5. The Planning and Development Department suggests that because the developer is adding five units to an already dense site, he should consider voluntary deed restrictions to limit the number of individuals who may reside there to a multiple of the number of units provided. The Planning Commission may wish to discuss this matter with the applicant at the meeting.
6. The Planning and Development Department notes that 75 parking spaces are required for the overall site; 78 spaces are provided.
7. The Electric Department indicates that:

- A transformer located between the existing four unit buildings will need to be relocated. This will also require two new underground high voltage cable installations and two new underground secondary cable installations and conduit to the relocated transformer. The developer will be required to install secondary cable and conduits.
 - A new pad mount transformer and two primary cables in two conduits will be installed to feed the new units. The developer will be required to install all necessary conduits, secondary cable and dig trenches.
 - Bollards must be installed in front of meters, or the meters will have to be relocated on existing northern four-unit building, since the parking space is paved up to the meter enclosure.
 - The developer must pay all costs for needed relocations and for new transformer, primary cables and meters. The cost will be determined once the plan is finalized.
8. The Parks and Recreation Department has the following comments:
- Regarding general planning notes, note #2 needs to be changed to two full years; and for note #3 – delete the guarantee and add the words “first full growing 12 month period” to it.
 - The Department will have additional comments during the CIP phase.
9. The Public Works and Water Resources Department indicates:
- Note #23 must be revised to indicate that all trash and recyclable pick up will be by private hauler, not the City of Newark.
 - The developer will need to provide maintenance agreements for water and sewer utilities between the parcels.
 - Water and sewer services for demolished buildings must be properly terminated or reused, as approved by the department.
 - The developer must provide infiltration test results of the project prior to Council review. GTBMPs and volume reductions are required.
10. The Police Department indicates:
- They have concerns regarding impact on police services for the increased density of the project. The Department also expressed concerns regarding increased vehicular traffic, pedestrian crossings and the parking impacts that the project will generate.
 - The Department suggested that a traffic impact study be done for the project (Please note, as mentioned above, the project has been reviewed by DelDOT because Cleveland Avenue is a State roadway. In this regard, DelDOT determined that “ . . . although E. Cleveland Avenue is a busy urban street which lacks turning lanes in most locations and is typically congested during peak hours, the five dwelling units proposed will contribute relatively few vehicles to that congestion.” Therefore, DelDOT did not require a traffic impact study).
11. 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 comply with all Codes including handicapped accessibility standards, and the City’s LEED-like requirements. In addition, a fire protection plan will need to be submitted through the CIP process.

Recommendation

Because the proposed minor subdivision plan calling for the addition of five dwelling units at the Kershaw Commons site does not conflict with the land use recommendations in Newark Comprehensive Development Plan IV, because the proposed dwellings correspond to the development pattern in the area, and because the plan, with the Board of Adjustment issued variances, conforms to all applicable City Zoning Code requirements, the Planning and Development Department suggests **that the**

Planning Commission recommend that City Council approve the Kershaw Commons minor resubdivision plan, as shown on the Karins and Associates plan, dated July 26, 2012, with revisions through February 7, 2013, with the conditions in the Planning and Development Department report.”

Ms. Feeney Roser: The developer is here and I will be happy to answer any questions you may have.

Ms. Brown: We are proposing five units but we don't know how many bedrooms?

Ms. Feeney Roser: No, we know there are four bedrooms in each. I don't know how many bedrooms are on the site itself now because there are a series of apartments there.

Ms. Brown: Okay, so, we should be given that information. Are we increasing the number of parking spaces?

Ms. Feeney Roser: The plan meets the parking requirements with the additional units proposed.

Ms. Dressel: Are there any more questions for Maureen before we go to the developer?

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

Ms. Goodman: Of Young, Conaway, Stargatt & Taylor, here on behalf of Baldini Exchange. Mr. Tim Anderson of Karins and Associates is the project engineer. Nick Baldini, who is the owner is also here tonight.

We are here tonight with a by-right plan. The good news is that there is no rezoning for you folks to have to consider, no parking waiver, no special use permit. This is a plan that conforms to the Code.

Kershaw Commons is a multi-unit apartment complex and as you can see, it is located on both sides of that little stub street that ends at the Pomeroy Trail known as Kershaw Street. So, the units on both sides of it make up this development called Kershaw Commons, which was not developed by my client. He purchased it quite awhile after it had been developed. The overall acreage for the entire site is 2.25 acres with Kershaw Street running through it. The Pomeroy Trail runs to the rear as you can see.

The complex has buildings that are very different from each other. It has buildings ranging from nine units to one unit. It is a combination of buildings that were originally single family buildings and buildings that were built as multi-tenant buildings. It was built out and assembled over time. Like many sites in town, it is kind of a funny shape and it has a road running through the middle of it.

The proposal here tonight is to build five additional townhomes and you can see those in the dark orange to the left of the tanish brown on the left of the site. That is the proposed new area for the new townhomes.

Here is an aerial view that shows you the site surrounded in red, just to give you a sense of the different size of the buildings. You can see in the left-hand corner the area that is proposed for the new units.

Although we were not required to, we thought we would show you what they will look like. The proposed addition of these five units on the site is designed to match and echo the existing units on the site and it will bring the site from 13 dwelling units per acre to 15.6, which is Code compliant. As the Planning and Development Director indicated 16 dwelling units per acre is permitted by the current zoning of RM, which is not proposed to be changed.

Likewise, the site will be Code compliant as to parking. The parking required for the overall site is 75 and the overall site will have 78 when we are finished. That is a

mixture of parking that has been there for a long time and is grandfathered in and new parking that is Code compliant for these additional units.

These units will have windows in the sides. Just to show you some photographs of what the site looks like, these are some of the existing buildings, and we thought this would be helpful because it shows you that there is a considerable mix of building types on the site. Again, just showing you the different buildings.

Going back really quickly to the site plan, let me just briefly say this project was granted two variances. We had originally applied for three but we were ultimately only in need of two and they were very, very minor. One was a 3% variance and the other one was also a 3% variance. So, very tiny, the exact kind of adjustment that the Board of Adjustment are in existence to provide. One of the things we are going to do on the site is work with the City to provide a connection to the Pomeroy Trail here that they have long wanted, and Mr. Baldini has indicated that he is happy to work with the City in any way to make that connection including allowing the City to utilize part of the open space in the back.

As I said, this is a by-right plan. It is a minor subdivision and we are happy to answer any questions. I should say, as Maureen indicated, five units, four bedrooms each, and Mr. Baldini anticipates one person per bedroom and, I think, is comfortable with a voluntary restriction overall on these units in an amount that would equal one person per bedroom.

Ms. Dressel: I have one question. I keep looking at this and I drove around there and I walked this property. On the existing plan, I see for that section where the proposed buildings will go, I counted 29 parking spots and then when I look at the plan with the new buildings, it was considerably less and every spot was taken. I went on Monday, so all of the kids were back in school and every spot was taken behind those three houses directly off of E. Cleveland Avenue. I was just wondering where this additional parking is going to be coming from and where it is to cover.

Ms. Goodman: Let me bring up the engineer to talk a little bit about how we are configuring the parking from what is existing to what we are proposing.

Mr. Tim Anderson: Karins and Associates. The Code required parking is 75 spaces. We are proposing 78 spaces and the parking that we are proposing is shown on our plan. Does that answer your question?

Ms. Brown: Walk us through it because I am having trouble seeing it, too.

Ms. Dressel: On your plan, the little set that you just gave us, with the pictures on it, I count 29 spots directly behind the three individual parcels of land to the left and then when I look at this plan I only count about 20.

Ms. Goodman: I apologize. The engineer that was originally handling this plan for Karins no longer works for Karins. The good news is he has now gone to work for DelDOT. Tim has been asked to fill in very much at the last minute. It is not Tim's fault. The answer is that the site currently has more than Code compliant parking so some parking spaces are being eliminated to provide these additional units. The way the landlord will handle that is the way all landlords handle that, in that when they lease the units for the year when these are being built, they will tell their tenants how many spaces are available and the tenants will have to figure out who is allowed to bring a car and who is not. And, that is the way all of these units work. That is how tenants decide whether they can bring a car or not. It is whether they have parking or not.

Ms. Brown: So, how many parking spaces are there currently and how many parking spaces will there be? What are we replacing bed wise, too? I want to know numbers here.

Ms. Goodman: There will be 78 spaces and Tim is going to give me a count here in a minute of how many spaces there are on the site right now. Beds, there will be five units with four bedrooms each so there will be 20 beds.

Ms. Brown: What are they replacing? How many beds are there now?

Ms. Goodman: There are no beds in this area. I am sorry. If I confused you, I apologize. These are additional units going on the site. The site is not developed as fully as the Code permits.

Ms. Brown: In other words, we are looking at totally new units.

Ms. Goodman: I apologize if I wasn't clear about that. We are looking at five additional units which will essentially complete this apartment complex. It will not quite be the number of units the Code permits but because you can't build a partial unit, this will be done, essentially.

Ms. Brown: The parking spaces that are already there are being reconfigured. Is that correct?

Ms. Goodman: Some are being eliminated. This site was developed piecemeal. Part of it was put together over time with existing buildings that were converted to rentals and some of them were built as rentals. It was pieced together over time and I don't have exactly how that was done, but it was put together over time and the portion that we are looking at is the last piece that has not yet been developed. Mr. Baldini who has acquired it is coming in to, essentially, finish the complex as the Code permits.

Ms. Brown: So, the issue is the parking. We don't know if we are adding, subtracting, moving.

Ms. Goodman: We are definitely subtracting. There are definitely going to be less spaces when we are done than there are now.

Ms. Brown: But, you are adding 20 new bodies.

Ms. Goodman: That is right because we have more parking at the moment than the Code requires by about 5 to 7 spaces. So, when we are done there will be 5 to 7 – I apologize that we do not have an exact count – less spaces than there are now, but because we have more parking than is required now, we will still actually be three spaces over what the Code requires. Mr. Baldini will control that by simply saying to his tenants, this unit comes with one space, this unit comes with two spaces, and this unit comes with no spaces, maybe.

Ms. Brown: Does this landlord routinely have, one body, one bedroom.

Ms. Goodman: I can't answer that but that is what he is proposing to do here for these new units, if that is the ultimate wisdom of Council, yes.

Mr. Bob Cronin: I am curious about what these tell us, if anything.

Ms. Goodman: They are just some samples of what some of the existing units on the site look like. That is all.

Ms. Dressel: Lisa, those are Skid Row.

Mr. Cronin: These are not on this site.

Ms. Goodman: I am sorry. Wrong picture?

Ms. Feeney Roser: Just one. The rest of them are correct.

Mr. Hegedus: You heard earlier tonight about pedestrian traffic, safety issues, traffic and in this specific case, the Police Department called out their very specific concerns over increased density, a specific request for DelDOT to do a traffic study that DelDOT declined in this case, and so I would like your thoughts about those issues.

Ms. Goodman: It is not uncommon for the Police Department to say that we have a concern about increased density because the Police Department's charge is how many bodies do we have vs. what ratio of officers do we need. That is sort of how they work. The Zoning Code, of course, says you can have X dwelling units per acre in Y zoning. So, there is some sort of natural departmental difference there. DelDOT controls whether we do a traffic study or not. DelDOT looks overall. DelDOT, with some regularity, does Newark transportation plans including one that includes Cleveland Avenue and, indeed, improvements have been done to Cleveland Avenue pursuant to DelDOT's transportation plan. One of the things that I want to come back to you with on the matter that we continued is the specifics on that because I don't have them on the tip of my tongue, but I think it might be helpful for you folks, and ultimately Council, to see how DelDOT looks at Cleveland Avenue, what some of their analysis has been and what improvements they have imposed.

In terms of pedestrian increase, I think that that fits into the larger study and movement of people and bodies within Newark, but falls outside of the Zoning Code issue. So, when we come in front of you with a Code compliant plan, Council by adopting that zoning has sort of already said, well, this is where we think the density belongs and here is how much belongs there. We are certainly happy to look at pedestrian issues with the department to see if there is anything we can do on this property to make the pedestrian flow work better. I am not aware that there are any issues specific to this property.

Sometimes what the Planning Commission and Council hears is just a general discomfort that we all share to a greater or lesser degree with change. I certainly understand that, but folks who own property be they single family owners who want to build a house or a deck or a swimming pool or the owner of a complex are entitled to do with their property what the Zoning Code says they are allowed to do, and we all want that certainty for property that we own and those are decisions that get made above my pay grade up at Council or the governing body of any municipality, and that is what we are following tonight.

Mr. Hegedus: Lisa, just to piggyback on that because we had the same discussion last month about what it meant for a by-right plan and if we couldn't change anything, why is it even coming to us. So, the City Solicitor was nice enough to give us a memo. He talks about the legal standards for review of rezoning and subdivision applications as well as special use permits and quotes both State and City Code around that and says that although a plan comes to us, if it is a by-right (he does not use those words, but I'm assuming) State law restricts the discretion which may be exercised by the Planning Commission when it comes here. You are right, a by-right plan, we are restricted in what we can say and do. However, it does say that we can put reasonable conditions which the Planning Commission may impose in order to minimize any adverse impact on nearby landowners and residents.

Ms. Goodman: The Newark Code does provide for that. There is considerable discussion and disagreement about what that means. Typically, under State law and case law, the law is that conditions cannot be imposed on a by-right plan. The Newark Code does provide for them. I think that has never been fully tested in the law. I hope I am never the person to test it because I bring projects to you folks that are good projects. If I had to guess at what a court would do with that, I think a court would say reasonable conditions that ensure that plan is Code compliant or reasonable conditions that the applicant would ultimately agree with, might consent to. But, that is something that has never been fully explored and, as I said, I hope isn't. For example, the condition that the applicants offer tonight regarding restricting a total number to equal one person per bedroom is probably not something that Council or the Planning Commission enact over the applicant's objection in a by-right scenario, but given that the applicant is offering it,

I think it falls within your power to do it. I am extrapolating from the status of the law that is a little unclear.

Mr. Hegedus: I appreciate your perspective on it. This was at our request after the last meeting to get the City Solicitor's input on it, too, and it does seem like there is some room in there.

Ms. Goodman: I do think for the public to hear, too, and the County does this as well. The County has planning board hearings on by-right plans because even though in the County the planning Board does not have power over a by-right plan nor does Council, it is important that there be a public hearing so the public can have their say and, perhaps, can bring forward something that no one else saw that might affect the Code compliant nature of the plan. So, having a public hearing even if your role is ministerial is important and is a good thing to do. I think that is one of the main reasons that even plans that are by-right come in front of bodies like yours, to have a public hearing.

Ms. Dressel: Are there any other questions from the Commission? If not, are there any comments from the public?

Resident spoke away from microphone so the question was inaudible. He was asking about agenda item #4.

Ms. Dressel: The developer has withdrawn the project for now.

Ms. Feeney Roser: For now and when they have asked to be continued, when they are reheard, we will notify.

Mr. Kenneth McCallister (sp): I live in Wilmington. My statement kind of piggybacks on item #4. This is my third meeting of this Commission. I noticed a couple of things that tend to repeat itself. First, these developers when they buy a unit or space, if it is two stories, it becomes three stories. I guess that is the maximum height you can have in the City of Newark. Earlier there was someone who had a five bedroom property, four of which were being used and the fifth was an attic. Now the developer has this proposal in front of the Commission, they say 24 because one time there was 36 people in a unit and one with 72. That is doubling and tripling. There seems to be a pattern with developers. Another thing is local concerns. People who lived here before and live here now have concerns about safety, traffic and other things that seems to go unaddressed by the Commission. These projects are still being approved even though these concerns are being raised. Another thing is, I can see one day the City of Newark having more renters than owners. It is moving in that direction and these renters are only temporary. They are probably mostly University students that will be here for four or five years and then they are gone. There is really no place for a family any more to buy property if they don't already have it because these developers gearing towards the students and that is pretty much it. If I had my druthers, there would be a moratorium on some of these developers. It has to stop sometime or else Newark will be a city of renters and not owners, and it shouldn't be that way. The city should be family oriented. The families should be first, safety, those kinds of things, not making money. If we can do something, should we? It has to stop sometime, someday.

Mr. Steve Dressel: 8 Wycliffe Lane, Newark. In disclosure, my wife is Angela Dressel, who is on the Commission. I tend to agree with the previous gentleman who spoke with becoming a city of renters. At the last meeting I commented that we were becoming a dorm room, basically. The thing I do appreciate about this project at face value is the fact it appears to be somewhat compliant with the traditional four person non-related rental permit. The one question I do have, and I hope the Commission will ask the question to the applicant, is they are talking in terms of bedrooms on the whole project. Does that mean if they decided to renovate or tear down an existing building and make a six, seven, eight, ten bedroom unit, that they then get six, seven, eight, ten occupants in that dwelling because that is an open question that I would have. I know the Commission doesn't really opine on the design necessarily or the size, but these do appear to be fairly narrow townhouses. I'm taking a guess on the picture. They are probably 12 ft. wide. I may have estimated a little bit incorrectly, but there was a comment that the Planning

Commission made about, I think you said, where the trash cans would be kept. And, again, I don't know whether this has community trash or whether it is each dwelling, but there is no place for these people to keep their trash. There are no back doors on the building to keep it in the back and there is no garage or storage. Again, if it is ever to become potentially family or owner occupied, I think that is a big problem because your trash cans and recycling are going to be out front, no room for bicycles, etc. Again, I don't know if that is what the Commission can opine on, but I think it is probably an omission in the design.

The only other thing is – and I don't know what the rules or position is in the City – but, a lot of towns are really concerned about impervious surfaces. This clearly, based on what I imagine is grass and trees, is eating up potentially the majority what non-impervious surfaces was on the site. So, I'm not really saying I'm opposed or for the plan. Those are my comments that I hope the Commission will consider. My biggest thing, however, is the number of tenants. Again, if each dwelling is abiding by the no more than four unrelated tenants, that is good, but I'm hoping that, in terms of the whole site, I'm hoping it isn't a back door way to actually increase the residency on the site.

Ms. Dressel: We will bring it back to the Commission. Are there any other comments or questions?

Mr. Cronin: The elevation drawings here, we have the front and we have the rear, seems to also be labeled the front, is there a basement in this building?

Ms. Goodman: Yes, there are basements in the buildings.

Mr. Cronin: Do they have gutters and downspouts and so forth?

Ms. Goodman: Yes.

Mr. Cronin: I'm just curious, homeowners have trouble keeping the gutters free so they function properly and a number of these trees will be tall trees and the Willow Oak has small leaves that collect in gutters nicely, is there a different species that might be a better choice for you?

Mr. Nick Baldini: Right now, all of the units are going to have gutters and downspouts. In the front there won't be any trees next to particular units and in the back there is a 25 ft. buffer. I haven't seen the landscape plan that the engineer has had designed for the site, but whatever the amount of trees are and wherever they are, if the trees are anywhere near the houses it will take a good while before they could ever even reach that anywhere near the height for the gutters, but even so, what we do when trees get tall enough is we put leave guards in the gutters to keep the leaves from getting in the gutters and filling them. In the meantime, usually with our rental properties, we have a roofing company who comes and cleans the gutters out if we have any type of problem once or twice a year.

Mr. Hegedus: I am going to kind of step out here a little bit on this one. As I have talked about for a couple of meetings, my concern right now is that we are making decisions on properties that the owners are saying are student rentals, and we don't have in place the latest version of the Comprehensive Plan with the data on student housing, with public input as these new issues are coming up. So, in this particular case, the police have said there are concerns about safety and we've heard about pedestrian issues and other things. Because of all of that, I am going to make a motion to table this issue and reconsider it when we have completed the Comprehensive Plan, which should be sometime in the next few months, I believe, if we are on schedule. We will hear more about that later tonight. And, then based on having all that data and information, then, I believe, we are in a position to make further recommendations to City Council.

Ms. Dressel: Is there a second to that motion?

Ms. Brown: Maureen, can we do that?

Ms. Feeney Roser: This is a by-right plan, it meets Code and the current Comp Plan. The Comprehensive Plan update end date is a moving target. If you table it, it can't go forward to Council, which they are entitled to do.

Mr. Hegedus: Not according to this because we are entitled to have a public hearing and to put reasonable conditions on what we believe are appropriate for the neighbors and for the public that is nearby.

Ms. Feeney Roser: Yes, but you are not putting conditions on it, you are tabling it.

Mr. Hegedus: Because we don't have enough information to do that yet. That is why I said I was stepping out and I was going to make that motion. So, there are other Commissioners here that can decide whether to second or not. If they don't second, that proposal dies. If they do second, we will take the vote and see where it goes.

Ms. Dressel: What information would you like to have so that we have an idea for a tabling process?

Mr. Hegedus: One thing we discussed earlier today was more information about Cleveland Avenue traffic. I'd like the information about student housing that we began discussions of at a public meeting a couple months ago to come back together, and I would also like the stakeholder group that we've discussed since we began the process of comprehensive planning to get together to talk about what the vision is for the community then that can propagate itself into us making recommendations about what zoning and other changes would be appropriate in the Comprehensive Plan. I believe with those three elements, we will have enough information to make a decision.

Ms. Feeney Roser: You have surprised me, as you can tell. I am not sure that the Comprehensive Plan process is going to effect by-right plans in such a way that you would be able to make huge changes to what is being proposed. I think reasonable conditions; the developer voluntarily deed restricting how many people per bedroom, the architectural design, the screening of dumpsters, extra parking, those kinds of things are the kinds of conditions that the Solicitor was talking about. I did ask if he would like to attend this meeting, but he felt that because you are not making a binding decision, because you are making a recommendation that it wouldn't be necessary. At this point, I kind of wish he was here to discuss that with you. The Comprehensive Plan process is ongoing. We are shooting for October for it to be completed. I don't think that that is reasonable for a by-right plan to be made to wait until that would be done.

Mr. Hegedus: That is the first I have heard about October because our target wasn't that originally, but the two other pieces would still be important to me.

Ms. Dressel: We have a motion, do we have a second.

Mr. Cronin: Can we restate the motion or just remind me. I know the part about tabling it for the Comprehensive Plan. What are the other two things?

Mr. Hegedus: I will go with Maureen's input that the Comprehensive Plan and the whole development of that is pushed off later than I had originally anticipated. So, because of the stated safety issues and other things, I am requesting that it be tabled until we know more from DelDOT about the traffic conditions on Cleveland Avenue and the impact of, not only this project, but the other proposed projects that are there kind of collectively because lots of things have been approved and built over time. What their recommendations are, as well, because that might impact ingress and egress from the site, required parking and that sort of thing. DelDOT was one issue, and the student population issues that started in a public meeting a couple months ago. There was still some data to be gathered about what the University is projecting to do vs. bedroom counts and for how many are on the burner. Then there is how many housing plans have come in. We need to know the balance of where housing is right now. Those were the things I was interested in.

Mr. Johnson: Andy, does it make any difference to you that the Police Department has said that Cleveland Avenue is typically congested during peak hours, “the five dwelling units proposed will contribute relatively few vehicles to that congestion.”

Ms. Feeney Roser: That was actually DelDOT’s comment because the Police Department had asked the question.

Mr. Hegedus: Edgar, I read that and, to me, that is, again, them looking at a case by case rather than an aggregate of all of the changes that are going on in this part of town from the things that happened at the last meeting when 72 units were proposed, and we recommended it be restricted lower than that.

Mr. Johnson: You should have voted with me, Andy, I voted against it.

Mr. Hegedus: Anyway, that was the motion.

Ms. Dressel: I think I am hearing that there is no second. So, motion fails.

Ms. Dressel: Is there another motion? Can I make a suggestion? I think one of our concerns is the potential of more people on that site. Can we make it a restriction of one unrelated person per bedroom for the entire site?

Ms. Feeney Roser: I don’t think you can do that. You are asking them to voluntarily deed restrict, which they have already agreed to do.

Ms. Goodman: For the new units.

Ms. Feeney Roser: Yes, for the five new units.

Ms. Goodman: There are existing leases in place for the current units. We wouldn’t be in a position to be able to do that in any event.

Ms. Dressel: But, going forward. I was just wondering if that would help the Commission.

Ms. Goodman: The only portion of the site that is in front of you are the new units. I believe, as a matter of law. We have no objection to making a recommendation for these new units that Council adapt a restriction of an average of one per bedroom.

Ms. Brown: I think part of the problem we are having is; the 20 new bodies unit is part of the whole unit. It really isn’t a separate unit. You are calling it Kershaw Commons and you are not giving us how many parking spaces necessarily exist. It is like you are taking part of the wheel and asking us to approve part of the wheel, but we don’t know whether the wheel is square, round or hexagonal.

Ms. Goodman: Let me address your analogy. The rest of the wheel is already long approved. So, part of the reason that you are having trouble matching this up and that we don’t have the numbers because we have a new engineer is that there are different codes that apply. The existing site is grandfathered in under maybe more than one standard of the old Code that currently exists. The new building and the parking that serves it must meet the current Code. The issue of all of Cleveland Avenue that you folks have struggled with tonight, land use is done comprehensively and it is also done site by site. What is in front of you tonight is this portion of this site. I would submit that your charge under the law is to address that site. The bigger issues need to be thought through but the comprehensive planning process is the process that does that, and as I think you guys intuited, a plan that is filed and is in front of you is entitled to proceed under the law at the time that the plan was filed. Even if this property were to be rezoned right now to single family, this project would be entitled to move forward under the plan that it is filed under. That is the legal issue with tying it to a Comprehensive Plan that hasn’t even been enacted yet. So, we would respectfully request a vote tonight whether it is up or down, frankly.

Ms. Brown: It says, though, here – and this is the part that I think Andy is having an issue with – we are subject to reasonable conditions which the Planning Commission may impose in order to minimize any adverse impact on nearby landowners and residents. That says to me, that we have to think of the bigger picture and that we have to think about traffic issues, we have to think about pedestrian traffic and we need to think about who lives there and what is going on. We don't know from what we have been given tonight who lives where and how many in the adjacent properties. I think that is part of the problem we are having. I understand we are supposed to rule on this, but the law says we have to consider the adverse impact on nearby landowners and residents and we don't know who the landowners or the residents are. We don't have the numbers.

Ms. Goodman: If this was an adjacent property, you wouldn't have the numbers either. It says you may.

Ms. Brown: But, we don't know how many people live there already.

Ms. Goodman: But, it says you may.

Ms. Brown: We don't know how many people are parked there already.

Ms. Goodman: I hear you. You are concerned about that, even though, to be fair, you don't have the information on the parcels next to us because we don't have that information. So, if this was a standalone five units surrounded by other units, you wouldn't have that information either, right? If you are that profoundly troubled, make a negative recommendation and we will go on to Council and we will have this discussion then. This is, frankly, a really surprising discussion to be having on a Code compliant plan. And, I understand your concerns in the context of this evening. There are places to sort of draw the line in the sand. A Code compliant plan is, frankly, not one where we would expect to see this because it is not consistent with the law.

Ms. Feeney Roser: If I might add, the reasonable conditions that Bruce refers to in his memo, we have done that with some of the things about the architectural design being consistent and the screening of the dumpsters and things of that sort.

Mr. Cronin: I think also that nearby neighbors and adjacent properties because the proceedings tonight have been publicized and posted, if they had concerns and/or objections their representative would probably be here to at least observe what is going on and have the opportunity to discuss and add input. In the sense that the neighboring property owners are not here or not speaking if they are here, I think they have had their opportunity, at least before this Commission, for considering this particular project tonight.

MOTION BY CRONIN, SECONDED BY JOHNSON THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE KERSHAW COMMONS MINOR RESUBDIVISION PLAN, AS SHOWN ON THE KARINS AND ASSOCIATES PLAN, DATED JULY 26, 2012, WITH REVISIONS THROUGH FEBRUARY 7, 2013, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AND WITH THE ADDED RESTRICTION OF ONE UNRELATED OCCUPANT PER BEDROOM.

VOTE: 3-2

AYE: CRONIN, DRESSEL, JOHNSON

NAY: BROWN, HEGEDUS

ABSENT: BOWMAN, BRILL

MOTION PASSED

6. COMPREHENSIVE DEVELOPMENT PLAN UPDATE DISCUSSION.

Mr. Fortner: The Economic Development Workshop was held on March 26th beginning at 7:00 p.m. in Council Chamber, Municipal Building, 220 S. Main Street. There were 28 attendees and the discussion was good.

On April 26th the Transportation Workshop will be held. There will be a presentation about the Newark Train Station, which has been identified as one of the biggest strategic issues in our Comp Plan, or looks to be from the workshops that we've had. People, in terms of opportunities, have identified that as one of the biggest opportunities. There will be information on Cleveland Avenue in terms of the Newark Transportation Plan. We will have DelDOT, DART, and a variety of folks to answer questions and talk about transportation in Newark. Then, on May 21st, there will be an environmental quality workshop. Then on June 18th the visioning workshop will be held. At this workshop all of the information from the previous workshops will be available and the stakeholders will be in attendance.

I have also had discussions with the residents and stakeholders of the New London Road community. I have been talking with them about doing a workshop specific to that neighborhood and surrounding neighborhoods and how they would like to see their neighborhoods develop, what they would like to see preserved, mapping a strategy for how to work with that neighborhood and keep the essence of the character of the neighborhood but allow it to redevelop into a neighborhood that they would like to see in that area. So, I have been trying to get a date. It will be sometime in May. I would like to do it at the Wilson Center or the Church or maybe the Elks Club – some sort of public area. I will set a date and try to get the residents to come.

[Secretary's Note: The Neighborhood Workshop 4 – New London Road/Cleveland Avenue, which will include discussion on traffic, affordable housing, land use, neighborhood character, and community development will be held on Wednesday, May 15th at 7:00 p.m. at the St. John's AUMP Church; 77 New London Road (corner of New London Rd. and Cleveland Avenue)].

Mr. Hegedus: Is your intent of that meeting to just have community people?

Mr. Fortner: It will be open to everyone but I want to specifically target and invite people in that neighborhood – the people that have direct interest in that neighborhood.

Mr. Hegedus: Stakeholders means developers, residents and business owners.

Mr. Fortner: Yes.

Ms. Brown: Do you have a representative from the University of Delaware coming to the Transportation Workshop? There is a big gorilla in the room and we really need to be able to see what transportation improvements they have suggested, and what the students are actually using. They have their buses that are running around. And, how do they get the kids on the buses? We have 17,000 undergraduate students plus graduate students plus faculty. It is a huge impact on the City.

Mr. Fortner: Yes, we will have representatives from the University, specifically, Rich Rind, who has been very involved. He oversees the UD Transportation and Parking, among other things.

Mr. Cronin: Mike, can we also have somebody from DelDOT come?

Mr. Fortner: There will be several representatives from DelDOT.

Mr. Johnson: Michael, on this Transportation Workshop you said April 26th which is a Friday.

Mr. Fortner: I am sorry. I misspoke. The Transportation Workshop will be Tuesday, April 23rd.

Ms. Brown: I have one comment. In the two meetings that I have attended, I have noticed or heard a lot of frustration. What are we going to do? We seem to be deteriorating. That was just something that I heard. I hear ideas, but I'm hearing frustration. Not with you, but with the City. I think you have been doing a great job.

Mr. Fortner: At those meetings, you hear a lot of frustrations and a lot of positive things also. The frustration elements we will use to develop the strategies. So, the next phase would be the strategies, and having people look at the strategies, making comments, and seeing if they actually address the issue. I talked about the visioning exercises happening in June, the Planning Commission in July, which was my last slide I was going to show you, I should have a first draft of the Comp Plan. The first draft will be at your July meeting. It is a first read. It will be posted on the internet. It will begin the discussion and we will continue into the August meeting. We'll see how it goes. It is an ambitious schedule, but a recommendation is scheduled for August or September.

Ms. Dressel: The last time we did the Comprehensive Plan we met, I think, every other week or every third week once the Plan was written, to revise. Are you anticipating that kind of a schedule?

Mr. Fortner: I think so. I haven't scheduled those meetings yet, but we will schedule accordingly. Obviously, you need to have lots of time to comb through it and make adjustments. I'm hoping, as opposed to last time, since we have done a long-term public process that that process will be easier as a result, but it might not be.

Ms. Dressel: Are there any other questions from the Commission for Mike?

Mr. Freeman Williams: 1 Farmhouse Road in Christianstead, and more importantly, a lifelong resident of Newark. My question is twofold. I understand the complexity and the timeline you are working through in this process, but my question pertains to in the meantime. There are some real hot button issues. I will focus on the New London/Cleveland Avenue corridor because I have heard a lot about that tonight and other meetings I have attended. In the meantime, while all of this is being ferreted out, how are some of those issues going to be addressed? For instance, some of the transportation challenges, some of the other issues, and I'm not even here to debate whether developers who have things in the T should be approved or not. I'm not here to debate that because I understand that is your purview and that you have a process to do that, but I'm here really on behalf of a number of residents of the New London area. In the interim they are living through, on a regular basis, some of the frustrations whether it is traffic congestion, or pedestrian kinds of things. How are some of those issues going to be addressed in the meantime, because I think that that is important – an Ma'am I do apologize, I hate to point – but you brought up a great point that there is a level of frustration and that frustration is real. And, one of the things that people in the community are trying very hard to do is not to have an us vs. them approach because we all – and I'll speak for myself in this context – have an appreciation for what the University of Delaware offers this community. For me, it is going there and having great experiences. I'm one of the University's biggest cheerleaders and boosters. But, on the other hand and in addition to that, I am a lifelong resident of the City of Newark and I am a major cheerleader for the City of Newark. However, we collectively have some issues where things are conflicting. And sooner as opposed to later, we have to address them, and I am not trying to preach to the choir or whatever, but it has reached a real epidemic where it is a problem and it has to get resolved and part of the resolution is that people want some straight talk.

So, what are some of the goals and expectations that those of us that are going to attend on April 23rd? Again, understanding the dynamics of a planning process in a draft, but I think some of the people who are attending are going to want to know what kinds of things they can expect. In addition to that, what are some other ways

besides, and, again, not to be disrespectful, it is nice that you are going to have a meeting in the community, but maybe I might want to venture out and engage in conversations involving transportation in other parts of the City because we shouldn't make a mistake and be monolithic in our thinking and assume that people are only considering their neighborhood. I think that is not the case because all of you don't just consider your neighborhood and neither the people in the audience. We all are here because we love and cherish Newark and collectively we can make this thing work but if we don't fix it, we are going to have some problems.

Mr. Robert Anderson: I really agree with everything that Freeman just said and part of the problem we have with the City of Newark as well as the planning goes is that we weren't listening years ago. We would get notices and everything else. To be honest, the people didn't read what they got. As a result, some things happened where we could have controlled it. For example, in the New London area there were properties that we should have bought 20 or 30 years ago. We had the opportunity. We didn't do it. So, therefore, this is kind of the price that is being paid right now. So, we are talking about what we can do for the future and try to solve the problem.

DelDOT has been mentioned a couple of times. My experience with DelDOT has been very good. The New London Road/Cleveland Avenue intersection that one of you ladies referenced, when that project came up, they came by St. John's Church and they asked me and the Pastor what our opinion was. I spent one week throughout the days looking at traffic patterns of cars and that intersection, they gave me permission to design it. I designed it, moved the road back and everything else because I lived it. Those guys from the State weren't there. So, I think going forward, you should talk to the community because they could have some suggestions of things you don't even think about that might make a better decision or a least a thought process we can go by as it goes forward. If you decide to meet in the community, I will offer you St. John Church as a possible place to meet. We would be glad to have you and welcome our community people. We are going to be involved, keep us involved and we might have something to say.

There being no further business, the Planning Commission adjourned at 9:34 p.m.

Sincerely,

Elizabeth Dowell
Secretary, Planning and Development Dept.