

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

October 2, 2007

7:30 p.m.

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

Chairman: James Bowman

Commissioners: Ralph Begleiter
Angela Dressel
Chris Hamilton
Mary Lou McDowell
Rob Osborne
Joe Russell

Staff Present: Roy H. Lopata, Planning Director

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

1. THE MINUTES OF THE SEPTEMBER 4, 2007 PLANNING COMMISSION MEETING.

The minutes of the September 4, 2007 Planning Commission meeting were accepted as received.

2. ELECTION OF OFFICERS.

Mr. Bowman: The Acting Chair will entertain a nomination for the position of Chairman of the Planning Commission.

MOTION BY MS. McDOWELL, SECONDED BY MR. BEGLEITER TO ELECT ACTING CHAIRMAN JAMES BOWMAN AS CHAIRMAN OF THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, McDOWELL,
OSBORNE, RUSSELL

NAY: NONE

MOTION PASSED UNANIMOUSLY

Mr. Bowman: The Chair will now entertain a nomination for Vice Chairman.

MOTION BY MS. McDOWELL, SECONDED BY MS. DRESSEL TO ELECT ACTING VICE CHAIRMAN RALPH BEGLEITER AS VICE CHAIRMAN OF THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, McDOWELL,
OSBORNE, RUSSELL

NAY: NONE

MOTION PASSED UNANIMOUSLY

Mr. Bowman: And nominations for Secretary?

MOTION BY MS. DRESSEL, SECONDED BY MS. McDOWELL TO ELECT ELIZABETH DOWELL AS SECRETARY OF THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, McDOWELL, OSBORNE, RUSSELL

NAY: NONE

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION OF THE 120.391 ACRE NEWARK COUNTRY CLUB PROPERTY ON NOTTINGHAM ROAD FOR A 271 UNIT SINGLE-FAMILY DEVELOPMENT TO BE KNOWN AS COUNTRY CLUB ESTATES.

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

“On April 21, 2006, the Planning Department received an application and supporting materials from Aston Development Group, Inc., for the major subdivision of the 120.391 acre Newark Country Club site on Nottingham Road. A subsequent plan was submitted on June 1, 2007 and scheduled for review at the Planning Commission’s August 7, 2007 meeting. Just prior to the meeting, on August 3, 2007, the applicants requested that the item be postponed for future Commission consideration. The latest plan, received on August 29, 2007, calls for a 271 unit single family development to be known as Country Club Estates.

Please see the attached revised Country Club Estates McBride & Ziegler, Inc. major subdivision plan and applicant’s supporting materials.

The Planning Department’s Country Club Estates report follows:

Property Description and Related Data

1. Location:

North side of Nottingham Road, south of Fairfield, east of homes fronting on Delrem Drive.

2. Size:

120.391 acres.

3. Existing Land Use:

18 hole Newark Country Club golf course, club house, country club pool, and accessory facilities.

4. Physical Condition of the Site:

To evaluate the current condition of the property, the Planning Commission should consult the applicant’s submitted existing conditions plan.

In summary, the Newark Country Club site is a large and, from a land use standpoint, vacant property containing the typical facilities associated with a golf course, included 18 mowed fairways, 18 more closely mowed greens, a practice putting green, a small driving range, wooded “rough” of varying tree densities, ponds, drainage swales and wetlands. The greens are quite small, reflecting the golf course’s original 1920’s Mid-Atlantic region style; the course was designed

in the midst of what is considered the “Golden Age” of golf course architecture. The clubhouse, pool and parking area are located on the southeast corner of the site, near Nottingham Road. Storage and supporting facilities are located along the southern portion of the east boundary of the site, just north of the adjoining First Presbyterian Church property.

In terms of topography, the site’s highest elevations are, in general, along Nottingham Road at the clubhouse, and at the central portion of the northern edge of the site, bordering the Fairfield subdivision. From these high points the land drops in elevation toward the east, northeast, west, and southeast, with lower elevations near the pond that adjoins the City’s Wilson Center property at the east side of the site. The central portion of the site also drops in elevation to the west toward low points at the site’s western corner. Of course, with the normal undulations on a site of this size, there are varying elevations throughout the property.

In terms of soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service and the existing conditions plan, the site contains the soils listed below. The Natural Resources Conservation Service’s soil suitability ratings for the development proposed are also shown.

<u>Soil</u>	<u>Location</u>	<u>Rating</u>
Elioak Silt Loam [EaB2]	West end; south boundary Northeast Section	Moderate
Elioak Silty Clay Loam [EkC3]	Southwest Corner	Moderate
Chester Loam [ChA]	Central, north boundary; East end Nottingham Road	Slight
Chester Loam [ChB2]	Northwest Corner; North, south central and East central; southwest section; East boundary, west section	Slight
Chester Loam [ChC2]	East boundary	Slight
Glenville Silt Loam [GnB2]	Central southwest section; Northeast boundary; northeast corner; west end North boundary	Moderate
Glenelg and Manor Loam [GmC3]	Near east boundary	Moderate

5. Planning and Zoning:

The Country Club Estates property is zoned RS. RS is a single family detached district that permits the following:

- A. One-family detached dwelling.
- B. The taking of non-transient boarders or roomers in a one-family dwelling by an owner-occupant family resident on the premises, provided there is no display or advertising on the premises in connection with such use and provided there are not more than three boarders or roomers in any one-family dwelling. An owner-occupant taking in more than two boarders, however, must apply for and receive a rental permit.

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

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

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

In terms of adjacent and nearby properties, the lands immediately north of the main portion of the site are zoned RS and contain single family homes in Fairfield. The small “AMC Housing” garden apartment building, within an RM (multi-family dwellings – garden apartments) zoned parcel and a BB (central business district) zoned Rite Aid Drug Store are located at the east end of the northern boundary of Country Club Estates. The properties along the northern portion of the site’s eastern boundary from the vicinity of the Country Club Drive/New London Road intersection to the rear of the City’s Wilson Community Center property are zoned RS and RD and contain a mixture of single family detached and single family semi-detached residences. The remainder of the eastern boundary of the site adjoins the RS zoned First Presbyterian Church property. Relatively large lot single family home parcels and a small dentist office are located south of the full length of the site across Nottingham Road. Several RS zoned homes, fronting on Delrem Drive, are located at the western tip of the property.

Regarding zoning area requirements, the plan will be required to meet all applicable RS specifications.

Regarding the City’s Student Home Ordinance, because of the size of the Country Club Estates property and the resulting distance from existing “student homes,” many of the units in the central portion of the site will be available to be occupied by up to three university students.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for “single family residential (low density)” uses at the Newark Country Club site. The Plan defines, “single family residential (low density),” as areas designated for single family dwellings with densities ranging from one to three dwelling units per acre.

Please note, in this regard, that the Country Club Estates plan calls for a gross density of 2.25 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 layout of their project. More specific building locations and site design details 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 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 the general development concept has received City endorsement, with the developer left with some flexibility in working out the details of the plan – within Code determined and approved subdivision set parameters – to respond to changing needs and circumstances. This does not mean, however, that the Planning Commission is restrained from making site design related recommendations that City Council could include in the subdivision plan and agreement for the project.

Regarding building design, because the original plan and application for this site was filed prior to the City Council's adoption of requirements for building elevation drawings for Planning Commission and City Council architectural review, Country Club Estates will not to be considered under these design review specifications.

Be that as it may, as you can see from the Country Club Estates subdivision plan and supporting letter, the applicants propose to construct 271 single family detached dwellings arranged along a series of internal secondary roadways. 31.38% of the site (37.78 acres) is shown as "open space." Plan Data note #13 indicates that open space not dedicated to the City, will be maintained by a homeowner's association.

The main access to the site is shown at an oversized, median divided roadway at Nottingham Road, aligned with Radcliffe Drive in Nottingham Green. Other access points are shown at the eastern end of the site on Nottingham Road and through a developer owned residential property at the north boundary to Country Club Drive in Fairfield. At the suggestion of the Planning Department, this internal roadway is designed so as to limit "cut-through" traffic from Nottingham Road to Country Club Drive. In other words, the developer's proposed local roadway links are sufficiently irregular to limit the use of these streets for through travel. Most importantly, in our view, this design will help integrate Country Club Estates into the wider Newark community.

Regarding the types of housing units proposed, consult the applicant's letter concerning the single family detached dwellings plan for Country Club Estates. In this regard, most of the site consists of minimum lot area (9,000 square feet) RS zoned parcels.

In terms of open space on the site, several sections of open lands are shown including areas associated with existing ponds and proposed stormwater management areas labeled ponds "B" and "C," at the western section of the site; two central open areas to the rear lots in the middle of the site; a buffer strip of open land to the rear of the lots on Aneda Avenue; a narrower buffer strip separating the homes along the northern boundary of the site from the homes in Fairfield; and a large open area at the east end of the site, associated with ponds and stormwater management areas labels "F" and "G." Narrow elongated drainage swales are also shown at several locations on the site.

The landscape plan shows existing trees to be preserved and new plantings proposed for the site. Required street trees are also shown. This plan, in addition, includes a trail system running through portions of the open areas on the site.

Fiscal Impact

The Planning Department has evaluated the impact of the proposed Country Club Estates major subdivision on Newark's municipal finances. The estimates are based on the Planning Department's Fiscal Impact Model. The Model projects the Country Club Estates

fiscal impact; that is, total annual municipal revenues generated less the cost of municipal services provided. The Planning Department’s estimates of net revenues follow:

	<u>Net Revenue</u>
First Year	\$258,958
Second Year	\$250,454
Third Year	\$242,613
Fourth Year	\$234,774
Fifth Year	\$227,151
Sixth Year (and thereafter)	\$ 93,413

The difference between the net revenue shown in the first five years and later years results from the initial impacts of the real estate transfer tax. Please note, as well, that we have assumed a five year build out for the project and ten percent turnover thereafter.

Traffic and Transportation

As per the relevant requirements of the City’s Subdivision and Development Regulations, the Planning Department instructed the applicants to prepare a traffic impact study for Country Club Estates for review and comment by the Delaware Department of Transportation (DelDOT). Because of the size and intensity of the project, excerpts from the McCormick and Taylor consulting engineer’s evaluation of the developer’s Urban Engineers, Inc., Traffic Impact Study and DelDOT’s letter of February 27, 2007, concerning the Study are attached.

By way of summary, the DelDOT “accepted” Traffic Impact Study findings and recommendations appear below. Levels of service with the Country Club Estates project, based on estimated projected peak hour traffic in 2015, are shown for key nearby intersections. Level of service “D” (or better) is considered acceptable by DelDOT. A series of recommended improvements to reach the acceptable level of service are presumed to be completed. Some of the projects are specifically recommended in the McCormick and Taylor summary, others appear in footnotes and, based on the Planning Department discussion with DelDOT project engineer Todd J. Sammons, are considered less feasible. These improvements include the following:

1. Improve Delaware Route 273 (Nottingham Road) along the site frontage to meet DelDOT’s minor arterial road standards including two twelve-foot travel lanes and two eight-foot shoulders.
2. An agreement will be required between DelDOT and the developer to provide funding for an “equitable portion” of the local matching funds required for the Elkton Road, Maryland line to Delaware Avenue project (DelDOT contract #24-044.01). DelDOT expects to determine this cost sharing based on the development’s projected daily traffic volume, compared to the total new development projected daily traffic volume in the area.
3. The developer should coordinate with the City and DelDOT to identify an “appropriate corridor” for a possible future connector road through Country Club Estates from New London Road (Route 896) to Nottingham Road (Route 273). The connection is intended to help mitigate congestion at Hillside Road between Cleveland Avenue and Nottingham Road. This area will need to be set aside as a reserved right-of-way for the potential connector.
4. A series of bicycle and pedestrian improvements are required along Nottingham Road.
5. The developer should coordinate with the Delaware Transit Corporation regarding potential transit features at the site entrances along Nottingham Road and at Country Club Drive. These may include bus stops/pads; bus shelters and bus pull off areas.

6. At the New London Road/Cleveland Avenue/Hillside Road intersection the developer should construct a second through lane on the westbound Cleveland Avenue approach and a second receiving lane west of the intersection at Cleveland Avenue.

The key intersections with level of services including the completion of the Country Club Estates development with the improvements noted above installed by 2015, with peak hour volume designations, are as follows:

- West Main Street (Route 273) and Hillside Road “D” eastbound
- West Main Street (Route 273) and New London Road “E” (p.m. peak hour).
(Route 896 – left)
- New London Road (Route 896) and Cleveland Avenue “D”
- Elkton and Apple Roads “D”

The Planning, Public Works and Police Departments have reviewed the Traffic Impact Study McCormick and Taylor report and DelDOT letter and note the following:

1. We concur with the minor roadway recommended improvements and suggest that they be included as Planning Commission recommendations to City Council (this includes items 1, 2, 4 and 5 above).
2. We believe, regarding the plan for Elkton Road reconstruction that a prudent approach to reviewing the Country Club Estates project requires recognizing that the Elkton Road project is intended to begin construction no earlier than 2010. Moreover, with the current state of DelDOT finances, we do not believe the City nor the developer can be fully confident that this work will start on that date or be completed by 2015.

As a result, some form of phasing of the project, linked to the construction or reconstruction of Elkton Road, ought to be considered. This phasing, for example, could limit the issuance of building permits prior to completion of the Elkton Road/Apple Road intersection upgrade to a number below that which results in the reduction of level of service from “D” to “E” (see Traffic Impact Study report Table 8).

3. While we do not necessarily oppose the concept of the suggested pipeline “corridor” reserved right-of-way for a future connector road through the site linking Nottingham and New London Roads, based on our experience with such right-of-way reservations, we believe this pipeline is a pipedream (item 3 above). Such a roadway through the heart of a new and expensive home development is not likely to be constructed.
4. The subdivision plan, as noted by DelDOT, needs to be revised based on suggestions from the Delaware Transit Corporation for public transit facilities.
5. Traffic signals and cross-walks at the two access ways to Nottingham Road should be considered.
6. We question the feasibility of the improvements suggested at the New London Road/Cleveland Avenue/Hillside Road intersection.

Subdivision Advisory Committee

The City’s Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the Country Club Estates subdivision plan and has the comments provided below. Where appropriate, and as indicated below, the plan will be required to be fully revised prior to its scheduling for review by City Council.

1. The Planning Department believes that the Country Club Estates subdivision plan fails to use site design tools to take advantage of the natural beauty and environmental resources of a classic early 20th Century eastern seaboard style golf course in ways that appropriately reflect the quality of the site as well as the visual memories of the thousands of rounds played by Newark Country Club members and their guests. In other words, we believe the plan does not use the opportunity inherent in the site for the construction of an attractive and appropriately designed housing development that fits the natural contours, utilizes available wetlands, places homes in harmony with the proposed open space, takes advantage of wooded groves, and maximizes open areas for the benefit of those who will ultimately live at the property and the Newark community in general. Moreover, while the applicants have certain and obvious “vested rights” to develop the property, a plan for the site is certainly feasible that recognizes these rights, yet, at the same time, reflects an understanding that this special property has significance beyond its borders. In other words, we can do better – and fortunately our Subdivision and Development Regulations imply that we should.

In this regard, Subdivision and Development Regulations Section 27-3 Policy, (a) *Comprehensive planning*; (c) *Open space*; (f) *Site design*, subsection (1), *General*; subsection (2), *Conservation and natural resources*; and Appendix IX, *Community Assets*, taken together indicate that subdivision plans for a site the size and scope of the Newark Country Club should be based on the following design principles:

- Changes to the natural topography, soils and existing vegetation should be minimized.
 - Existing stands of trees, insofar as possible, should be preserved.
 - Open areas, ponds and existing vegetation should be integrated, insofar as possible into the site design.
 - Context of the development must be recognized -- a large major subdivision does not stand alone.
2. The Planning Department also notes that all parcels adjacent to Nottingham Road should be designed so that the buffer areas between that roadway and homes are heavily landscaped and berms installed to screen the view of the rear yards from Nottingham Road.
 3. The Planning Department notes that the subdivision plan does not reflect the requirements of Subdivision and Development Regulations Appendix XI, *Design Standards for Energy Conservation*.
 4. The Planning Department notes that these Subdivision Advisory Committee comments also include the suggestions noted above under Traffic and Transportation. In this regard, some additional review and commentary may be necessary from DelDOT.
 5. The Planning Department notes that the subdivision plan must conform to all applicable RS zoning area requirements.
 6. The Planning Department notes that through the construction improvements plan process, the applicants will be required to show compliance with all applicable state and federal environmental requirements for the proposed Country Club Estates development on a golf course site.
 7. The Planning Department suggests as a condition of approval that the Planning Commission recommend that Country Club Estates be deed restricted by the applicant to limit the rental of any dwellings on the site to families or to a maximum of two unrelated tenants.

8. The Electric Department indicates that, subject to the conditions below, electric service can be made available to the site. The Department suggested site conditions are as follows:
 - Plan Data Note #16 needs to be revised to read, “An open utility easement shall be provided over the entire site.”
 - Through the construction improvement plan process, information will be required concerning electrical specifications for the pump station adjacent to proposed Lot #156.
 - Existing utility poles, underground high voltage cables and the padmount transformer feeding the Country Club pool must be shown on the subdivision plan to determine if they need to be relocated.
 - The applicant will be required to pay all costs associated with removing or relocating any of the existing utilities serving existing buildings on the site.
 - No trees that reach over 18 feet in height at maturity will be permitted to be planted under existing aerial lines or at the development entrances where new poles will be installed.
 - A fee of \$600 per lot will be required toward the materials cost of the underground electrical facilities and radio read meters. The fee will be required at the time of application for building permits for each parcel.
 - The applicant will be responsible for all trenching and backfilling for all underground cables.
9. The Building Department notes that any building permits for the site will be required to meet all applicable requirements in the International Residential Building Code, including the requirement for fire suppression systems within all proposed units.
10. The Public Works Department has the following comments concerning stormwater management, drainage and related items regarding the Country Club Estates subdivision plan:
 - Because of the size and complexity of the site, including many existing ponds and proposed stormwater management facilities, the Department will work with the applicant’s engineers and the stormwater group of the Delaware Department of Natural Resources and Environmental Control to devise the most feasible approach taking into account existing stormwater conditions, making practical use of existing topography and green technology, and to produce a plan that reduces future maintenance requirements.
 - There are stormwater management issues regarding downstream drainage ditches, channels, culverts and outfalls from the site; these areas may be required to be upgraded by the developer to handle site runoff.
 - All proposed bioretention areas need to be shown on the subdivision plan.
 - The proposed pedestrian trail must be kept out of any site drainage swales.
 - Volume reductions will be required for the portion of the site that drains toward the White Clay Creek; peak grades are required to be reduced by 25% from the predevelopment to the post development stage.
 - The infiltration reports indicate there is very poor infiltration in the upper two to five feet of the site’s ground surface. Under drains will be required in swales to minimize persistent wet conditions from poor drainage to sump lines tied to

swales. These improvements will be required to be shown in the construction improvement plans for the site.

- A wetlands delineation map in a smaller scale that clearly shows and identifies the limits of the wetlands is required through the subdivision process.
- All ponds that are being utilized for stormwater management, whether for quality or quantity control, will be required to be retrofitted to current standards. Ponds not utilized for stormwater management need to be retrofitted to provide a 3:1 slope for safety purposes.
- Double catch basins are required along all sump areas and roadways. Combination inlets and double catch basins are required on roads where the catch basins feed to bioretention ponds.
- The subdivision plan does not show the elimination of the manmade pond directly adjacent to Nottingham Road with new contours. The removal of the pond and associated drainage way, with filling in of wetlands, must be approved through a “jurisdictional determination” from the Corp of Engineers and a verification letter must be submitted prior to any work performed on the site.
- There are several other related technical matters regarding stormwater management that the applicant should review with the Department prior to the plan’s review by City Council.

11. The Public Works Department has the following comments regarding streets and sidewalks:

- The name of the cul-de-sac east of Jax Court needs to be shown on the subdivision plan.
- The grass plots between the curbs and sidewalks are to be four feet wide. A minimum five foot wide utility easement is required adjacent to both sides of the street rights-of-way.
- In certain instances as a result of steep embankments, some of the locations of sidewalk along Nottingham Road are not practical. The subdivision plan needs to be revised to show the actual proposed location of the sidewalks. Note, as well, that DelDOT must approve all sidewalk locations and culverts within the State right-of-way. Handicap ramp locations are required to be shown on the construction improvement plans and all sidewalks and ramps must meet the latest ADA requirements.
- The slopes along Aneda Avenue at the culvert exceed the 3:1 maximum.
- The subdivision plans need to include a typical cross section of the right-of-ways.

12. Regarding open areas, the Public Works Department notes the following:

- The northern most buffer area adjacent to Fairfield should be wide enough to provide at least a 25 foot wide landscape buffer with a swale located so the drip line of the trees is preserved.
- The western most cul-de-sac on Bonham Drive is required to be shorted at least one lot width to provide enough room for a 25 foot landscape buffer; a drainage swale should be located east of the drip line of any trees to be preserved in this location. This area is also required to be wide enough to include the proposed trail and slopes in this area shall be maintained at a 3:1 ratio.

- The right-of-way shown for access to the existing storage buildings in the proposed public open space should be wide enough to include two six foot wide landscape buffers on each side and a maintenance vehicle travel way of at least 12 foot wide at this location. The landscape buffer should extend up and around the rear of lot 161.

13. In terms of general comments, the Public Works Department notes the following:

- The Department has major concerns regarding the environmental impact of this development and recommends that all Federal and State agencies noted in the White Clay Creek Wild and Scenic River Management Report – including DNREC, the US Corp of Engineers, the US Fish and Wildlife Service, etc. – review and comment on the plan prior to its review by City Council.
- All required easements are not shown on the plan. In addition, all the metes and bounds must be able to be read clearly. Curb data charts and information has been omitted from these plans and is required to be provided. The applicant should review these matters with the Department prior to the plan’s review by City Council.
- The existing conditions plan should include shaded areas showing portions of the site that exceed 25% in slope.
- Existing utilities are to be shown on the plans in a clear and legible manner.
- The Department notes that the additional units proposed at Country Club Estates will mean that a new Public Works truck and driver will be necessary to be added to the City’s refuse collection route system.

14. Regarding sanitary sewer service, the Water and Waste Water Department has indicated that through the construction improvement plan process, the Department will evaluate the need to add new sanitary sewer mains and/or replace existing facilities to adequately convey sewerage from Country Club Estates. The use of pump stations will also be closely examined; other options will be reviewed before approving private operation and ownership (by a homeowner’s association) of these facilities. The City will not accept responsibility for pump stations for sanitary sewerage service.

15. Regarding water system capacity, the Water and Waste Water Department indicates that an analysis of data from pump operations during September and October would be necessary in order to determine the adequacy of the system for the expected needs of Country Club Estates. The Department notes that information currently available is not suitable for this purpose. The Department will analyze this information, once available, through the construction improvement plan process, in order to ascertain the adequacy, in terms of water pressure, of the system for this project,

16. The Parks and Recreation Department indicates the following:

- The existing and proposed lines and grades are very difficult to follow in some areas of the plan; the lines need to be made more distinct.
- In addition to the proposed “Existing Trees to Remain,” the Department feels that some trees proposed to be removed could be saved through revised site grading or incorporating some type of retaining wall(s) into the site design.
- The Department recommends including a reforestation effort in certain locations on the plan.
- The “Landscape Notes” should indicate that a “tree protection zone” is to be established around each “tree to remain,” at the drip line; detail is to be shown on the subdivision plan. After the limits of clearing are established, a tree

management plan is to be completed, through the construction improvements plan process, in conjunction with the Parks and Recreation Department; this plan will specify any necessary pruning for trees that remain and any pruning or removals required of the site's fringe/border trees.

- As indicated by Public Works, the Department notes regarding the buffer area separating the site from the existing homes on Country Club Drive that landscaping should be provided on the subdivision plan and that a wider buffer area may be needed at this location.
- The Department indicates that on the subdivision plan the buffer area between the homes at lots 1 through 29 should be designated as privately owned; this area will be maintained by a homeowner's maintenance association.
- Regarding the parkland, because of the number of units proposed an active neighborhood park is required. The developer should work with the Department to determine park amenities and design. The developer will construct the park and when completed it will be dedicated to and maintained by the City. The park must meet the slope requirements of at least 50% not exceeding 3% and the remaining 50% is not to exceed a 5% grade. The park also must be adequately drained and include at least two acres. The Department understands that the applicant proposes that 4.31 acre lands shown as "Open Space," in the central portion of the site at the required active neighborhood park. The subdivision plan should be revised to indicate that this will be the location for this park. Proposed grading for this location must be shown on the subdivision plan.
- The Department notes that the subdivision plan incorporates a Department recommended trail system for residents of the subdivision and others in the Newark community. The Department suggests, in this regard, that this be an eight foot wide hard surface trail, capable of supporting City maintenance vehicles. A twenty-five foot radius is required at all trail to trail and trail to sidewalk connections. The proposed route should be adjusted near certain "trees to remain." The trail should also be adjusted near Pond B so that it connects directly to the public sidewalk on Nottingham Road and not through the private open space buffer area between the homes at lots 1 through 29. This trail could also connect to the City's Wilson Community Center property adjacent to Pond G. The applicant should discuss these matters in detail with the Parks Department.
- Hard surface, eight foot wide, City maintenance vehicle access to public open areas should be shown on the subdivision plan south of lot 96, between lots 85 and 86; lots 143 and 144; and lots 183 and 184.
- The Department notes that in terms of the active park and other publicly owned open space (including existing ponds and stormwater management facilities), significant additional costs will be borne by the City for maintenance.

Recommendation

As noted in this report, the Planning Department believes that the proposed Country Club Estates plan, while conforming in general to the RS zoning district area minimum requirements, fails to take advantage of the opportunities for an outstanding residential and/or mixed use subdivision inherent in the Newark Country Club site. Moreover, we understand from a series of conversations with the applicant and his representatives that he recognizes the potential for an improved plan. We also believe that because the City can provide the assurances necessary to safeguard the applicant's "vested rights," in the property, while considering an alternative site plan, we would prefer that the applicant submit such a plan now rather than moving forward with the Country Club Estates proposal. We are indicating this caveat to reiterate formally and officially what we have indicated previously.

In any case, we apparently are faced with the plan before us. Therefore, because the Country Club Estates does not conflict with the land use recommendations in the Comprehensive Plan, because the proposed single family plan corresponds to the development pattern in the immediate neighborhood, because the subdivision plan meets or can meet the minimum RS zoning area requirements, and because the potential negative impacts resulting from the development of the site will be limited, insofar as possible, with the approval of all the Subdivision Advisory Committee conditions, the Planning Department suggests that **the Planning Commission recommend that City Council approve the Country Club Estates major subdivision, as shown on the McBride and Ziegler plan, dated March 22, 2006, with all the conditions in this report.”**

Mr. Bowman: Are there any questions for Mr. Lopata from the Commission? Since there are no questions, we will ask the applicant to come to the microphone.

[The applicant, Planning Commissioners and members of the public referred to visuals brought by the applicants for their presentation to the Planning Commission].

Mr. Shawn Tucker: I am a land use attorney here in Delaware. I represent the applicant in this matter – Aston Development Group, Inc.

Here with us this evening are several folks associated with this project who have been involved in preparing various reports and analyzing this site over the past two years – Parley Hess, McBride and Ziegler; Greg Swift, also an engineer with McBride and Ziegler; Mark Sisk, land use attorney here in Newark who has been assisting with this project; Susan Best, professional traffic engineer who prepared the original traffic impact study submitted to DelDOT and the City approximately one and one-half years ago.

I would like to present a PowerPoint presentation that I think more efficiently summarizes the application with pictures and other data, to move through the agenda in a manner that is more organized and complete rather than if we just did this verbally this evening.

I would like to start of tonight by giving everyone a satellite image of the site. This is off Goggle Earth. The yellow line is the actual parameters of the site and the existing golf course.

To break down into specifics, Mr. Lopata is correct, the site is zoned RS on the Comprehensive Plan map, actually “RSFL” for residential suburban and that is a low density designation. As Mr. Lopata indicated, the density in the Comprehensive Plan is up to three dwelling units per acre. The current acreage is 120 acres which makes up the golf course today. Public water and sewer would be provided and is proposed for this location. The minimum lot size per Code as was stated tonight is 9,000 square feet and the minimum lot size that is proposed by the applicant is 9,000 square feet which is consistent with the RS zoning.

In the packet I had presented to the Board members, if you will go to tab one, we have an excerpt from the Comprehensive Plan that Mr. Lopata references in his report and highlighted for your convenience is the section referring to the density of one to three dwelling units per acre. The applicant tonight is actually proposing a density of about 2.3 dwelling units per acre, which is well within the Comprehensive Plan parameters and, actually, a little bit less than the maximum density authorized by the Comprehensive Plan. Also attached to tab one is page 70 of the Comprehensive Plan, which is the actual map from the Comprehensive Plan reflecting that zoning designation as well.

What you have here is a color version of the McBride and Ziegler plan that has been submitted to the Newark Planning Department. This is proposing 271 single-family detached homes.

This next slide is the same plan with an overlay that is depicting the landscaping. What I would like to focus on here is the amount of open space provided. The total open space being provided is almost 38 acres. Under the current Newark Subdivision Code, 8.5 acres give or take is the acreage required. So this plan proposes – and we think this is

significant – four times the amount of open space than is required under the current Subdivision Code for this site. To put that into perspective in terms of existing development pattern in the area, to your north you see Fairfield and to your south you see Nottingham Green – just as examples. You also see the approximate lot sizes off the tax parcel map that have been overlaid. The open space in Fairfield is approximately 7.3 acres. That open space was not dedicated by the developer as part of the approval. The City is the owner of that. We are not sure exactly how they took title. Mr. Lopata may know, but that was not part of the dedication when that subdivision was approved many years ago. To the south, the Nottingham Green subdivision has approximately 3.6 acres in open space; and, it is my understanding that makes up a pool for the subdivision and also maybe some park area behind the pool. It does appear that that was originally proposed on the record plan for Nottingham Green. Comparing that to the subdivision for consideration tonight, the difference in open space is quite dramatic. The open space that is being provided today is, again, approximately 38 acres and far exceeds the open space in the surrounding communities.

We wanted to point out to the public and to the Commission that all the existing ponds on site will be preserved. They are all man made, incidentally, but they will all be preserved as part of this application. There are approximately eight. Here is a quick slideshow of the various ponds.

Another aspect of this plan that we wanted to emphasize tonight is that the wetlands on the site will be preserved. There is one exception to that for a drainage ditch, which I will let Mr. McCulley talk about. He is our environmental consultant who will also be speaking this evening. The black circle you see is the only significant patch of wetlands on the site. That will be fully preserved. There is a small area that is a drainage ditch that is going to be proposed for filling under a nationwide permit. We will get to that in a few moments.

Walking trails is another amenity that was added in one of the more recent versions of this plan that the department had asked for. I understand that there will be some other modifications sought for that proposed design. The walking trails start at this point and travel along the open space of the subdivision, travel along the back in this area to the east and around. There is a connection back into the subdivision. There is also a connection here. You can barely see those dotted lines. I apologize for that. It is a walking trail system, not required by Code, but something that the Parks and Recreation wanted, and we were happy to provide that in the latest revision.

In addition, as many of you probably know, there are some maintenance facilities that exist on the golf course today. The City has asked us to preserve them for areas of the open space that they may want to take over as public. We have agreed to maintain those facilities through the development and turn them over to the City so that they can use those facilities for any public maintenance here on site or elsewhere within the City limits.

Focusing on the landscaping if I could for a moment, its breadth is somewhat lost in the scale of this picture; but, essentially, located along the fronts of all the lots are proposed street trees and other plantings throughout the subdivision that total over 1,100 plantings. The current specimen trees on the site today prior to any development are about 1.7 specimen trees per acre. The specimen tree is defined by law, and it is a higher quality tree. It has certain standards. Today, 1.7 per acre can take the average. The proposed landscaping trees, if you add them into the entire site, you get to about 9.4, if you add those into the specimen trees we are going to preserve, that is the average you get to per acre. The trees identified by Parks and Recreation that were specimen quality, there are about 15 of those that were identified. The total specimen trees that we are saving there is 70. We thought it is important for folks to know that we have actually gone far beyond the total number that was identified by the City to save on site as best as we could, and in addition we are adding the 1,100 plus trees as part of the landscaping package. Overall, that gives you a 9.4 trees per acre at the end of the day.

I mentioned the open space; I wanted to give everybody a perspective on the actual buffering that is part of the open space. On Nottingham Road you have a one hundred foot buffer, the swath of green is one hundred feet in depth and then you have the property line so

there is some additional depth before you come to the first internal road within the subdivision. Along the rear of the property there is an additional buffer of 45 feet. The one hundred feet is a greater buffer because of that main road of travel and there was a strong desire, I think, on behalf of the City to have a stronger and larger buffer zone along Nottingham Road. These are pictures of those buffers that will remain. This along Nottingham from various angles.

As you heard earlier, there was mention of the traffic impact study that was required for this project that was submitted to DelDOT. Attached to the presentation and also in your packet at page 2 for the Commission members is an actual copy of the February 27, 2007 letter from DelDOT where they had reviewed our engineered traffic impact study. They hired an outside consultant as Mr. Lopata had mentioned – McCormick and Taylor who does review for them – DelDOT did come back and recommend the approval from a traffic standpoint because their standards were satisfied subject to certain conditions. Mr. Lopata did mention some of those conditions. Tab Three in the packet actually spells out those conditions. There are essentially four conditions that McCormick and Taylor recommended as a condition of this approval from DelDOT.

In the planning report that you received there were four intersections in particular that were looked at and their level of service was set forth in that report and I would like to talk about those briefly. These are not all the intersections that were studied but they are the intersections that are in the closest proximity to the site. As you notice, there is a certain level of service assigned to each one of these. The D rating is not bad; it refers to the number of seconds that you are delayed at a given intersection. Those are, essentially, national standards that are used throughout the country. For those who are interested, an intersection that is functioning at A level of service is a 10 second delay or less under DelDOT national standards, an intersection functioning at B is a 10-20 second delay, C is a 20-35 second delay, D is a 35-55 second delay and E is 55-80 second delay, and F is 80+. This is to give you a flavor of what those stand for because there is a lot of confusion about what those letters mean in a traffic capacity analysis.

What we also did was take those particular four intersections and blow them up a little bit. There are four intersections depicted here. Those include W. Main Street and Hillside Road; W. Main Street and New London Road; New London Road and Cleveland Avenue; and Elkton and Apple Roads. There are three letters in each circle. These three circles are the signalized intersection. The fourth intersection is located here and there are squares there because that is an unsignalized intersection. We wanted to distinguish between a signalized and an unsignalized intersection.

The first intersection, which is W. Main Street and Hillside Road, you see three letter designations, D, D, and D. In this chart the first D stands for existing level of service. Today that intersection is functioning at D according to the traffic analysis that was performed. The second box indicates what level of service that intersection would be functioning at based on DelDOT's standards in 2015, which is considered a buildout year for this area. The level of service is still D for that intersection. That does not include our project being approved. The third box is 2015 with the 271 unit buildout. It still functions at level D. The second intersection, which is W. Main Street and New London Road, which is an unsignalized intersection. In the unsignalized intersection, the worst level of service is D, E and E and it is a left hand turning movement. D is a level of service that that left-hand turn is considered to be operating at today, E is the level of service it is anticipated to be operating in 2015 without our subdivision being approved at 271 units. And finally, the third designation, which is also an E, is with the 271 units. Again, there is not a change in level of service at that intersection at full build out at year 2015 with anticipated background traffic. DelDOT has signed off on that and acknowledges that analysis.

The third intersection, New London Road, Cleveland Avenue, 896, is a very similar situation. It is a signalized intersection, D today, E in 2015 without this project, and still E in 2015 with this project. Again, no change in the overall level of service with or without this project being approved.

Finally, the last intersection – again, these are some of the closest – Elkton and Apple Roads to the south, which is this one. It is E today, E in 2015 and E in 2015 with this project approved and occupied.

Obviously, the point that we are trying to make for the Commission members and the public is that we have looked at the traffic situation carefully. We know there are concerns that the application would present and in this case we are fortunate that this project is not changing the level of service in this area even at full build out in 2015 based on our analysis. I say changing, I mean taking below what DelDOT would consider an acceptable level of service. Yes, they are in the D range and E range, and again just by perspective, if the E range is 55-80 seconds and the D range is 35-53, just to put that in perspective.

One of the areas that Mr. Lopata mentioned were some of the conditions that DelDOT put on – essentially this is a no objection letter. This is what it is called. One of those conditions is found at Tab 4, Page 2. I have highlighted for your convenience one paragraph in yellow. One of the things we noticed in the McCormick and Taylor report is that they dropped a footnote in regard to this particular intersection – Cleveland Avenue/Hillside Road/896. There is one table in the report that assumes a certain improvement in determining level of service. DelDOT notes on Page 2, however, I would like to read this into the record for the benefit of the public because I think it is important:

“Although analysis indicates that the intersection of Delaware Route 896 and Cleveland Avenue/Hillside Road would have LOS (level of services) deficiencies during the evening peak hour, we do not recommend any improvements. To achieve an acceptable LOS for the evening peak hour at this intersection, significant intersection improvements would be required, such as an additional through lane on Route 896 or Hillside Road/Cleveland Avenue. This type of improvement would be very expensive and could include significant impacts to surrounding properties including a church and, therefore, is not recommended.”

That is one that DelDOT looked at and, I think, wisely (inaudible) because essentially would require the condemnation and taking of a church. To get that additional handful of second improvement in that movement was not worth the cost or the effect on nearby property for that level of service increase.

In addition, there is another area that is covered in the conditions that we would like to drill down into. It is also mentioned in the Planning Department report. Particularly, this can be found in more detail in Tab 3, paragraph two of the McCormick & Taylor report. In DelDOT’s no objection letter, essentially, they have asked my clients to make a fair share contribution to the Elkton Road improvements that Mr. Lopata made reference to earlier this evening. The City Department has asked for something a little bit different or in addition to, and that is the holding back of certain building permits for this site until those improvements are done. I want to explain why we respectfully request that the Planning Commission not do that and why. First of all, from a traffic standpoint, the level of service of the two signalized intersections that are studied on Elkton Road does not change. Those two intersections function at level of service, I believe, it’s either E or D today and they continue to function at that level of service regardless of the build out. We have Apple Road and Elkton Road and there is also an intersection further to the south that is signalized. The Apple Road is functioning at E today and will continue to function at E at build out. The other intersection further to the south – and I apologize, I do not have that written here – is functioning at C and that will continue to function at C. So, as a threshold matter we would just like to point out that our project is not degrading the level of service on that road, which we would submit weighs in favor of not conditioning building permits on that project being completed by DelDOT and is probably the reason DelDOT did not word their recommendation that way because I can tell you they are not shy about conditioning projects on building permits. I have seen that over the past ten years on many occasions. They did not choose to do that in this case.

Secondly, they do identify a fair share contribution that they would like to see and are requiring from our client for that project. And by fair share, they generally mean by that is they take all development in the area and they require folks to contribute a certain percentage of the cost of that so it is not coming out of the taxpayers’ pocket, it is coming out of the various development projects which are queuing through the system at any given

time. For those two reasons we would ask that any recommendation from the Commission not be conditioned upon a building permit tie-in to that particular improvement on Elkton Road. I have on one occasion seen that happen in New Castle County of old Baltimore Pike and there was a DelDOT (inaudible) that was required to (inaudible) about five years ago. The subdivision got about 75% built and it stopped. The other 25% of the subdivision grew over, and the roads were left incomplete, and eventually, New Castle County came back because DelDOT decided not to make the improvement. As Mr. Lopata correctly pointed out, sometimes DelDOT does not stay on schedule. I think we have all seen that happen. But, what you have is a community that remained 50 to 75% build out for many years. It was not convenient for the neighbors. It was not convenient for the community. It was not convenient for New Castle County and eventually New Castle County actually lifted that restriction because DelDOT had not plans, ultimately, to make that improvement. So, that is another reason why we respectfully submit, the outstanding concerns, but we do not think the level of service justifies that condition, and we think it would be bad in the long term for this project, not only financially for the project but from a practical standpoint if the project is shut down mid stream. With that, with your permission, I would like to turn over a small portion of this presentation to our traffic engineer, Ms. Best, who would briefly like to talk about that as well as the two signals that have been suggested by the City but were not included in the DelDOT recommendation this evening.

Ms. Susan Best: I am a traffic engineer with Urban Engineers. We did the traffic study. I want to make a point of clarification for the members of the Commission and Mr. Lopata. On that table on the right there are two sets of level of service analysis information. One was the impact study level of services that we had prepared. The other was the levels of service prepared by DelDOT's consultant McCormick Taylor. There are always some slight differences that are put into it. Rather than getting into arguments or discussions as to which one is "correct," we just used McCormick Taylor's numbers so any levels of service that Mr. Tucker referred to or that I will refer to are from the study and analysis by McCormick Taylor. That is standard practice on DelDOT's side. Their reviewer basically redoes the study and then presents their conclusions and their results. I think the other thing that is important to point out on the right side table, the third one in the fifth line down, refers to improved level of service if the improvements are there that Mr. Tucker mentioned, which was the additional lane that would have a significant impact on the community, and therefore, that is why we are showing the D, E and E in our levels of service because we are showing it without those improvements. What McCormick Taylor did with those, basically, they did an analysis of what it would take to get to level of service state. It is not intended to be a recommendation that you do that specifically stated on page two of their letter. They specifically do not recommend that but they had to, as part of their process with DelDOT come up with what it would take to do level of service D. That was just a little point of clarification. I did speak with Mr. Sammons from DelDOT today and he still stands by the letter that they accepted McCormick Taylor's report.

The City has referenced putting in two new signals. We did a warrant analysis and the Federal Highway Administration in their Manual of Uniform Traffic Control Devices lays out the studies that are required as part of warranting. We use the word "warrant" for whether a signal should be installed, and the important point of this particular slide is that the area we are talking about is a 35 mile per hour speed limit or less.

The next slide shows that there are eight specific things you look to determine whether a signal is justified. Actually, warrant one has three parts. The first three are really the ones we would look at here which deal with volumes. Intuitively, it is not a high pedestrian area. You need 100 pedestrians in order to warrant a signal. So we didn't think those were appropriate to look at. If you look at the first three, they deal with warrants with the volumes. Warrant 1 requires a specific set of volumes to occur for a given eight hours of the day. On warrant 1A you need 150 vehicles coming out of the side street in order to warrant the traffic signal. Our projection is that we have 74 in the morning peak hour. That is our highest hour. Warrant condition 1B would require 75 vehicles. So we are only one vehicle shy of that requirement, however, that is in our peak hour and you would need to maintain that minimum of 75 vehicles per eight hours. So, this intersection would not be anywhere close to that. Then there is a combination warrant which does a little factoring between A and B and we do not come close to meeting those warrants. You can do a four hour warrant where you look at volumes for a four hour period and plot it on a graph. You

have to be above the line and we do not come close on that. We also looked at the peak hour warrant because we figured that at a location like this it might be one that might work.

If you go to the next slide, you can see where our chart is. I have plowed it around the two data points for our morning and afternoon peak hour volumes and that lower of the lines in the chart, you would need to have your volumes above that line in order to meet a warrant to justify a signal. As you can see, we are nowhere close to meeting that volume requirement. As I said before, this is not just a DelDOT requirement, this is a Federal Highway Administration guideline. These volumes and warrants have been around for a very long time. DelDOT will not put up a signal if it does not meet the warrants. If it does meet the warrants, it does not always mean a signal is justified. The reason you don't want to put in a lot of signals that are not warranted is because you would constantly be stopping at traffic lights. It can slow traffic down. It can actually create accident problems if you have too many traffic lights. People get frustrated. Also it is very expensive to install and maintain. You really need to meet the warrants in order to justify the signal.

Mr. Tucker: One last point I would like to make before we move on to the drainage is that the Planning Department did reference the need for possible additional discussion with DelDOT. That is certainly an issue that we are willing to sit back down with DelDOT on. If DelDOT decides to require the intersection as part of the no objection letter, we will certainly provide those intersections, but I'm sure you can appreciate what we are struggling with in terms of the standards that our traffic engineer has applied. We are certainly willing to sit down and address those with DelDOT. We just do not think their position is going to change and if it does, we will provide what is required.

Moving on to drainage considerations, Mr. Swift is here this evening from McBride and Ziegler to talk a little bit about that. I will let him give you a quick thumbnail sketch of the drainage at the site and what was looked at and the steps that are being taken to address that, if I could.

Mr. Greg Swift: McBride & Ziegler. I did a preliminary stormwater management analysis on the site. I evaluated the existing and proposed stormwater conditions. In general, about half the site – and this is a watershed line down through the middle of the site – the site drains to the east and ultimately into the White Clay Creek on the far right. It drains through an existing ditch and crosses 896 and Creek Road and into the White Clay. The other half of the site drains west through a ditch along Nottingham Road and then ultimately into the east branch of the Christina Creek. We are proposing on the site to manage the stormwater two ponds. Currently, there are eight ponds and we intend to use two of them for stormwater management with water quantity control. On the right side, the pond on the east is an existing irrigation pond. We intend to use that pond and enhance that pond for stormwater quantity control. And on the far west, there is an existing pond there as well. We intend to use that pond there for stormwater quantity control. We intend to upgrade those ponds to meet the DNREC regulations with regard to Pond Code 378 and provide benches and structural considerations on both of those ponds. As was mentioned earlier, we intend to maintain the other ponds for aesthetic purposes.

For stormwater quality control we intend to use bio-retention facilities and bio-filtration swales throughout the site. It would be difficult to point out all of those locations, but various swales throughout the site at various locations will ease bio-retention facilities. Most of those bio-retention facilities will drain into the existing drainage system on the site. Finally, I would like to mention that all of these designs – the stormwater ponds, the bio-detention facilities and bio-swales – will all be designed to meet the City of Newark, State and DNREC regulations with regard to design and construction.

Mr. Tucker: We also wanted to briefly discuss environmental considerations at the site. Mr. Jim McCulley is here who is the environmental consultant who performed various analyses at the site. He also took a look at the ponds, the soils and involved in the specimen tree plan. I would like to offer his comments into the records regarding the ponds and related environmental concerns including the wetlands issue.

Mr. Jim McCulley: I am the owner of JCM Environmental. As Shawn mentioned, we performed several types of environmental studies on this site. One was a wetlands

delineation. We also did some soil testing. We did a Phase I environmental site assessment and tree study.

The thing I want to talk to you about tonight is the wetlands study that we did and we identified two different classes of waters that the Corp of Engineers would regulate. One is waters of the United States, and they are shown in blue on this map; and vegetative wetlands, the areas that are shown in red. As Shawn said, most of those areas are being preserved. The vegetative wetlands are being preserved and the waters of the United States, for the most part except for a small drainage ditch which we will point out in a minute. We just wanted to mention, the way the Corp of Engineers defines waters of the United States as waters with a bed, bank and a flow, and they regulate right up to the high water mark.

If we could have the next slide, I want to point something out. All of the ponds that are on the site are in-line ponds. We feel that the ditches that connect them may or may not be jurisdictional as far as the Corp is concerned. We have identified them as such. We also identified the ponds as jurisdictional, but these ponds are being maintained through a series of pipes, wells and pumps that are pumping water into these ponds. Under the Corp's definition, the ordinary high water mark would be much less than what is shown on this map. Once all those pumps are shut off and we go back to the natural condition, we feel that those ordinary high water marks are going to shrink. So, what we have here is the worse case scenario as far as what would be jurisdictional on the site. With that in mind, we are still not impacting any of those ponds. We have identified them all to the maximum extent that they are now in their artificial state as waters of the United States. As Shawn mentioned, there is one area where there is a road crossing of a ditch that is the end of a pipe that flows out of the one pond along Nottingham Road and then down into the ditch and to the next pond. The filling of that ditch can occur under what the Corps calls a Nationwide Permit. It is Nationwide Permit 18. It is a permit that has been granted to everyone in the nation as long as you meet the criteria that are set forth. As part of that permit we would have to do a pre-certification which would notify all the different federal and state agencies of our plans to do that and then it would be reviewed by the Corps.

Mr. Tucker: To sum up and to follow-up with any questions and answers that you may have with many of us regarding the presentation this evening or other issues in the report from the Department. First of all, I would like to start out by pointing out that this is low density plan and is in the low density zone under the Comprehensive Development Plan and the density is actually lower than the maximum identified in the Plan of three dwelling units per acre. Significant open space is being provided – more than four times that required by law. DelDOT has approved the TIS subject to the conditions that we identified and that are also identified in the McCormick and Taylor report, which our client has fully agreed to honor as may be amended by DelDOT. Drainage on the site proposed is pursuant to DNREC regulations and preliminary design has been done in that regard. There have actually been meetings with some DNREC and Newark staff in that regard. Those requirements will have to be followed before any development can occur on the site. Those requirements also have to be satisfied before we can break ground and move forward. The Nationwide Permit that Mr. McCulley referenced is actually that. There are certain permits that are considered nationwide which are granted as long as certain criteria are satisfied and that is why proposals will typically move forward if they fall under a nationwide type permit, which this one does, in particular, that road crossing which is Nationwide Permit 18. 70 of the specimen trees will be saved on the site that exist today and there will be many more. Over 1,100 plantings will be provided in the community and all ponds will be preserved. Put another way if you sum up tonight's presentation, we respectfully submit that what we have submitted tonight is a Code compliant plan for the Planning Commission's consideration.

As you know, it is not an annexation tonight that we are asking for, it is not a rezoning, and it is not a site plan approval. We are proceeding forward under Chapter 28 in the Major Subdivision Regulation, which we submit that we have not only satisfied but in some cases have satisfied beyond what is required, in particular, the open space that has been provided by this applicant.

As you probably know from the timeline Mr. Lopata provided you, we have been about a year and a half working on this plan in process. Normally, you see these plans by Code within forty days or so, but this is something that we have been working on for a long

time and we think that these efforts have brought you a much better plan a year and a half later than you would have seen in forty days, and we would ask you to take that into consideration this evening because, I think, throughout this process it has actually worked, not only to our benefit in terms of a better plan to present to the City, but also to the City's benefit. I would be happy to answer any questions you may have or touch on any issues you may have questions about.

Ms. Mary Lou McDowell: On the tab on the second page where you have highlighted the analysis of the Route 896 and Cleveland Avenue/Hillside Road intersection and the final sentence highlighted says that it causes significant impacts to the surrounding properties including a church and, therefore, is not recommended. The following sentence says, "An alternative means to addressing this congestion and the congestion at the nearby intersection of Hillside Road and West Main Street might be to build a connector road through the Country Club site from Delaware Route 896 to Delaware Route 273." I would like to know what your comment is on this.

Mr. Tucker: Yes, Mr. Lopata addressed that in his report, and I will not speak for Mr. Lopata, but just to summarize, I believe his position is that it is not something that the City is interested pursuing. In DelDOT's report on another page, they ask us to consult with the City on that and try to determine an alignment to dedicate that right-of-way, but ultimately, that is something that the Planning Department did not think was desirable. I will let Mr. Lopata drill down into that because I do not want to speak for him.

Mr. Begleiter: The question was your view, though.

Mr. Tucker: What is our view on that? I will let our traffic engineer drill down into that. I think there are some practical problems with that given what is already happening on either side.

Ms. Best: One of the issues with that would be, where you would connect it. There are a lot of properties in the way. There is not a natural point to bring it in. You do not want to bring it in up Country Club Drive. You do not want to bring it in the middle where there are other issues. We did do some looking at what might be feasible and it was difficult to find something that was actually a feasible alignment to go through and provide that alternative. It may be something that could be from a traffic standpoint depending how close you bring to signals. You do not want something coming in immediately adjacent to the Hillside intersection on Nottingham Road because you want good spacing between signals. There are a number of issues of practicality.

Mr. Lopata: Mary Lou, you immediately seized on the biggest dilemma, the traffic issue. If you look through all this material, you see on the one hand it is acceptable to the State if certain things occur. On the other hand, things that could occur are probably not feasible. There is certainly more discussion that needs to occur between us and DelDOT. It is feasible to put a corridor through this development, we do not think it is practical or politically possible. As you already know, and I neglected to mention at the outset, you received a petition from residents on Country Club Drive concerned with the connections currently shown. I cannot begin to image the length of the petition we would receive if we were going to build a major highway through this development. So, that is a problem.

The other related part of that is, you reference the New London Road/Hillside Road/Cleveland Avenue intersection, which obviously is the most heavily traveled intersection in that area. There does not appear to be a solution that is being proposed here one way or the other. The obvious solution, of course, that comes to mind to me is to build less units on the site.

Mr. Rob Osborne: I think you have done a good job in terms of addressing many of the technical concerns are required to meet State, County and City Codes. I think a question on a lot of our minds is that we have not seen pictures of what the housing development may look like. What is the architectural style? What different models are available? So, I would like some comment on that. I am also wondering what other projects the Aston Development Group has done? Who are the principals and what other projects have been done to use as references to demonstrate the quality of work that they do?

Mr. Tucker: Regarding the architectural examples, I know you often, as a Commission, see those on smaller projects. They are not required by Code for this particular project under the current Code that this is preceding through the process under. The reason why we did not present or volunteer something otherwise is because of the size of this subdivision, like many subdivisions of its size in New Castle County, there will in all likelihood be multiple builders that will build on this location. This site is not under contract with a builder right now in part because it has not been finally approved. So, it would be, I think, misleading for us to come tonight and present you architectural drawings of the homes. We can estimate the price range because of the area, because of current values, between \$500,000 and \$700,000. We think that is a fair estimate, but in terms of the actual style, we are just not at that point with any builders at this stage. Again, I think there is a fair chance that there will be multiple builders in this project. There are builders that are interested in it and have contacted our client, but there is no contract currently.

Also, I would like to briefly point out before moving on the next question is regarding the density issue that was raised a little bit earlier. We are at the 2.2 mark. We are not at the three dwelling units per acre, which is what the Comprehensive Development Plan calls for as a maximum. I just wanted to point that out to folks. I know there is a concern about the traffic, there is a concern about the site, but we are already at a lower density than we could be asking for.

Mr. Osborne: I think those kinds of concerns have been studied and well addressed.

Mr. Tucker: I will let Mr. Stritzinger comment on some other development sites he is working at. In all likelihood he would not be the home builder. He would be the site developer.

Mr. William Stritzinger: I represent Aston Development Group. I live at 271 W. Main Street, across the street from the property. We are, as you all are probably aware, working on the Aston Pointe project in Maryland where the new golf course is being constructed. These are our first two big projects. My family, who are the principals of the company, have done some commercial work down in North Carolina. Prior to that, we had a computer business in Newark for eighteen years. I was born and raised in the City – 39 years. Like I said, I live across the street from the project.

Mr. Osborne: What is the strategy in place for construction? Is this owner resources or sub-contractors?

Mr. Stritzinger: In terms of site development?

Mr. Osborne: Yes.

Mr. Stritzinger: It would be through Aston Developers.

Mr. Osborne: Sub-contracted?

Mr. Stritzinger: Yes, we would sub-contract it.

Mr. Osborne: Mr. Tucker mentioned that none of them had been selected yet – the builders.

Mr. Stritzinger: No, not yet.

Mr. Osborne: What is planned for the existing Country Club parking lot? I know that currently the church uses the parking lot and I do not know what the plans are for the additional parking that is used on Sunday mornings.

Mr. Stritzinger: You may or may not be aware that the clubhouse was built in 1957. Structurally, it is good shape, mechanically, it is not in great shape. As part of this plan the clubhouse would be taken down and the parking lot would be removed as part of the plan that is shown. I believe the current deal between the church and the club right now is kind

of overflow for each other and the parking lot would be going away in the current plan. I believe that agreement is an informal handshake deal between the church and the club.

Mr. Osborne: The plan for maintenance of the detention ponds, is that to be done by the development through a civic association?

Mr. Stritzinger: The City would take over all those facilities now.

Mr. Osborne: The maintenance of the open space?

Mr. Lopata: The open space will be turned over to the City. One of the things in our conditions is that we would prefer that the maintenance association take some of the smaller areas, but the bulk of the open space will be City parkland.

Mr. Osborne: It would be mowed?

Mr. Lopata: There will be a park on the site – that is our intention – it would certainly be mowed.

Mr. Osborne: The City would maintain the walkway?

Mr. Lopata: One of the comments you will note, we are suggesting some slight alterations in the walkway just for that reason. We have had good experience with walkways when they are totally in public areas, and not so good when they are in areas that might be privately maintained. So, there are some suggestions to reroute the trail so it is clearly public open space and not in the private area. But, yes, we would maintain it once they have built it to the Parks specs. You will note the comments about maintenance paths to get to buildings. All of that is in the report in some detail.

Mr. Osborne: Now that I understand that it could be multiple builders, is there another point at which builders would submit architectural plans to the Commission to get feedback from the community?

Mr. Lopata: As I think either Shawn or Bill mentioned, this particular plan because of when they applied, did not come under the requirements for the kinds of architectural renderings you are talking about. They submitted their application beforehand, so they are not required to do that. Like most of the subdivisions in the City pre-2006, they are not required to provide artist's renditions. This process is the last shot in terms of public hearings, Planning Commission and ultimately Council. Developers routinely bring artist renditions – not always as Shawn mentioned. It really depends on the size and scope of this project. It is quite obvious that the intent here is to try to get the project built and then pieces of the project or the whole project is going to be sold to other builders. You are reviewing a site plan not houses. Rightly or wrongly, that is what you are doing now. Every major subdivision plan that you see from here on after will have building elevations.

Mr. Osborne: If I go back to the site plan, one of my observations was the plan depicts the houses being set back from the street a pretty consistent distance. It looks pretty uniform. This is just some feedback and I do not know what we want to do with it. I guess I would like to see some variety in terms of setbacks and things like that, if this is the plan that we are moving forward with. I have some reservations about . . .

Mr. Lopata: The house location within the rectangular boxes that you see can vary. The setback is 25 feet typically in this zone but certainly they are not required to build to the setback. Most builders do, but they can have houses, like in my area, they vary. Those little boxes are illustrative. That will not tell you where the houses, necessarily, will be.

Mr. Osborne: Ultimately, each builder can set it back further than that?

Mr. Lopata: They must be a minimum of 25 feet setback, 30 feet rear yard, 10 feet side yard with a 25 foot aggregate. They have to be within that little box. Sometimes with corner lots they will skew the house, which usually looks nice.

Mr. Bowman: Does anyone else from the Commission have any questions?

Mr. Chris Hamilton: Your traffic studies, 74 vehicles getting out of Radcliffe and Nottingham Roads. There are two entrances on Nottingham Road. Is that all the traffic coming out of the neighborhood or are you expecting half of it to get out of the Bent Lane exit?

Ms. Best: The total outbound in the morning is 148 vehicles amongst the three driveways. One of the things with this plan, given the neighborhood, there are multiple ways to get out which helps to disperse the traffic rather than at some sites where you end up with one or maybe two locations and everything comes out onto one street. This one does provide some dispersion of the traffic.

Mr. Hamilton: Following up on that, what is the traffic count for the Bent Lane exit? If you are saying 74 are coming out of Radcliffe and they do not need a traffic light there, just a little ways down the road there is another major exit.

Ms. Best: The 74 is in the morning peak hour. I did not remember all the numbers off-hand. The other entrance in the morning outbound, we only had eight coming out of there. The study was done before the driveway was switched. The driveway that was over here was over there, so there would be some shifting if we were to do a reevaluation of the volume. We still feel the bulk would come out opposite Radcliffe.

Mr. Hamilton: You are expecting about half the volume to go the other way. I am just concerned that if it is so close to meeting to at least one of the Traffic Study's warrants . . .

Ms. Best: But, it really is not close at all. It is close for one hour. It has to be over that number for eight hours.

Mr. Begleiter: Considering that you are not required, at this point, to offer us or the public any type of description of the nature, quality and character of the development that will ultimately arise on this property, wouldn't you agree that if the lots were creatively distributed, artistically designed, maybe not all the same size, and I know that all of these are not the same size, but I will bet just glancing at it there may be a dozen that are not the same size. Wouldn't you agree that that would encourage developers – whoever they may be in the future – to put houses on the site that would result in a beautiful development rather than multiple dwellings of the same type and style? What I am getting at and what I would really like for you to answer is, in your heart of hearts, are you proud of the way this development is likely to come out as distinct from being Code compliant? I understand it is Code compliant, but are you proud of it and are your clients proud of it? Is this what you had imagined turning one of the most beautiful remaining sites in the City of Newark into?

Mr. Tucker: That is one of the toughest questions I have had in years, but it is a fair question. I will do my best to answer it.

Before practicing law in the private sector, I served as the Planning Director for New Castle County for some years. I was heavily involved in their current zoning and subdivision code. I have seen as many plans as some of you have seen over the years in many jurisdictions, and when I look at Fairfield and I look at Nottingham Green, which I am sure we have a lot of folks here tonight from those communities, this subdivision is a significant improvement over those. The reason it is because of the amount of open space that is being provided that is not provided in those subdivisions, is because of the landscaping that is being provided that was not required for those subdivisions. The ponds and other features are benefits that come with this that you typically do not see in any subdivision. Quite candidly, this is one of the nicest subdivisions I have seen in ten years in a residential setting in New Castle County including the City of Newark. Having said that, I do not disagree that through other creative design you can vary setbacks as was mentioned by one of the Commissioners this evening. You can vary lot sizes. You can do other things to create some more creative design from an architectural standpoint.

Under the Code that we processed under, our client had a choice of what path to take, either the subdivision path as a major with the requirements that, as you mentioned, are

there that we are following, which are legislative requirements. We are following them as we are supposed to. The site plan review, which is mentioned in Mr. Lopata's report, is certainly is something that we considered. We considered it very strongly. That would have given some more flexibility in terms of creative design. There is no doubt about that. However, the burden that comes with that is, it is a discretionary approval. It is not a by right approval. That plan would have certainly included townhomes and condominiums, and we do not necessarily see that character to our north and south. We have heard from some folks that that would not be a desirable mix of units given the current character of single family detached. I suspect that if we were presenting townhomes and condominiums this evening, there would be people here very upset about that.

Those are some of the things that my client, and quite frankly, all of us struggled with in deciding how to move forward. At the end of the day Mr. Stritzinger, after investing five years of his life in this project and significant sums of money, decided along with investors that they had to proceed forward under the "by right" option for a lot of business reasons. So, some of this has been driven by practical business decisions that all developers have to make. Having said that, we are not foreclosing the possibility that as we move forward and receive final approval that a future developer or builder might not come back and see if there is an interest in a site plan option that would provide much more of the flexibility that I think you are referring to. And, really, I think the temperature of the community has to be taken as to whether townhomes and condominiums are palatable. Maybe we will hear some of that tonight. If there are people here that would rather see that, we will certainly be listening. We will be sharing that with potential builders. For the time being, for a host of fairly complicated business reasons, our client has sort of had to follow this path to keep this project a float. That is very candid and honest, and it might be more than Bill wanted me to say tonight, but that is where we find ourselves.

Mr. Begleiter: Thank you for that answer. I, personally, would have been delighted to come and be shocked and awed, overwhelmed by the artistry of the proposal at hand and be, in effect, forced to say wow, there is no way to raise an objection to a plan like this because it is so powerful in its nature. But, unfortunately, I do not see that here.

I have a question about the traffic plan. The D, E, and E characteristics of the two intersections – the one at the railroad tracks and the one at Hillside and Cleveland. Do the E designations remain in place even with the improvements that DelDOT is claiming it is planning to make starting in 2012?

Ms. Best: The improvement they are talking about is Elkton Road. The two intersections you are talking about are not in that area.

Mr. Begleiter: Even with those improvements, those two intersections remain the same?

Ms. Best: Nothing will be done under the DelDOT project.

Mr. Begleiter: Mr. Swift, you said that it would be difficult to point out bio-retention swales. One of the difficulties with this plan is that it does not show the bio-retention facilities.

Mr. Swift: it would be difficult in this form, I think.

Mr. Begleiter: Was it difficult to point out every one of the 271 rectangular shaped or maybe it is 260 rectangular shaped lots?

Mr. Swift: We did locate them on a plan. In this form, it would be difficult to show on the plan that we have.

Mr. Begleiter: What about in this form?

Mr. Swift: We submitted a preliminary stormwater management plan to the engineers and we preliminarily located these bio-retention facilities. I would be glad to show you the locations of them on the plan, if you like.

Mr. Begleiter: I am only asking because the Planning Director has pointed out that they are not in the plan, and I do not know the technicality of the law as to whether they are required to be in the plan, but he is recommending that they be required to be in the plan before it goes forward. It struck me again that this was one of those cases where you said, “ah, never mind. We will get by without it.”

Mr. Swift: We did extensive analysis and we did locate them.

Mr. Begleiter: So, that plan exists?

Mr. Swift: It does exist.

Mr. Tucker: I just wanted to offer this one thing because I think it is important for the Commissioners to know what we have been through over the last year and a half. Actually, we had showed a plan where there was bio-retention behind all of these lots. We had several meetings with DNREC. They wanted that bio-retention behind all of those lots. In DNREC’s mind that was Code compliant. The City, rightfully so, had concerns about taking over that responsibility and maintaining those bio swales because, essentially, the soil biodegrades in about seven or eight years and the soil has to be taken out and replaced, which would have been a significant cost. Through additional meetings which, I think, the Planning Department had encouraged, the engineers were able to come out with a system where they could minimize some of that additional cost and, in particular, realized the need was not as great in this area because, essentially, it was only going to be the back yards that were going to be draining into those bio swales. But, there are bio swales, as Mr. Swift indicated, throughout the subdivision and certainly, if you or other Commissioners would like to see that, he could come up and give you an approximate location, if you would like.

Ms. Dressel: I was looking at the plan that we had received in August and then this plan, and I noticed a discrepancy in the number of acres. In August, is said 117.595 acres with 268 units and, then, this plan that we are reviewing now is 120.391 acres with 271 homes. I was wondering if you could comment on the discrepancy there.

Mr. Tucker: I can answer the one question about the number of units. And fortunately, we have Mr. Hess here who will explain about why the acreage changed. But, in terms of the number of units, originally, as you probably noticed on the August plan that was sent to you, the open space was located more in this area. One of the Planning Department’s comments – it may have been Parks and Recreation’s comment – was that the open space be more centrally located. There was a redesign. That is one of the reasons why we requested that it be tabled on the August agenda so the engineer could redesign the site and relocate that open space. In so doing the cul-de-sacs were brought in to where that open space was originally. Through the design of those cul-de-sacs an additional three lots were picked up. That got us to the 2.2 and some change in the overall density. So, that is how the three new lots got added.

Ms. Dressel: Since you brought up the cul-de-sacs, it understood that we were hoping to move away from cul-de-sacs because of the movement through, fire safety and other protective kinds of services. Is that true or did I misunderstand?

Mr. Parley Hess: The acreage issue was one that came up as we reconfigured the lots. We ran a new closure on the property and discovered that we had made an error with the original closure on the property, and that is where the 120 acres came from. Also, a small portion of that 120 acres was the connection through Fairfield. That lot was not included in the original numbers, but it did make up the difference between 117 and 120 acres. It is a quarter of an acre. When we ran the closure we had a bad number and we corrected it about three or four months ago. It has been carrying through now at 120 plus.

Mr. Bowman: Let’s take one last question from the Commissioners and give the public a chance to speak.

Mr. Hamilton: Can we go back to the traffic? You said 148 vehicles were leaving, 74 out of the one exit and 8 out of the other. That leaves 62 – almost half of it – going out on

Country Club Drive, which is a very small road compared to Route 896 or 273. Is there any concern from you that nearly half of the traffic is going to go out the back way.

Ms. Best: The percentage distributions were developed based on patterns and where we think people are going to go in the morning. Those percentages were reviewed and modified a little bit by DelDOT. The thing to remember is at 60 vehicles that is one per minute which is not really a high volume of traffic.

Mr. Stritzinger: The first plan that was submitted in April of 2006, the entrance was here not here. At the request of Public Works, this entrance was, basically, these houses, nothing else. So, a lot of the distribution that Susan is talking about is because there was only 20 houses on that back side. (Inaudible) When Public Works first the review in April of last year, they suggested that we move the entrance down to here, which is more central to the site. If Susan was to rerun that distribution it would not be a skewed as you see in this prior one. This actually did not exist because there was a question as to whether we were going to span that water or not. This, basically, came out down here. It is on a hill as everyone knows, which only had roughly 15 to 20 houses on it. So, the distribution was different because (inaudible). Susan, I am sure, will rerun that calculation.

Mr. Hamilton: Her comment was the distribution between those two exits on Route 273 will probably change, but based upon her traffic estimate, what you are guessing is that 60 of those people are going to go north onto Route 896, so they are not going to be using the two front entrances.

Mr. Osborne: With the two entrances, I am interested in seeing what the rest of the Commission might think of this, onto Route 273 that is funneling a lot of traffic through just two entrances. If you had a third entrance down there where Bill was pointing to, I realize one of the builders would be giving up a plot of land from which they profit, but maybe that would relieve some of the congestion at the three entrances. There are 271 houses in the neighborhood with just three means of egress into and out of the community, I am just wondering what you feel in terms of a third entrance on Route 273 relieving some of that congestion at the two bottle necks that are on the plan as it exists now.

Mr. Lopata: Rob, in light of the hour, we can continue to discuss that once you come back to the table. It is really important to get some comment from the public. Some of the residents may address those kinds of issues.

Mr. Bowman: We will now open the item to the public. I have about ten request forms, after that I will open it to the floor. I am going to limit each speaker to five minutes. I would ask that if what you have to say is redundant from the previous speaker or speakers, you limit yourself in that respect. I am taken them in the order that they were given to the secretary.

Ms. Kathleen Robinson: 502 Radcliffe Drive, which is one of the entrances right there. My concern is with traffic. The way I calculate this, if you have 271 houses – and having lived in Newark for many years, almost every house has at least two cars and if you have a teenager, you have three cars – I calculate that you have 542 cars that are going to be leaving this development every morning and coming back every night, which puts you at over 1,000 vehicle trips per day. That is only if they go to and from work. If they go to the grocery store, if they go out to exercise, if they have kids that they are taking to daycare or picking up, if they have teenagers, you are talking about over 2,000 vehicle trips out of this development per day. My concern is, you have put this entrance right across from Radcliffe Drive and one right across, from Bent Lane, even though that map does not show it the gentleman was talking about the other entrance being across from Bent Lane. Even if there is no light at that development, you are going to come straight across that intersection rather than turn right or left and use my street and my development at a thoroughfare. We have children who play in the street. We already have animals that get killed because of people who are speeding on the street or people that are not paying attention. If you do not have those people coming down Radcliff for Bent, they are going to be down on Casho Mill Road. We already have on Casho Mill Road have people from Maryland, which would include the people from the Aston Pointe development, people that are coming south on 896 and cutting through Country Club Drive and coming over Casho Mill Road and using that as

a shortcut to get to I-95. To me, you are adding so many extra vehicles that the traffic is going to be horrendous in the morning, especially on Casho Mill Road with the school right there and kids walking to school in this development, you are just asking for trouble.

Ms. Linda Stapleford: 802 Dallam Road. For those of you who are not that familiar with Newark, that means that I live in the “nefarious” development across the street.

I am speaking on behalf of the White Clay Creek National Wild and Scenic Program, the Watershed Management Committee. I have just a few background statements to make. Whatever it is 117, 120 or 122 acres that I had previously received, this property represents the largest contiguous open space owned by a single entity within the City of Newark, excluding the University of Delaware. It is the only centrally located large open space that could still be preserved. The large City parks are on the periphery. The reservoir park nearly equals that size, but half that acreage is the reservoir itself. The next two largest parks are William Read at 68 acres and Rittenhouse at 46 acres. It has been noted, the property straddles the Christina River and White Clay Watershed and the White Clay Watershed is a National Wild and Scenic River watershed. A tributary of the White Clay passes through this property and then through a residential area and then through the University of Delaware property from Route 896 going to the mouth of the White Clay Creek. This tributary was considered a high enough priority for protection that the University of Delaware recently received funding for a stream restoration project along the section. The intake for the City of Newark and the United Water Delaware water supply is downstream of this White Clay Creek tributary. Together these sources provide water for almost 110,000 people. The U.S. EPA nutrient and bacteria, total maximum daily load standards for the Christina River Basin which includes the White Clay sub-basin; the TMDLs require a significant reduction in the current nutrient and bacteria levels in order to improve the health of the streams and return them to their fishing and swimming status. Suburban development compared to good golf course management is a known significant contributor to high nutrient levels and thus represents a likely nutrient loading increase. In view of these facts, we make the following comments on this proposal.

Although the plan has been noted meets the general requirements, it does not go beyond to incorporate innovative conservation design elements or green technologies. Other than the buffers around Nottingham Road and the one around the contiguous neighbors, the basic layout makes no attempt to cluster housing and has a look of standard plans submitted in the last half of the century. In view of the fact that this has been green open space with the City since the early 1900s, this plan lacks the sensitivity to the surrounding community in the environment that it might have had. I also will note that, certainly, if you compare the developments of Nottingham Green and Fairfield, which were built in the 1960s, to this 2007 plan you will note that this plan looks better. My gosh, I would hope so. The 38 acres of open space that are touted in this plan also include required stormwater management areas. So, this is not a gift of 37 acres of open space.

Wild and Scenic Review – in addition to the City’s recommended agencies for environmental impact review, the applicant will be required by Section 7 of the National Wild and Scenic River Law to submit the project to the National Park Service. The White Clay Creek and its tributaries Watershed Management Plan notes that 250 feet either side of the designated stream is included within the White Clay Watershed designation. The management plan states that a riparian buffer of a minimum of 100 feet as measured from the top of stream bank should be maintained. Since the stream that is on the property is currently not protected by such a buffer. The development plan should require planting native woody species to provide such buffers.

Stormwater management, as noted in a lot of the comments tonight, is very complex. In view of the concerns that I am going to list below we request more time be provided to citizens groups to obtain the necessary professional review required for substantive comments. Nevertheless, it is obvious that any increase of storm flow is significant to the health of the White Clay and the White Clay Watershed Management Committee would encourage the developer to work with the community, the City of Newark, local conservation groups to consider other mixed use scenarios that would preserve as much open space as possible. There is significant downstream erosion and flooding areas and watersheds – the Commission has more details on this – obviously any increase in

impervious surface is going to exacerbate these conditions. There was a TR55 hydrograph model pre and post storm waters study done on this in that it showed increases from 18 to 116 percent and stormwater runoff depending upon which watershed you were talking about and which kind of rainfall you were talking about. In order to ensure that the volume reduction peak flows will be met as required in the White Clay in the City's report, a careful review by other parties of the stormwater management is critical.

In addition, the developer should be encouraged to explore the application of using augured holes through the poorly infiltrating layers within the swale to alleviate and prevent persistent wet conditions. University of Delaware Water Resources Agency and the Department of Geology can provide input on their recent experience of this application in a rain garden constructed on campus that was very successful.

Open space and landscaping plans and management -- the importance of mature trees to watershed health has not mentioned. The City Parks and Recreation Department's suggestion that more existing trees could be saved through site design revision should be reworded to say that the City will require a tree-by-tree review to determine which trees could be saved. In particular, for reasons stated below, native trees should be retained whenever possible.

Mr. Bowman: Ms. Stapleford, I hate to interrupt you, but your time has expired. I would suggest that you enter your letter into the record. If you have additional comments after everybody is finished, I will let you come back. We have now at least one hour of other people who wish to speak.

Ms. Stapleford: I do hope somebody will address fiscal impacts, because I do have some questions on that.

Mr. Osborne: That was a question of mine. Are we limiting the amount of time.

Mr. Bowman: Yes we are.

Mr. Osborne: What is the limit?

Mr. Bowman: Five minutes.

Mr. Sean Casey: 108 Country Club Drive. I am very concerned with the fact that they are going to be destroying a house in our neighborhood to put a street into our neighborhood. I am also concerned about the traffic that, apparently, Ms. Best does not think is going to effect us when there is going to be probably an additional 500 cars. I drive on New London Road. I do not understand how anybody who drives on that road can think that it can take any additional traffic. Casho Mill Road is almost as bad. I have a lot of concerns and I do not think they have been addressed by the developer at all.

He said that 70 trees were going to be retained. How many trees is the developer destroying? Does he have a number for that?

That pretty much covers my concerns but how anybody can even consider destroying a house in order to put in a street and increase traffic into a development that really is being used as a cut-through right now. We have people coming from Pennsylvania and Maryland cutting through Country Club Drive. This is going to increase the amount of people that come through, and it is going to dump a lot more traffic going to the super market which is right down the street as well.

Ms. Frances Hart: 257 W. Main Street. Several of the issues that I had with traffic have already been addressed, but I wanted to say that we live on Main Street and in the morning between 7:00 a.m. and 9:00 a.m. in order to get out onto Main Street, we have to rely on someone's kindness to let us out of our driveway. It is so jammed up. A lot of the traffic comes from Maryland, Christianstead – out that way. It is unbelievable right now. With the train, everything backs up when that is there. Also, there are only four streets that go to Elkton Road from the other side of Newark. If they are jammed up nobody can do anything.

Also, I have an issue with the storms and the stormwater. If everything is paved over – streets, driveways, sidewalks – that is going to increase the amount of water that cannot get into the earth.

Ms. Margo Perkins: I live at 5 Bent Lane, and I will be trapped between Radcliffe and your new exit. I will never be able to get out onto Nottingham Road except at four o'clock in the morning. Right now there is heavy traffic on Bent Lane at work hours. It is a good way to come in from Nottingham Manor. I think if you look at your maps, there is no conformity to the area. If you look at Country Club Drive, the properties that back up are much larger properties. I do not think there are many 80 foot lots in through the Nottingham Green, Fairfield area. I would hope that there will be reconsideration of putting in a light at Radcliffe because nobody is going to be able to get out.

Mr. Patrick Hart: 257 W. Main Street. Most of my concerns have been addressed. I just wanted to make a comment on the title of the development – Country Club Estates. There really is no more country club involvement and the trade off was to property out in Fair Hill, which is to be Newark Country Club which is not in Newark. The other issue is, I think it is kind of a bad trade off as far as the golf clubs are concerned. I have been out to Fair Hill and the topography does not compare to the present topography of the Newark Country Club. In the future, the Country Club is going to have a hard time unless they get a good cut of this \$150 million project. I would think that they should end up with at least \$10 million in the bank at the end of it all, otherwise, they are going to have a hard time competing with the 20 other golf clubs which are also searching for members.

Mr. Eric Rise: 3 Briar Lane. First, I would like to say that I agree with Professor Begleiter that the site deserves better. Although I appreciate the efforts made in terms of preserving green space, what you have when you look at the site plan is a typical subdivision probably cookie cutter homes smack in the middle of the property. I would really like to see a design that preserves some of the views, some of the site lines, recognizes this as a wild life habitat, recognizes that this is part of the White Clay Creek watershed, maximizes open space, and clusters housing. I do not see any of that in here. I do not know if anything can be done about that, but I wish that was there. I would like to see more trees on the property. If anything can be improved, having trees is better than having grass. I believe Mr. Lopata mentioned the Planning Department would like to see more trees, and I think that is something that should be addressed by the Commission.

I will go back to traffic. Anyone who has tried to go east on Nottingham Road in the morning or afternoon, tried to get to Elkton Road, or tried to turn on Hillside Road knows that regardless of DelDOT figures those do not correspond to reality. I think we have to consider the impact that this is going to have on surrounding roads – Briar, Bent, Radcliffe, and Dallam – these cars are going to be coming out of this new neighborhood and going to be turning on all of those and that concerns me. The level of service issue does not seem to me that great that it will stay a D or E. I would also submit that even if it stays at D, there is a big difference in waiting at the light for 35 seconds and waiting 53 seconds, which is the range. So, that is something to consider.

I hate to pit neighbor against neighbor, if this development is going in there, there has to be some outlet at Country Club Road. It cannot be expected to all spill onto Route 273. The load has to be dispersed somehow. This is an unfortunate solution, but there has to be multiple egresses to this subdivision.

Ms. Jean White: 103 Radcliffe Drive. The name of my street should indicate that I have a strong reason to be interested in the outcome of this project. In fact, I live just one block from Nottingham Road and the Country Club where I have lived for 37 years. So, I know the area.

When I first heard the Newark Country Club planned to sell off its property for development, I reacted with shock, then with irritation and dismay. I have managed to come to terms somewhat that development will occur, but now I want this to be the best and most excellently designed project in terms of innovative land planning, layout, architectural design of buildings and environmental considerations with as much open space as possible. This plan has some good attributes and is an improvement of that in July/August. Your

planners and engineers have been busy and have done a lot of work, but this plan still is a long way from something that would represent an enlightened advance from the typical cookie cutter development – all the houses pretty much on the street – that has typified housing developments of the latter part of the 20th Century. For example, when you look at this you cannot tell that it isn't just a completely level bit of land, which you might think when you look at that.

What would benefit the community, most importantly, aside from adding a small number of assisted living unit that I know some people would like, is to have different types and styles of houses, not all huge 2 ½ story houses but some larger other smaller, perhaps, cottages/bungalows that fit in the lay of the land with top grade materials and amenities. The latter, though a bit smaller, would command the higher selling price that the developer wants, to make a profit, and would give a variety of housing to the development in an interesting way for different needs. There are also other options like clustering. For example, Evergreen is a clustered housing which I believe was done by site plan approval, which is RS zoning just like this and is single family homes, not townhouses, for example.

There are 200 specimen trees. So, 130 of those 200 specimen trees, according to landscape blueprint #6, are being cut down.

I strongly ask of you the developer not to put in your deed restrictions a deed restriction against outside clotheslines. In this world crisis of global warming, all households should have the option of drying their clothes and linens outside by the sun. Every household would be able to have a dryer if they so wish, perhaps, because of necessity due to age, infirmity or job, but no one should be denied the opportunity to have outside clotheslines. Hanging up clothes on the clotheslines represents cleanliness, honest effort and energy conservation.

Environmental contamination – golf courses are notorious for their very high use of herbicides and pesticides in keeping their greens, fairways and other grasses pristine. Many of these chemical compounds have toxic aspects. The Country Club should give us the tests that they have presumably done on the soils, including the locations, the number of inches into the soil, the chemicals, who did the testing and the results. That should be made public. We the people of the City of Newark deserve to have that information made public, not to mention those who will eventually live there. This has been a golf course, I believe, some 80 years, so there has been a lot that has been put on it in all that time.

Mr. Robert Bennett: 117 Dallas Avenue. I am also a member of the Conservation Advisory Commission. Imagine a young family with a child about five or six years of age who is going to go to Downes School, and they have just bought a house here. They would like to think that the child could walk to school. It is not that far away. These kinds of developments, unfortunately, this is an unimaginative copy for, have a certain prison-like design to them. There is much to be said for the old grid pattern. I live within the City of Newark in a grid pattern and I do not feel isolated. I just feel how uncomfortable it would be in a community like this. What a shame, given its location and its possibilities. I am for infill. The alternative is something like this five miles out of town, and they are just going to create the same kind of problem this is going to create. But, it needs to be done, as Mr. Begleiter mentioned, imaginatively and in response to native environment and surrounding environment. So, I would strongly urge that these points be considered by the developer.

Mr. Mark Sharnoff: 43 Winslow Road, which is close to the intersection of Winslow and Orchard Roads. Orchard Road is an easy conduit between two principal arteries – Delaware Avenue and W. Park Place. Winslow Road is an easy conduit between two principal arteries – Elkton Road and S. College Avenue. I find myself comfortable living in that location, and I am pleased that traffic can get through where it has to get through. As I look at this development, what I see is something that dates from the 1970's. I wonder if the developer has thought of putting sidewalks in the development? What I see is a traffic funnel, not a traffic diffuser. We all know what traffic funnels do and that has been addressed by many other people. Mr. Bennett has done a nice job of talking about that.

There is one other thing that I want to mention. There is a shopping center near the northeast corner of this property that incorporates a supermarket, a liquor store, a drug store

and various other enterprises – right there at the northeast edge of the property. Someone who lives here might take a bicycle to do the grocery shopping as I did in the early years of my residency in central Newark when I took my bicycle to shop at the ShopRite in the Park ‘N’ Shop Shopping Center. Somebody who wants to take a bicycle to get to the supermarket here, is going to have a long way to go to get out. There are furthermore, from Route 896, three street endings that back up to this development that are not blocked by houses. The streets just end. Why is there no plan to connect those streets to the grid that ought to be in this place instead of a bunch of curlicues?

Ms. Pam Bunting Lewis: 223 Cheltenham Road. My first house was where Bing’s Bakery now stands. I did not here anything about the impact on the schools, whether an increase in population is going to change the schools at all. The Casho Mill Road intersection was not addressed. I have already figured my route. It is Casho Mill under the underpass and over to Elkton Road to avoid all the backups that are currently there. So, I heard no study of that. New London Road and Route 896 is already backed up to the railroad tracks at certain times of the day. I saw a car backed up and stopped right smack dab on those tracks the other day. I would love to see a study report of the number of accidents at Elkton Road and Apple Road to include mine and my neighbor across the street just within the past two years. I think you need safety cameras there so they can have the replay on that. My greatest concern in this is the homes on W. Main Street that will then have to face the backyards as the current layout of cookie cutter homes exists. I think that is very unfair to the people on W. Main Street. I am wondering about the berming along W. Main Street. Is that going to be an anticipation of the widening at some point of Main Street as development continues out into Maryland with the new golf course? I ran into that in development with my own home at one time. Next, I consider this to be the crown jewel of Newark. The Newark Country Club, that beautiful open space which will never be given back. It seems to me there should be rolling hills, a creative flow of properties, a five par golf course, putting green and putt-putt for the kids, a tennis club and a beautiful island type swimming pool. I could see beauty in that if it has to be sold, which is already has been. That was a decision of the Country Club. The developers would never believe they would hear me say this after the battle I went through once, but somebody had to develop it. So, when everybody is directing their questions, their frustrations and their concerns, please remember, these people are representing whoever they are representing. Somebody had to do it. The fact is that it got sold. I went through a huge development dispute in Reston, Virginia – road widening, my beautiful new home. Everyone was in an uproar. We went through meeting after meeting, and I miss my home. It all got developed. The road widened. We all went on and I miss my house. So, that is the way it ends.

Ms. Kim Riggs: 103 Delrem Drive, Fairfield. A lot of the concerns I had have been addressed tonight. Traffic was one. I think we also have to look at the roads that are close to that areas where some people have addressed – Cleveland Avenue to get to all those funnels and Route 72 is a mess now. So, I think more studies have to be done on indirect roads that will have to get to the development.

Another concern I have is with the drainage. I back up to the creek now off of Delrem right off Route 273, and it is a huge problem when there is heavy rain. My concern is that they will look at that. I have water that will come into my yard now. I do not need any more water problems than I have. So, I ask that that be looked into a little bit more before they develop.

Mr. David Berkabough (sp.): Where I live does not matter because I am here speaking for the Presbyterian Church. I am a trustee at the Presbyterian Church next door. I appreciate Rob’s point and that is the Presbyterian Church does use a part of the parking lot. In 1997, I believe it was, the Country Club wanted to build a larger swimming pool so they asked the Presbyterian Church to do a land swap. The Presbyterian Church gave them land, part of which is the swimming pool, and they in turn gave the Presbyterian Church behind what is Memorial Garden of the Presbyterian Church. When I heard you make the comment that the parking lot will go away, I also looked at your plan and realized you were not actually building houses where the parking lot is that is being used. Perhaps what we need to do is do some talking because the Presbyterian Church has some land at the back we might use to swap back. In other words, there is a concern about parking. There are people that use that parking – not just the Presbyterian Church that overflows there on Sunday morning, but the

recovery community on occasion overflows there. There might be a possibility that we could swap back some land and you would end up with more land and you would not have to be trying to tear out a parking lot to turn it back into something else. We might be able to leave it as a parking lot.

Elizabeth Walker: 729 Bent Lane. I share all the other issues of traffic and the impact that it will have. My main concern and perhaps it is minor, but to me it is not. We share this world with animals. The Country Club provides the last big open space for the animals that we live with – the birds, rabbits, fox and deer. We are taking this away from them. There is nowhere for them to go. I know that it is inevitable but I just wanted to express that that is a concern, and I think that it is a very sad situation that we cannot keep the space open for the animals that we share a planet with.

Ms. Anita Peglisi: 700 Dallam Road, which is on the corner of Radcliffe and Dallam. Obviously, traffic will impact me and all those other people in our development. That has already been talked about quite a bit and it is very much my concern. One of my major concerns, and it has been one of my long existing beliefs is that when you are going to build a new development or you are going to do anything like that, that you need to communicate with the people around you. You need to let them know what you are doing and you need to let them voice their concerns. Coming to the Planning Commission is fine, and it was advertised. However, there are many people not here tonight and many people with concerns. It is very important to allay their fears – I am addressing Mr. Stritzinger. I thought there was some kind of code that you had to let your neighbors know what was going on? It does not apply in this particular development?

Mr. Lopata: For rezonings.

Mrs. Peglisi: Only for rezoning. Well, since you are so close to your neighbors in Fairfield, your neighbors in Nottingham Green, it would be a good idea.

Mr. Ezra Temko: 42 Lynn Drive, Fairfield Crest. Most of what I wanted to say has been said so I am not going to go into it. I think public hearings are often one of the worst ways for a conversation between a developer and the public and wish that the community had been involved in helping to develop this plan. I just wanted to make sure that in the responses that there were a few things that were explicitly addressed.

The first, why was a cluster development not chosen for the plan? Second, I think originally the plan was to mirror on W. Main the setback estate homes. Third, I wanted it addressed about that explicitly there was going to be no additional runoff from this site and how that plan was going to be established. And fourth, I would like for you to address the affordability of the homes here.

Ms. Sue Wiltbank. I live in Evergreen. It just has occurred to me tonight that I really do not know in today's world where 271 families are coming from who can afford to pay \$500,000 to \$750,000 for their homes considering the market and considering young families who have maybe a start. I find it very sad.

Mr. Carl Danberg: I live on Dallam Road in Nottingham Green. Perhaps this development is a "fait accompli." But as someone who grew up here, I wanted to let you know how it made me feel. I grew up doing some things that maybe I should not have done like sledding in the Newark Country Club, ice skating, playing ice hockey on one of the small ponds, and having snowball fights with Mr. Griskowitz's sons who routinely pummeled me. I always grew up thinking that I would be a member of the Newark Country Club when I had the time and the money to actually play golf, and I find it sad that it is going away. The development that is planned is relatively unimaginative and that is disappointing. But, frankly, I am disgusted with my town that I love so much. I have never seen such a lack of leadership. The City of Newark's traffic problems have been here for 20 years. You have seen this coming and you have done nothing. You have blamed the State. You have blamed the County. You have blamed Cecil County, Maryland, but you have done nothing. Frankly, Mayor Funk, friend though he is . . .

Mr. Bowman: Mr. Danberg, I am going to interrupt you. If we could stick to the subject tonight, which is the development before us -- I really do not think this is a forum for this type of harangue. I appreciate your comments, but let's stick to the development.

Mr. Danberg: What I am asking you to do is to show some leadership. The traffic issues here are terrible. No matter how many cars you are talking about adding to the situation, you routinely come out to the intersection at 273 and go through two and three cycles of the light waiting through it. Routinely, coming down Cleveland Avenue, you are backed up through the next light to get to 273. We have traffic racing down and you know that it happens. We have them in the middle of the night and we also have them in the middle of the day, racing down Dallam, Radcliffe, Bent, and Country Club Road and this is going to exacerbate a problem that you have known about for 15 years. And, I have heard nothing -- not just you all -- about what this town is going to do about it. Maybe you are going to approve it anyway, but it sure would be nice that if in the process you decided what you were going to do about it. I am not mad at Mr. Stritzinger. He is a business man. I respect his right to try to make money, and if this is developed then God bless Mr. Stritzinger, and I hope that the development works out wonderfully. I sure hope we can get some better leadership from this town.

Mr. Aaron Smidowski (sp.): I live in Covered Bridge Farms. Just a technical question about the traffic level of service study with Ms. Best, the question that I have is about the 80 second delay that is quoted. Most of us in the room probably think that is a little unrealistic especially at peak time. Is that averaged over the day or is that a worse case scenario during peak traffic times? Secondly, related to that, what is the area of study that the traffic survey includes? Does it include out-of-state traffic also? Is there any consideration given to the development taking place out-of-state or is it just the 15 year projection related to traffic in the immediate area? Looking at the site plan in general, Mr. Tucker had mentioned an average of two houses per acre, but the minimum lot size stated is 9,000 square foot or one-fifth of an acre. I was just wondering what the actual average lot size is in the development and how that jives with the \$500,000 to \$700,000 quoted price? If you look at one of those squares, I am not sure that with a lot size of a fifth of an acre to quarter or third of an acre, are we really looking at that kind of development? Lastly, I hadn't heard anybody talk about this and maybe I am out of the loop, but the State has purchased several golf courses -- Deerfield, Garrison's Lake -- has anybody tried to go that route or are the funds just tapped out?

Mr. Lopata: Yes, we tried to go that route. When this first started there was lots of talk about that. We did exercise some leadership in that regard but we were not successful.

Mr. Rick Celeste: 815 Hilltop Road. I live in Fairfield 5. I have one observation. Historically, when we did Christianstead and West Branch and some of us in the room remember some of the fights that went on with that changing developers. The standards were very different than what they show here for Nottingham Green and for Fairfield. Fairfield 5 was put in with about a half acre minimum lot. Christianstead and West Branch are the standard that you should really be looking at. I think people who move into that location are going to use that as their model of what they would want to buy. That would be my only point for the developer -- broaden that horizon a little bit and look at the more recent development and not the historical developments.

Ms. Virginia Johnson: I live on Country Club Drive. We have been hearing traffic all night. My biggest problem with all this is the low density designation because you are pouring 500 more cars -- I am seeing that on Country Club Drive -- and I know we have talked about that. I know that Newark needs the taxes and the developer needs the money, but we cannot ruin the integrity of Newark and make it a little Wilmington or something. I hope Council will be thinking about that part of it.

Ms. Rosemarie White: 116 Red Pine Circle. I was not here before but I think most of my questions were answered. One of the questions that came out was, when they were putting the sidewalks in and the lakes that will be maintained, the City will take care of that. Does that mean that the City will take care of all of the sidewalks from now on or only in that development?

Mr. Lopata: Sidewalks, no, not the sidewalks and not in this development. The ponds, yes.

Ms. White: Then who will take care of the walking paths?

Mr. Lopata: The City will. They are not sidewalks.

Ms. White: That means you are shoveling snow on them, too?

Mr. Lopata: Not shoveling snow – no. In the wintertime they will not be able to use them. They are not sidewalks, per se, they are paths like through the countryside.

Ms. White: Who will mow the open spaces?

Mr. Lopata: The areas that will need to be mowed, the City will mow just like in a City park. These will be City parks.

Ms. White: So everybody has access to them.

Mr. Lopata: Absolutely, they will be public.

Mr. Bennett: 117 Dallas. I just wanted to respond to the issue she raised about the trail. The trail actually is in some ways like the Hall Trail, which is a good community enhancer because of young parents with children in strollers, bicyclists, roller skaters, runners, walkers, and birders all use it. It is really quite wonderful. This particular trail, I would like to have an access up here so it would make it possible to walk to the stores. Down here, it connects with the trail that goes along the Christina River. This connects with the trail that goes out to White Clay Creek.

Mr. Devon Johnson: 200 Wilshire Lane in Fairfield. Do not forget about the trash and the shrub you pick up and recycling.

Mr. Bill Pace: I live in West Branch. I was not going to say anything but I decided that if I was going to spill my guts on the driveway with my neighbor, I at least ought to stand up and say something here. When this opened, I was kind of excited because Mr. Lopata came through with a number of reasons why this development was not ideal. But as he got through with the end of that he said it was Code compliant so they would recommend going. The developer has said that it is Code compliant. That may be but it is ignoring a lot to do with the quality of life in the area. When we moved here, we picked Newark because it had a small town feel. I must say that that is disappearing very quickly, traffic being a key factor. One thing that I would ask is that you assess traffic. We have talked about that development, but has anybody looked to see what that is doing when it is added to the development on Casho Mill, when it is added to the development on 273 with the new golf course, and when it is added to the increase of traffic coming out of Pennsylvania. All you have to do is get on 896 a few times and I guarantee you that your sample will not be the sample we heard from the study. When you sit through those traffic lights three or four times going to church on a Sunday morning, going to the grocery store or just going to dinner and you sit through that traffic light two or three times, you find yourself wishing you had gone the other way – out Thompson's Bridge or cut back through White Clay Creek – anything to avoid that traffic. so, I really question the realism of the study that has been done.

One other point, on Country Club you are dumping traffic into a neighborhood that you are going to impact when you do that. You get on Country Club and you very quickly run into the fact that you have Super Fresh on the one side, you have Rite Aid on the other, you have a major conflict in flow of traffic at that point and then you go to the red light. Also on Country Club, they park on the streets. There are numerous times that you go down that street and it is one car at a time because of parking on the street. I doubt that the study took all of that into consideration. It really is impacting the quality of life. I believe the community will continue to do the development without providing for the traffic. I appreciate the point that was made about leadership. We keep approving developments and we are not preparing the community for it and not preparing the City for it. I think that is a responsibility of this Commission and the City Council.

Mrs. White: Among a number of different errors larger and smaller on the plans is a very tiny one is that Radcliffe Drive is spelled wrong. It has an E. That is not important but, what I would like is that the entrance to this development not be Radcliffe East. Everybody knows that the turn into Nottingham Green and the main entrance is Radcliffe Drive. I would like for it to be a different name in the other direction. I also feel that a light will be needed even though the traffic engineer has said not. An example where a light finally solved the problem was at Apple Road and Barksdale Road, and I am sure that that does not meet all those eight warranties she talked about. I have seen accidents there and now you are putting a development coming right in. A traffic light, unfortunately, although I prefer not to have one, I think it will be needed.

Where is the playground going to be? Is it going to be in the 4.36 acre spot in the middle? At least when I look in that spot, the sort of white area in the middle not to the west, I only see one access into that park. It seems to me there should be another one and these should be put in before the houses are built and sold, otherwise people will get very angry with an access beside their house. Likewise, there are only five ways to get to the walking trail. There should be an access, for example, if a plan went through similar to this, between 143 and 144. I thought it was an access but it looks like its more like a pipe or something.

In terms of the buffer along Nottingham Road, since I walk and drive and live nearby, it is 100 feet wide but if you look at the landscaping plan, all the trees are clustered right at the edge of it. Right at the moment there are a lot of really nice trees along that edge. I hope they won't be taken down, although I don't if the road will be widened, but I would like all those trees that are to be planted instead of being a road right there be scattered throughout this 100 foot buffer so one actually ends up with a wooded lot.

It bothers me that you do not have a builder. I think you are just going to flip this property to one or several builders. Yes, you submitted a plan before City Council before it passed City-wide design review, but before that a number of other developers submitted color drawings of what their buildings would look like before that ordinance was passed. If you were considerate – and I am talking to the developer – of the community and, of course, originally with the Newark Country Club made up of many members of the Newark Community – you would want to do this. You are asking the surrounding community to trust you, trust the developer and whoever gets it afterward that the houses will be attractive and the development befitting of the 21st Century, but you said nothing about the style, type, number of garages, materials or use of energy efficient strategies for these houses of the 21st Century. Considering you do not have the builder and may very well not even be the ultimate developer but may sell and get out of here fast, you can see that you are asking too much of us all to trust that the outcome will be varied and topnotch.

Mr. Bowman: I am going to give it back to the applicants. If you have anything you would like to respond to, and be brief. Then I am going to bring it back to the table.

Mr. Osborne: Mr. Chairman, before Mr. Tucker starts talking again, I just wanted to thank everybody who did speak. I appreciate your comments.

Mr. Tucker: I will try to be brief and try to only respond to the questions that were asked that we did not address in our presentation. I would like to make some other brief remarks.

Regarding the builder tie-in, just so folks understand, it is not unusual in a large project like this not to have a builder tie-in at this phase. A lot of builders will not enter into a contract and spend the money that goes into that unless there is an approved plan. While we would all love to have that to bring to you, and if we had a Toll Brothers or we had a Pulte, or we had a Ryan Homes, we would bring you those plans and show them to you. That just is not the case here. That is something, unfortunately, that we actually do not have any control over at this stage in the process.

Regarding the comments about the number of cars and trips and the concerns that were addressed in that regard, the standards that DelDOT uses are pretty much national standards and they do anticipate one trip per house during peak hour travel. There is an a.m. peak and a p.m. peak. The standards in a TIS that are used throughout the state and other

states for that matter use that formula. Keep in mind 20 or 30 years ago there were no TIS's. Many of you live in communities that did not have to perform a TIS. In the 1980s the concept came along. There were some preliminary standards. The new standards are at the highest most difficult level they have been historically. In fact, the City in September of 2006 adopted new standards, after this plan was submitted. Those standards are always getting more difficult. IN any case, it is not a free ride. There is quite a bit of time, money and energy that goes into those analysis. They are objective. There is a lot of number counting. It is the same that is applied to all property owners who propose development whether it is you, my client or somebody else's client. That is the measuring stick that we all have to live by in development community.

There was a concern about stream restoration. We are following the DNREC rules and requirements for streams and protecting streams. TMDLs have become restricted. There were some comments about that tonight. We are absolutely aware of those things. We do have to address them. We cannot get DNREC approval unless they are fully and legally addressed. That is what Mr. Swift's job is on this team. Mr. Swift also used to work for New Castle County as an engineer. He is very familiar with that process and is well respected at DNREC. I think it was Kim – and I apologize, I did not get your last name – who mentioned the concern about drainage. We will come out, if you like, and Mr. Swift will visit your home to address that because we do have concerns about specific drainage areas. We want to make sure we are not making a problem worse. If we can make an existing problem better, we will do that as part of the site design. When we know about those specific concerns, we can actually work with neighbors who can work with us. We have no problem doing that.

There was a question about total specimen trees on the site. There are 200. We are saving 70. 15 were recommended by Parks and Recreation. 1,100 new trees are being planted.

Yes, there is going to be more impervious cover. That is why there is stormwater management. Stormwater management addresses the fact that there is more impervious cover. That is how that is balanced as part of the development proposal. So, for the people who made those points, they are good, but that is a function of the drainage plan, and that impervious cover has to be addresses through stormwater management to compensate for that additional impervious cover.

There are sidewalks provided on both sides of the streets. That is provided per Code. There are other connections to the east for the grid system that was discussed. That would require a taking by DelDOT or the City. We do not have that ability unless the City steps in and does that. So, that just was not an option on the table. That connection through Fairfield actually took place through a private purchase to make that connection.

Impact on schools – that was a really good question. I know at the County level there is a requirement that an impact fee be paid under State law now. I think Mr. Cathcart actually introduced that legislation about seven years ago. I do not recall of the top of my head if it also applies to Newark.

Mr. Lopata: We sent the plan to the school district.

Mr. Tucker: If State law does apply, there will be an impact fee required as a function of the building permit application. I just do not know for sure whether that applies to Newark.

Mr. Lopata: I do not think it does.

Mr. Tucker: Casho Mill Road was studied. That analysis turned out to be level of service B under the present development scenario out there today that we all live in. It would be B if there was no build by 2015, and with the build, it drops down to level of service C. For the person who also asked about the seconds of delay, C is a 20 – 35 second delay, B is a 10 – 20 second delay. It could be one second, it could be 14 seconds depending where you fall in that calculation. There was a question about level of service E. E is anywhere from 55 – 80 second delay. Anywhere in that range is considered E by DelDOT under the standards that we have to comply with.

For those people who saw the article in the paper, we are more than willing to meet with you to talk about specific concerns. We will address them as best we can even if they are not Code issues. Please feel comfortable to talk to me or my client and we will certainly talk with you and address specific concerns as best we can. I am sorry there was not more notice, but we are available and will make ourselves available if you would like to talk with us about the project and any specific concerns.

Why not cluster, was a good question somebody asked. For those who were following this two years ago, which is when I was hired to get involved with this project, unfortunately Mr. Stritzinger did not have a comfort level that there would be support in the community for a cluster option. Right or wrong, that was the flavor. Go back and read the newspaper articles if you were not at some of those hearings. Very contentious, very scary. At that point Mr. Stritzinger had invested three years of his life in developing this site. There is no one person to blame for it, but there was a lot of things happening at that time. When you go forward with that cluster option at site plan review, it is completely discretionary and it can be turned down regardless of what standards you follow. You always hope for the best and plan for the worst. That is honestly and sincerely something that drove him in the direction of the "by right" option instead of the cluster option.

Mr. Osborne: Mr. Tucker, just for the record, what is a cluster?

Mr. Tucker: I think sometimes folks refer to the cluster option in the site plan development is where you would have greater open space and more density on a smaller portion of the parcel. It typically involves smaller lot sizes so that they will all fit as well as the townhome option and often a condo-type option as part of that development.

One of the things that we did not hear tonight, and it is one of the badges that comes with that type of application, is there are some people that are very adverse to townhomes. When you present those types of options and they are not buy right, I have hear that and hear it a lot, actually. I am not foreclosing that possibility. It is something that could happen in the future, but we do want to hear from folks if they would like to see that there because we will listen. That was something that concerned us, candidly. If there are any questions I missed, I will be happy to field them with the Commission.

Mr. Bowman: I am going to bring it back to the table in light of the lateness of the hour.

Before I ask for additional comments from the Commission and a motion, basically, I am going to summarize what I believe our options to be. We can table this in which case by tabling it, we would essentially be asking the developer to come back with more of the details that were missing from tonight, things like elevation drawings, etc., of the types of homes that would be proposed. That is one option. If the Commission members elect to do that, that is nondebtable. All it takes is a motion, second and passage of the motion. The second option, of course, is to take the Planning Department's recommendations with our modifications and the third option is to flat turn it down. I would just like to make one other comment with respect to what this Commission does. Maybe some of you are not familiar with it.

This is a volunteer group up here. None of us get paid. We serve at the pleasure of a City Councilman who asked us to come in a serve our community. We are an advisory body. We are kind of a link between the Planning Commission, the community and the Council. So, what we have to say may or may not have bearing on what the Council ultimately decides to do. One of the things that is very difficult for somebody who sits up here is to keep personal emotion out of it. We are basically bound by codes and standards that are set up by voters through their elected bodies and that makes it very difficult at times because it is hard when you look at something like this and you do not particularly like it for some reason or another. But, as the developers pointed out, it is Code compliant or can meet the Code. So we have to weigh that. We have to understand that we are bound by a set of rules and regulations which are intended to level the playing field for everybody that comes before this body and goes before Council. We cannot just look at a builder or project and say we do not like the cut of your cloth or we do not like the way your eyes are crossed or the way you part your hair. So, if anybody out there would like to provide leadership, come

volunteer. Go talk to your Councilman. Maybe you would like to be appointed up here. I will leave it at that. I will bring it back to the table for further discussion.

Mr. Osborne: Mr. Chairman, I think the developer has done a lot of due diligence in terms of making sure that the plan they have submitted complies with Code and things like that. Where I see us going is, we heard from the community a lot tonight, and I think we have the opportunity to take the Planning Department's recommendations and modify them – I think this is option #2 that you mentioned – because I do think we have the opportunity to take some leadership, taking some of these comments into account. There has been a lot of debate about whether this land should be open space or houses put on it. I have accepted that it is going to have houses on it. What I heard tonight is a higher level of risk presented to us as a city because there is a lot of uncertainty about who the builders are going to be. I understand who the developer is. It might be multiple builders. Maybe one builder. I think we as a city need to manage that risk. We have heard a lot about traffic flow. I brought up earlier an option of adding at least one more entrance on Route 273 to minimize a bottleneck of traffic going out through two means of egress onto 273. Since then I have actually been “mocking up” the drawing. I have mirrored streets across from Briar Lane, Tanglewood Lane and Bent Lane and I would suggest that we ask the developer to put a fifth entrance onto 273 west of Radcliffe Drive to alleviate this bottleneck effect that will ultimately result. There would obviously be an impact on the builders. You would have to sacrifice four or five lots. By my math that would add about \$7,000 onto the price of the remaining homes. That, to me, is not that significant. I think that would alleviate a lot of the bottleneck that would result through the limited entrances and exits. I am interested in what the rest of the Commission might feel about a bottleneck coming out of the entrances that are proposed?

Mr. Bowman: Any comments? I have one. We do, Rob, have to be a little bit careful about reengineering the project for the developer. He has a lot of criteria laid out.

Mr. Osborne: But, I think we have a responsibility to the constituents in our area. Again, maybe that is a decision that the Council should address if the plan is brought forward, but as I understand it, we have an opportunity to make a condition of approval and get a response from the developer as to whether they would consider those four additional entrances.

Mr. Lopata: I would suggest, therefore, that you might, as part of a motion, additional access ways be considered on Nottingham Road.

Mr. Osborne: I think “consider” is not strong enough.

Mr. Lopata: Well, require, then.

MOTION BY OSBORNE THAT WE REQUIRE FOUR ADDITIONAL ENTRANCES, THREE ENTRANCES ACROSS FROM BRIAR LANE, TANGLEWOOD LANE, AND BENT LANE, AND ONE MORE AT THE WEST END OF THE SITE ALL AT NOTTINGHAM ROAD.

Mr. Bowman: Is there a second? No second so the motion dies.

Mr. Begleiter: Mr. Chairman, from the water over the dam department, everybody, I think, recognizes that this is an extraordinary property, but the crown jewels have been sold. We do not have any control over that at this point. If they were crown jewels at one point, they are not anymore. Anybody who has pipe dreams of having putt putt on the site or that sort of thing, it is not going to happen here. It is not going to happen any place in Newark and I think that is not worth spending a lot of time on. The City could or the State could have purchased the property, but Roy pointed out that that option has been exercised and passed over. So, that too is in the water over the dam department. Existing residents around the former Country Club, I think, naturally would like to see it preserved as long as their houses are okay where they are of course. But it is not a Country Club anymore. It is a property awaiting development. The only option we have open to us is to shape as much as possible how the property is developed, not whether it will be developed. So, I would like to say that I think compared with a lot of the proposals we have seen at this Commission, this particular proposal is so mediocre as to be an embarrassment. I think the developers ought to be

embarrassed about this. I cannot imagine how you would be proud of this proposal, but you say you are, that is fine. I would like to suggest that instead of a proposal that comes across as a bare bones community with no creativity in design for a site – perhaps the last site in the City of Newark that is so historic and so beautiful – instead of a cursory treatment to the proposal as though the beauty of the neighborhood is irrelevant; instead of comparing it favorably to developments on either side that were built many decades ago with standards that none of us would probably favor today; I suggest that the developers, and we as the Commission, encourage the developers to produce a proposal that they and the community of people around them of which they can be proud. I think we can encourage that. This is an extraordinary site. I think it deserves extraordinary thinking, and I do not think, with all due respect, that extraordinary thinking falls into the category of how many entrances it should have on Nottingham Road. I think the picture is bigger here and we should try to get the developers to focus on that.

MOTION BY BEGLEITER, SECONDED BY DRESSEL THAT THE COMMISSION TABLE THIS PROPOSAL AND SUGGEST STRONGLY TO THE DEVELOPER THAT IF THE DEVELOPER WISHES TO RETURN TO THE COMMISSION WITH A PROPOSAL THAT IS SO CREATIVE, SO EXTRAORDINARILY APPEALING, NOT ONLY TO THE COMMISSION BUT TO THE COMMUNITY AROUND IT, EVEN IF IT INCLUDES SOME HIGHER DENSITY DEVELOPMENT SUCH AS TOWNHOUSES [WHICH THE DEVELOPER TWICE MENTIONED TONIGHT], A PLAN THAT MIGHT REQUIRE THE COMMISSION TO CONSIDER A ZONING CHANGE, BUT WOULD BE SO APPEALING, SO ATTRACTIVE THAT THE COMMISSION WOULD BE PERSUADED TO APPROVE THIS CHANGE. THE COMMISSION UNDERSTANDS THE DEVELOPER'S INTEREST IN 250 TO 260 HOME SITES. WE SUGGEST THAT THE SITES DO NOT HAVE TO BE THE SAME SIZE OR THE SAME SIZE LOTS; THEY DO NOT HAVE TO BE ALONG STRAIGHT ROADS; AND THEY COULD BE OF MIXED USE. WE WOULD LIKE TO SEE SUCH A PROPOSAL COME BEFORE THIS COMMISSION FOR THIS SITE. THE MOTION, IN SUM, IS TO TABLE THE PROPOSAL WITH AN INVITATION TO THE DEVELOPER TO RETURN WITH A PLAN THAT NOT ONLY SATISFIES THE RECOMMENDATIONS MADE BY THE PLANNING DEPARTMENT BUT GOES BEYOND THAT TO MAKE THE PROPOSAL SO ATTRACTIVE THAT, IF THE DEVELOPER WISHES TO PROPOSE SOME PORTION OF THE SITE TO BE OF HIGHER DENSITY THAT WE WOULD BE PERSUADED TO CONSIDER THAT SERIOUSLY AND, PERHAPS, APPROVE IT.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, DRESSEL, HAMILTON, McDOWELL,
OSBORNE, RUSSELL

NAY: NONE

MOTION PASSED UNANIMOUSLY

Meeting adjourned at 10:30 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission