

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

October 6, 2015

6:00 p.m.

Present at the 6:00 p.m. meeting were:

Chairman: Alan Silverman

Commissioners Present: Edgar Johnson
Willard Hurd
Robert Stozek

Commissioners Absent: Bob Cronin
Frank McIntosh
District 4 - Vacant

Staff Present: Maureen Feeney Roser, Planning and Development Director
Mike Fortner, Development Manager
Tom Fruehstorfer, Planner
Bruce Herron, City Solicitor

Mr. Silverman called the Planning Commission meeting to order at 6:00 p.m.

Mr. Alan Silverman: I would like to call to order the City of Newark Delaware Planning Commission meeting for Tuesday, October 6, 2015 with a note that we are starting at 6pm rather than the regular 7pm time. We have a busy agenda this evening and what I'd like to do, as a reminder, I see some familiar faces in the room, and I see some people who have not been here during my relatively short tenure. I would like to remind you that we have a Request-to-Speak form. It's on the railing as you come down the steps. We'd like you to fill that out, it's more of a convenience so we make sure we get the issue and get your name spelled correctly in the minutes.

Speaker 2 [unidentified audience member]: Mr. Chairman?

Mr. Silverman: Yes.

Speaker 2: Could you speak into the microphone, please? This gentleman beside me said that he couldn't hear you.

Mr. Silverman: Thank you.

Speaker 2: Thank you, sir.

Mr. Silverman: This is sometimes a very difficult sound system to work with.

Speaker 2: They all are, sir. Good one.

Mr. Silverman: Thank you. Okay, as I started to say, we have a sign-in system, a sign up to speak method of presentation here. The notes and the slips are on the back railing. If you do not fill one out, that does not exclude you from speaking. It's more of a convenience for us to make sure we get your name spelled correctly in the minutes. It gives us some idea of how to manage the meeting, whether we have relatively few people, or we have a lot of people signed up, that does not preclude you from, as you hear testimony, as you hear comments, from coming up and speaking.

As we found out tonight, the sound system is very direct. We would ask you to come up to the microphone here in the center when you give testimony or make your presentations. The system we have developed uses a transcription service and we have some growing pains with it and as a result of that, I'm going to conduct the meeting in a much more formal format than we usually do. I will recognize each commissioner when they ask to speak rather than having somebody try to listen to a tape who doesn't know any voices and identify who that commissioner is. I will ask you when you come up to the microphone to clearly state your name, if you would like, where you're from, where you live, and, right off the bat, again, for clarity in the transcription service, if you're speaking for a proposal, against a proposal, or providing additional information. So that way the transcription service knows the words that follow are your words. Now I may be interrupting you if you don't give your name, I'll remind you to do that, and that's the way we're going to conduct the mechanics of tonight's meeting.

The meeting tonight will follow a quasi-judicial format. Usually we have the relative casual informational format, give and take. The chair will try not to impose any time limits on anyone. That all depends on what kind of back and forth we get into. Your testimony should be concise and to the point. All testimony should be addressed to the chair. I will discourage sidebars among people who are sitting here and other discussions going on in the room. The testimony and your testimony is for the benefit of the commissioners to make a decision. The speakers, the people who present tonight, will be afforded an opportunity to reply to comments that are made on the floor. Again, that will go through the chair. I urge you to minimize repetition and keep your comments focused on the issue at-hand. Using a quasi-judicial format, only the comments that are on the record at this hearing will be considered by the commissioners. I'll have more to say on that as we get into the actual agenda items and the particular agenda items.

Some administrative details, the first thing I'd like to do is congratulate Deputy City Manager Andrew Haines on earning the Prudential Management Certification CN. That's much like what an engineer gets for a professional engineering certificate. To give you an idea of the value of it, it's something that has to be worked toward, requires experienced peer review, submitting real work you've done, it's not an academic credential that you can plunk down \$300, and you get the certification. Of sixty municipalities in the state, there are only four certified managers in the state, and two of those are now with the City of Newark, our City Manager Carol Houck, and now Deputy City Manager Andrew Haines.

1. ELECTION OF PLANNING COMMISSION OFFICERS

Mr. Silverman: Moving on to the first item on our agenda, is the election of officers. The Code requires us every October to elect new officers from among the commissioners. The floor is now open among the commissioners for the position of Chair. I am interested in continuing as Chair. Are there any other commissioners who would like to serve as Chair? [silence] The nominations are closed, and the position of Chair is filled. The position of Vice Chair. Are there any commissioners present who would like to serve in the position of Vice Chair? [silence] Okay, hearing no Commissioner step forward or any nominations, the position of Vice Chair will remain open until our next regularly scheduled meeting. Then I'd like to take the prerogative of the Chair and state for the record in my absence as Chair at a future meeting, until we have the position of Vice Chair filled, the senior serving person who makes up the quorum of that meeting will fill the position of Vice Chair.

2. THE MINUTES OF THE SEPTEMBER 1, 2015 PLANNING COMMISSION MEETING

Mr. Silverman: Moving on to Item Agenda 2, minutes of the September 2015 Planning Commission meeting. As I said, a new service is being used; there are some growing pains. Murphy's Law is at work here. The Planning Department's long-serving secretary, who some of you know, who took very diligent minutes, has retired. Its kind of two out of three elements of a perfect storm. We do not have a set formal minutes to approve. However, the staff of the Land Use Department has drafted minutes the best they could from the transcription service and from listening to the recording of this meeting. They are posted on the internet for you to review. Let's call them informational at this point until they're finalized. The commissioners have written

copies of the same set of minutes, and we are in the process with some very grateful assistance of collecting some editing and the commissioners will be submitting their written comments. We should have the September meeting minutes finalized for approval at our next, will it be the special meeting?

Ms. Maureen Feeney Roser: Yes.

Mr. Silverman: We have a special meeting coming up to hear the Capital Program. We expect to have those minutes finalized at the Capital Program meeting which is coming up on the 20th, I believe.

Ms. Feeney Roser: Yes.

3. REVIEW AND CONSIDERATION OF THE PROPOSED REZONING OF THE 120.391 ACRE PARCEL AT 300 WEST MAIN STREET KNOWN AS THE NEWARK COUNTRY CLUB FROM RS TO RH

Mr. Silverman: Moving along. Item 3 on our agenda is the review and consideration of the rezoning of 121.391 acre parcel at 300 West Main Street known as the Newark Country Club from RS to RH. Now I've said I would continue my opening statements, and I will at this point. The agenda items dealing with the Newark Country Club and the other land use consideration have been the subject of public media coverage and online discussion. Both sites have been subject to earlier Planning and City Council activity. I talked about the quasi-judicial format that we'll be using, and, in keeping with the state code and the code of the City of Newark, the Chair will conduct the hearing, and the planning commissioners will, in their deliberations, focus on the following: conformance with the current adopted Comprehensive Plan IV, whether the sites meet the requirements of the zoning Code and the land development Code, depending on which is applicable to the vote we're hearing, impact on the adjacent properties in the immediate area, and also the recommendation report for each application written by the City Planning and Development Department. So I would like to move into the consideration of 300 West Main Street.

Ms. Feeney Roser: Thank you, Chairman Silverman. My name is Maureen Feeney Roser. I'm the Director of Planning and Development for the City of Newark, and, for the benefit of those in the audience, I will summarize the Department's report on this particular matter. [Ms. Feeney Roser summarized her report, which reads as follows.]

On September 14, 2015, Newark City Council referred Bill 15-24 – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, by Rezoning from RS (one-family detached residential – 9,000 Square Feet Minimum Lot Size) to RH (One family residential – one half acre minimum lot size) 120.391 acres located at 300 West Main Street, known as the Newark Country Club to Planning Commission for consideration.

Please see the attached ordinance and associated Exhibit A.

The Planning and Department's report on the proposed rezoning 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:

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, including 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 golf course architectural style. 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 George 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, 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 property is currently zoned RS, and the proposed zoning is RH. Both districts are detailed in Municipal Code Section 32-9 and are single family detached

districts which permit the same uses as follows: (Please note: Ordinance 15-22 – An Ordinance Amending Chapter 32, Zoning, and Chapter 16, Garbage, Refuse and Weeds, Code of the City of Newark, Delaware by Adding Definitions Related to Accessory Use, Updating Code Sections Referencing Accessory Use, and replacing the Term “Neighborhood” with Surrounding Area” enacted by Council at the September 14, 2015 has not yet been applied to the list of permitted uses below):

- 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
- P. No impact home businesses

RS and RH zoning districts also permit, 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).
- I. Bed and breakfast, with special requirements

The differences between the RS and RH zoning districts, therefore, lie not in the permitted or conditional uses, but in the mandatory area requirements per district, a summary of which is provided below:

Area regulations.

- A. *Minimum lot area.*
 - 1. RH—One-half acre.
 - 2. RS—9,000 square feet.
- B. *Maximum lot coverage.* 44%.
- C. *Minimum lot width.*

1. RH—100 feet.
 2. RS—75 feet.
- D. *Height of buildings.* Max 35 feet/3 stories.

E. *Building setback lines:*

1. RH—40 feet.
2. RS—25 feet.

F. *Rear yards. Interior lots:*

1. RH—50 feet.
2. RS—30 feet.

Corner lots: the rear yard may be reduced 20% in depth to allow for the "skewing" of a residential dwelling on the lot.

G. *Side Yards. Interior lots:*

1. RH—15 feet with a minimum aggregate width of the two side yards of 35 feet.
2. RS—10 feet, with a minimum aggregate width of the two side yards of 25 feet.

Corner lots: The side yard along the interior side lot line shall have a minimum width as required above, but the width of the side yard along the street line shall be governed by the building setback requirements in this section.

Therefore, the requirements for lot size, lot width, setback lines, rear yards and side yards in the proposed RH zoning district are larger than the existing RS district. Therefore, the yield of single family homes under an RH zoned plan will be less than RS zoning would permit.

While it may be difficult to precisely estimate yield without a subdivision plan to accompany the rezoning request, the Department has estimated that an RH major subdivision plan might yield approximately 112 half acre lots with single family homes. This estimate is based on the never recorded 2008 Country Club Estates plan, which yielded 271 RS compliant lots and associated single family homes, and adjusting that yield by the difference in required lot size. (Formula: $9000/21,780 = .413223$; $271 \times .413223 = 111.983$ or $21,780/9000 = 2.42$; $271/2.42 = 111.983$).

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 the Country Club. 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 George 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 and lead to the RT zoned single family homes of West Branch. Further to the west is the AC zoned Phillip's Mill site and then the RH zoned Christianstead development.

Regarding comprehensive planning, the Newark Comprehensive Plan IV 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 rezoning from RS to RH would permit a gross density of 2 units per acre. Therefore, no Comprehensive Development Plan amendment is necessary to accommodate the rezoning.

In addition, as the Commission knows, during the extensive public outreach performed to create the draft of Comprehensive Development Plan V, the Newark Country Club property was identified as an area of interest for the Newark community. Specifically, because the site is of significant size and in a centralized location, which impacts the City's traffic and environment quality, the draft Plan, identifies the property as a "Focus Area" and recommends collaboration with community stakeholders to develop a "Master Plan" for the site that identifies options, community needs, access, general improvements and needed infrastructure, as well as the impact of any developments to the surrounding areas. This recommendation continues regardless of the ultimate zoning of the property.

Fiscal Impact

Without a subdivision plan to accompany the rezoning, the fiscal impact of the rezoning is difficult to determine with accuracy. However, in order to evaluate the financial impact of the proposed rezoning, the Planning and Development Department estimated the impact of a 271 unit RS development and a 112 unit RH development on municipal finances for comparison purposes. The estimates are based on the Planning and Development Department’s Fiscal Impact Model. The Model projects a development’s fiscal impact; that is, total annual municipal revenues generated less the cost of municipal services provided. Please see estimates below:

Net Revenue

<u>Year</u>	<u>RS (271 units)</u>		<u>RH (112 units)</u>	
First	\$259,053		\$127,133	
Second	\$242,952	\$250,632	\$118,576	Third
		\$110,435		Fourth
\$235,259	\$102,337			
Fifth	\$227,800		\$ 94,402	
Sixth (and thereafter)	\$ 94,061		\$ 26,530	

Please note: 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. Further, please note that we have assumed a five year build out for the project and ten percent turnover thereafter in the development of the estimated revenues.

Traffic and Transportation

The Department reached out to the Delaware Department of Transportation (DelDOT) to discuss the impacts of the rezoning from RS to RH on traffic. As noted above, without an associated subdivision plan, the actual traffic impact of the rezoning is difficult to estimate, but agreeing with the logic the Department used to estimate the change in the number of dwelling units (from 271 to 112) as a result of rezoning, DelDOT based its response on 112 units. Therefore, the estimated change in trip generation may be found below:

Land Use	Average Weekday Vehicle Trip Ends	A.M. Peak Hour of Adjacent Street	P.M. Peak Hour of Adjacent Street
271 Single-Family Detached Houses	2,628	199	258
112 Single-Family Detached Houses	1,166	88	116
Difference	1,462	111	142

Based on the above, and after reviewing their recommendations provided in 2008 (see Attachment B), Del DOT does not anticipate the recommendations changing substantially as a result of the proposed rezoning. Specifically, one phase of the Elkton Road/South Main Street project is already completed (from SR 4 to Delaware Avenue), and remainder (from the Maryland Line to SR 4), remains to be done. The other recommendations address standard requirements and longstanding DelDOT areas of concern that remain as such.

Subdivision Advisory Committee

Even though there is not a subdivision plan associated with the rezoning, the City’s Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed rezoning of the Newark Country Club and has the comments provided below.

- 1. The Planning Department believes that any development of the Newark Country Club site may use available site design tools to take advantage of the natural beauty and environmental resources of the site. In other words, we believe that Site Plan Approval may be beneficial, which will allow for an attractive and appropriately designed 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. This is a special property with significance beyond its borders, and the tools available in the City's Code should be utilized, if possible.

Having said that, Site Plan Approval (Code Section 32-97) is a tool available for site development under either the existing RS zoning or the proposed RH zoning. Site plan approvals allows for deviations from the density and area regulations in order to provide "alternatives for new development and redevelopment proposals to encourage variety and flexibility, and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations. Site plan approval shall be based upon distinctiveness and excellence of site arrangement and design and including but not limited to:

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

The difference between an RS zoned plan for Site Plan Approval and an RH one is the density bonus permitted. Specifically, Code Sec. 32-98.2 (a) allows up to four dwelling units per acre, with 20% of the total site set aside for parkland/open space in RH districts; while 32-98.2 (c) allows for up to eight dwelling units per acre, with 40% of the total site set aside for parkland/open space for RS zoning. Therefore, applied to the 120.391 gross acre site, a Site Plan Approval density bonus could theoretically result in 482 units in RH zoning district and 963 units under RS zoning. Of course, Site Plan Approval is a discretionary approval, and the number of units yielded for the site will depend upon infrastructure capacity, applicable development regulations and the public approval process, which most likely, will impact the dwelling unit yield, but the point is, the Site Plan Approval can provide for dwelling density beyond what an RS plan will provide. At the same time, Site Plan Approval can facilitate a development which adheres to the design principles and best practices highlighted in the 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*, which when 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.

On the other hand, the department believes that, if an applicant wishes to develop the site without taking advantage of the opportunities in the Site Plan Approval process for an outstanding residential and/or mixed use subdivision inherent in the site, 112 half acre lots would at least preserve more private green space (lawn area) and produce less stress on available infrastructure than 271 RS zoned 9000 square foot lots.

2. The Parks and Recreation Department notes that the landscaping requirements and the open space/parkland requirements are the same for both zoning districts (RS or RH).

3. Both the Public Works and Water Resources and Finance Departments provided some information on the fiscal impact of the rezoning (and subsequent site development) which was incorporated into the Fiscal Impact section of this report, but did not provide any additional comments concerning the rezoning.
4. No other operating departments provided comments on the proposed rezoning.

Recommendation

Because the proposed rezoning does not conflict with the land use recommendations in the Comprehensive Development Plan, because Site Plan Approval may be used to facilitate appropriate development, and because the potential negative impacts resulting from the development of the site will be limited, insofar as possible, by a reduced density, the Planning and Development Department suggests that **the Planning Commission recommend that City Council approve the proposed rezoning of the 120.391 acre property at 300 West Main Street, as shown on the attached Planning and Development Department Exhibit C, dated October 6, 2015.**

That concludes the summary of the report. I'd be happy to answer any questions the commissioners may have for us.

Mr. Silverman: Commissioner Stozek, do you have any questions?

Mr. Robert Stozek: Yes. Bob Stozek from District 1. It's my understanding at this point there has not been any plan submitted for consideration.

Ms. Feeney Roser: Correct.

Mr. Stozek: As Alan mentioned, as the Chairman mentioned, we're in a quasi-judicial setting here, and I guess I'm being asked to be the judge in this case, and I imagine we're going to hear from the defendant, the Country Club, and we've heard from the Planning Department about their recommendations of their study. Who is the plaintiff? Who is proposing this change?

Ms. Feeney Roser: This is a Council-initiated rezoning, so its Newark City Council.

Mr. Stozek: So it was voted on by the Council?

Ms. Feeney Roser: Yes. There's a pending ordinance, and Council referred that to the Planning Commission, as they should for land-use decisions.

Mr. Stozek: Okay, but the Council voted that they wanted to approve this change? That's what I'm asking. Not that they referred it.

Ms. Feeney Roser: This rezoning is council-initiated, yes.

Mr. Stozek: I guess I have some concerns about the statement that there's minimal impact. When I look at the revenues coming to the city, a quick back-of-the-envelope over the course of the six years shown, if this proposal's approved, there would be a net decrease of \$730,000 in revenue coming to the City if we go to the larger lot.

Ms. Feeney Roser: Yes, that's true. For the 112 units, it's about 47% of what the 271-unit would generate in net revenue.

Mr. Stozek: So I think that is the...

Ms. Feeney Roser: Net revenue.

Mr. Stozek: Okay, so I would say that's a significant negative impact to the City. The only other thing I've seen here is a concern about the traffic and the congestion. I guess I'm still thinking that this is very premature. We don't know what it planned for that area, whether it's 112

structures or 270 structures. We're semi-assuming here that they're all going to be single-family detached structures. What if the developer came in and wanted to put in condominium townhouses on part of the land? So a lot of these numbers are just very, very subjective.

Ms. Feeney Roser: Absolutely. It is an estimate based on a plan that was previously approved.

Mr. Stozek: Right, but it's not the plan that's going now.

Ms. Feeney Roser: And I think the report's pretty clear that we would encourage site plan approval that may allow some other kinds of development on the property.

Mr. Stozek: I guess based on those things I just have a hard problem saying, making a decision here if this is going to be one way or another. We don't know what they plan is at this time. Those are my comments.

Mr. Silverman: Commissioner Hurd.

Mr. Willard Hurd: I have no questions or comments on the report. I will have some of course at the end of testimony.

Mr. Silverman: And Commissioner Johnson.

Mr. Edgar Johnson: Thank you. This is a City Council initiated proposal. How many other times has City Council asked for a rezoning of property when the property owner hasn't requested it? What are the precedents?

Ms. Feeney Roser: I do not believe that in my tenure with the City there has been one. We did not find one. I don't know whether, Bruce, did you have an opportunity to look at that? I think we both decided it hadn't been done in either one of our tenures

Mr. Bruce Herron: That's correct. We're not aware of it.

Mr. Johnson: That begs the question of "Why now?" We don't have a plan. We don't know what's going to go there.

Ms. Feeney Roser: Well it came up in the Comprehensive Development Plan V workshops that Council's been holding it and, of course, during the open public sessions that we had here. It is a property of interest to this community. If you'll recall in Comp Plan V, we had said that we thought that it would be good to have a public meeting about what the community feels, if it were going to be development, how this property should be developed as well as taking into consideration its impact on the community. So this actually came up at a Comprehensive Development Plan workshop and that is when Council first proposed it.

Mr. Johnson: Okay and my final comment is this, it's my understanding, and I'll have to ask the solicitor to correct me if I'm wrong or to agree with me if I'm right, that when cities unilaterally rezone private property, the vast majority of legal cases have sided with the property owner over the city. There are some that side with the city, but the vast majority side with the owner. Is that not correct, Mr. Solicitor?

Mr. Herron: I don't think you can make that generalization. You have to look at the facts. I haven't done a survey of all the cases, so I can't comment on that.

Mr. Johnson: Okay, well I have my opinion and some facts. That's it.

Mr. Silverman: Okay you've heard the commissioners' comments, we will now open up the floor to other comments, the public comments. And if Maureen would help me with some of the handwriting here.

Ms. Feeney Roser: John Carberry. John.

Mr. John Carberry: Yes, that's correct. I didn't expect to be first.

Ms. Feeney Roser: Can you please come to the microphone, sir?

Mr. Silverman: Check and see if that microphone's on, please.

Ms. Feeney Roser: There's a button on the very top of it. Do you see? And if it's easier, you can take it off of the stand.

Mr. Carberry: I don't know. I'll just try and get comfortable with it, which may not work.

Mr. Silverman: Your name again, sir.

Mr. Carberry: Okay, John Carberry, C-A-R-B-E-R-R-Y. I live in Covered Bridge Farms. I'm not a citizen of Newark. I am a member of the Newark County Club.

Mr. Silverman: Thank you.

Mr. Carberry: Let's see. I've been making some notes, so I'm going to have to bend down and look at them. You realize I just ripped that thing out of there.

Ms. Feeney Roser: That's okay.

Mr. Carberry: Alright, I'm not going to spend time picking at the details. I'd like to point out as somebody else already did the fiscal impact. There's a surprising strength of positive recommendations despite significantly reduced income to the City of Newark, and there's absolutely nothing about the impact on the Newark Country Club and its members, many of whom are your constituents. Absolutely all the surrounding land is zoned RS or even less restrictive. And, given all the proceeding considerations, considering the strenuous objections of the people at the Newark Country Club, many of whom are your constituents, there is no clear statement of why you want to do this. The implied and seemingly obvious reason is you seem to wish to deny the Newark Country Club the opportunity to deal with their land in accordance with the existing zoning. Thus, and I think this has already been brought up by one of the Councilman, what is the process by which you can do the seizure of rights and value in the face of staunch and outspoken opposition by the rightful owners. Is that not an eminent domain seizure? Has that process been tested and vetted anywhere in a court of law? You're about to embark on a journey that will be expensive for both of us and divisive for both of us. I think we should tread forward much more carefully. Thank you. Do you want me to turn this thing off?

Ms. Feeney Roser: No, just leave it on, sir. Next signed up to speak is Peter Marsoning. Thank you.

Mr. Peter Marsoning: Hi. I thought it was more of an attendance form, but since I'm speaking, I'm a resident of Newark, I'm a member of the Newark Country Club. I enjoy the space. It just seems wrong that all of a sudden rezoning. We have no knowledge or plan to sell anyways, so why now? I guess you guys are preparing for down the road. I just don't like the idea. It's wrong. Eminent domain, to me, it seems like. Just come in, and the city, town, will change as they want, and I think it's wrong, and I guess I'm voicing my objection.

Mr. Silverman: Thank you, sir.

Ms. Feeney Roser: Next we have Harlan Williams.

Mr. Harlan Williams: Thank you very much. My name is Harlan Williams. I'm a realtor licensed in Maryland, Delaware and Pennsylvania and have appeared before a lot of commissions, as you can imagine, for zoning matters, and I have never seen a thing like this happen before. I was a former Marine and FBI man, a FBI agent, and we liked to follow rules and regulations quite clearly. I see where the council is not far away from their neutral steps and apply zoning to the regions. One question I would like to ask, about a few years ago, I don't remember exactly how long ago, but there was a requirement by the City that anybody buying in

the City would have to come to the Planning Department to determine what the zoning was around their particular property that they're ready to buy? Is that still the case?

Ms. Feeney Roser: Yes, it is.

Mr. Williams: If it's the case, then people know what's around them when they buy. I don't know how many complaints you've ever had as people are buying a property that are zoned like Newark Country Club is zoned. We sold the ground for Fairfield, which was developed, Fairfield Crest, I've sold many a property in and around the Country Club, and all of those people have come to you to inquire as to what the zoning is in their area. I don't think you've produced many people that are complaining. Not bought their house because Newark Country Club is zoned what it is today. And I think it's a farce, I think it's the absolute [inaudible] thing brought up by some people on Council that believe that some people in their community might not vote for them the next time around. So be it. Rules are rules, regulations are regulations, and zoning is zoning. Thank you very much.

Ms. Feeney Roser: Thank you. Next we have Michael DeNote.

Mr. Michael DeNote: Good evening, everyone. My name is Michael DeNote.

Ms. Feeney Roser: We're recording it, so we want to make sure we get you.

Mr. DeNote: Can you hear me?

Ms. Feeney Roser: Yes.

Mr. DeNote: My name is Michael DeNote. I'm an attorney at Drinker Biddle & Reath. I'm here on behalf of the members of the Newark Country Club, many of whom are here tonight and will probably speak after my turn is over. Excuse me. I'm here just to kind of give a brief presentation. I want to submit a letter to you that was prepared by my colleague Shawn Tucker, who is also an attorney at Drinker Biddle. He was unable to attend tonight, so I'm kind of here in his stead. Is it okay if I approach?

Ms. Feeney Roser: Yes. Thank you.

Mr. Silverman: For the benefit of the tape, each of the commissioners and the director have been given a letter dated October 6, 2015 from Drinker Biddle & Reath signed by...

Ms. Feeney Roser: Shawn Tucker.

Me. Silverman: It's signed by Shawn Tucker.

Mr. DeNote: Thank you. The letter I just submitted is just a summary of what I'm about to say. I'll be fairly brief. You've probably heard some of this before. Obviously, the Club opposes the down zoning of the property from RS to RH. The proposed down zoning significantly reduces the value of the property by approximately 60%. I would say that this is a significant negative impact on the Club and the property that the Club owns. It's also kind of worthy of notation and kind of worthy of a little bit of background of kind of how we got here today. The Club, over the past year or so, as the economy has strengthened, has been open and honest with the City about its intentions to possibly sell the property. Excuse me.

Mr. Silverman: Let me interrupt you. How is this germane to our land use decision?

Mr. DeNote: I'm just providing a little bit of background on how we got here today. Kind of give you a sense of what's been happening, how this ordinance was initially introduced.

Mr. Silverman: That has nothing, in my mind, that has nothing to do with why we're here today.

Mr. DeNote: Okay, well, it's all in my letter, so feel free to read it, take a look at it.

Mr. Silverman: Okay.

Mr. DeNote: I just wanted to give you a heads up, and the first point that I would like to make tonight is that the Country Club has filed a FOIA complaint both with the State Attorney General's office...

Mr. Silverman: How does that affect this body?

Mr. DeNote: Well, the first thing I would ask the board, the commission to do is to table tonight's consideration.

Mr. Silverman: This commission does not table. We hear presentations and we vote.

Mr. DeNote: Well then I'll skip to the end.

Mr. Silverman: Thank you.

Mr. DeNote: Let's assume that there is no FOIA complaint I'm here talking about the merits of the issues before the board tonight. So that's where I'll kind of end and begin. First, as confirmed by the Planning Director's recommendation before you this evening, the down zoning of the property will significantly reduce the fair market value of the property. Under the proposed RH down zoning, the Planning Director has estimated that a new subdivision plan might yield approximately 112 half-acre lots. By contrast, under the current RS zoning, a plan was previously submitted to the City and approved with 271 RS compliant lots; plus the down zoning to RH, if approved, would result in a reduction of approximately 159 lots, and thereby significantly reduce the fair market value of the property by, in some estimates, 7 million dollars, without any compensation to our client. Such an action by the City is unprecedented, as the City Solicitor and the Planning Director have mentioned tonight. It's unprecedented to unilaterally devalue a single property without just compensation to the Country Club.

Second, we believe the timing of the presentation of this down zoning is not a coincidence. We believe that this is a political issue. We have an email between this Planning Director and the City Manager just making a notation that this is one of the primary concerns of the Mayor for her current term.

Mr. Silverman: And again, how does that affect this commission?

Mr. DeNote: Just pointing out some facts, sir, so you can...

Mr. Silverman: We're required by Code to hear any and all applications for planning changes, regardless of the motive and who brings them.

Mr. DeNote: Understood. Thank you. Finally, I just want to make final point for the Commission. The current and already existing RS zoning on the property is, in fact, consistent with the current Comprehensive Plan. I want to show you here the map, the zoning map for the City of Newark. As you can see, right in the center here is the Newark Country Club. As one of the members mentioned previously, zoned RS and surrounded by RS. The zone [inaudible] as pointed out by the Planning Director in her presentation. There are other zoning classifications contiguous to the property that are actually of higher density. So there is BB here, RD here. What you see, if this property is zoned or rezoned RH, it actually would be inconsistent with the Comprehensive Plan. Not consistent. What the Planning Director kind of omitted in her presentation is that the current zoning is also consistent with Comprehensive Development Plan IV.

Ms. Feeney Roser: Sorry. I don't think I omitted that.

Mr. DeNote: Oh, I apologize, it wasn't, I didn't know if it was clear.

Ms. Feeney Roser: Okay, yeah, they both...

Mr. DeNote: They're both consistent with Comprehensive Development Plan IV. I apologize if it made it seem that you omitted it on purpose.

Ms. Feeney Roser: That's okay.

Mr. DeNote: My point being is that by actually rezoning this to RH, you're looking inconsistent in kind of being a [inaudible].

Ms. Feeney Roser: Excuse me, Mr. DeNote?

Mr. DeNote: Yes.

Ms. Feeney Roser: Can you pick up the microphone because this recording system is very difficult? Thank you. I want to make sure we get everything you said on it.

Mr. DeNote: I'm running out of hands.

Ms. Feeney Roser: Perhaps someone can help him. Michael, can you help him? Excuse me, I have a planning staff person who will help you.

Mr. DeNote: That's okay. I can put it down for now.

Ms. Feeney Roser: You sure?

Mr. DeNote: Yeah.

Ms. Feeney Roser: Okay. Sorry, Michael.

Mr. DeNote: I'd also want to make note that in the planning director's report, Comprehensive Development Plan V was referenced. As you all know, Comprehensive Development Plan V has not yet been approved by the City, nor has it been certified by the Office of State Planning so it really has no relevance to our purposes tonight. I'm sure that you're all aware of that. I just wanted to point that out. So the question becomes for the Planning Commission, why the urgency to push this ordinance through without, as I said, proper public notice, which I understand is not necessarily part of the...

Mr. Silverman: The ordinance or the work before us tonight?

Mr. DeNote: The ordinance.

Mr. Silverman: We have nothing to do with the ordinance.

Mr. DeNote: I understand.

Mr. Silverman: Just so were clear on that. We're holding a hearing at the request of City Council.

Mr. DeNote: I understand, and City Council improperly noticed the initial hearing. Really this shouldn't even be before the board, but I understand that that's not something that you're deciding on this evening.

Mr. Silverman: We don't decide on that. The Code is very clear.

Mr. DeNote: I understand. So just to put a final point on this, this rezoning would significantly impact the country club. It would reduce its fair market value by 7 million dollars. As currently zoned, it is consistent with the Comprehensive Development Plan IV. It is consistent with the parcels that surround it in terms of zoning, so for the Planning Commission to recommend to Council to approve this rezoning, it would be unprecedented and incorrect. So unless the Commissioners have any questions for me about anything in particular...

Mr. Silverman: I will reserve my comments for last. Commissioner Stozek?

Mr. DeNote: Were there any other questions?

Ms. Feeney Roser: There are. I think Mr. DeNote's asking if the Commission has any questions for him because he's the attorney for the Country Club.

Mr. Johnson: Edgar Johnson. Mr. DeNote, what do you put the value of the land per acre at the Country Club?

Mr. DeNote: I actually, Mr. Barba, President of the Country Club, may be better able to answer that specific question. I don't know off the top of my head.

Mr. Johnson: Well, you've arrived at a number of 7 million dollars, so tell me what the value of each acre of land is worth. You had to know that to arrive at 7 million dollars.

Mr. DeNote: That's correct. That's based on estimates that the Newark Country Club has received from various land use professionals. I just don't have that exact number per acre.

Mr. Silverman: So you are not submitting a certified appraisal?

Mr. DeNote: I am not.

Mr. Silverman: Thank you. Any other Commissioners? I do have one question. Your comments appear to focus on earlier work that was done prior to the 2008 economic downturn. Has your group done any work on an estimate, a guesstimate, a professional guesstimate of the value that could be derived from the parcel based on a good site plan approval process subdivision that the Director's report cited could yield as many as 960 dwelling units on that site?

Mr. DeNote: No, we have not, nor have we done any plans for the 112 units that is allowed by right. The 900 units is, you know, even if a plan like that were submitted, it would be completely under the discretion of the City Council whether it would approve such a plan. Doubtful.

Mr. Silverman: But it is possible.

Mr. DeNote: I suppose it's possible, but probably not.

Mr. Silverman: That might represent an upward range if we were even going to deal with that.

Mr. DeNote: It's hard to value a property if the City Council has absolute discretion to deny it for any reason or no reason at all. A by-right plan based on the current zoning, valuing the property based on what you can do and what the City Council has very limited discretion to deny, would be easier in that circumstance to determine a value of the property.

Mr. Silverman: Thank you.

Ms. Feeney Roser: Thank you, Mr. DeNote.

Mr. DeNote: Thank you.

Ms. Feeney Roser: Next would be Dennis Barba.

Mr. Dennis Barba: Good evening. My name is Dennis Barba. I'm president of Newark Country Club, and I can answer some of your questions. The question was brought up was have we had an estimate or a valuation of the land as it currently stands. We've had offers. We have had workshops over the past year. We're currently sitting at about 16 million dollars for the property, offered by a developer in the event that we take this all the way through, but that is only one option that the Newark Country Club is looking at. During my tenure as president, I promised the membership that we would look at all options, and we were able to, or we did come to the

City in the past and tried to ask for some options and some help. Unfortunately this thing has taken off not the way we expected it to, and we are somewhat opposed to the current position that the City of Newark is taking, but I know you don't have any decision on that as being the Planning Commission.

Mr. Silverman: Right.

Mr. Barba: We are willing to stand and do what we have to do to make a viable situation for our members. We are very much opposed to the way this thing has taken down the route. The Club has spent a lot of money already because of a letter that was submitted on August 3, but to that effect, if you have any questions, I'll be, feel free to ask them. I've been involved in this for quite a long time.

Mr. Silverman: Thank you.

Mr. Barba: You're welcome.

Ms. Feeney Roser: Thank you. Next we have Dr. John Morgan.

Dr. John Morgan: Thank you. John Morgan, District 1. I live in the Cherry Hill development close to Casho Mill Road. So, if there's a large development with lots of extra houses on the Country Club property, I think there surely will be an increase in traffic on Casho Mill Road, which is something that I think does need to be taken into account. I am not taking any clear position tonight about what the Planning Commission should do or what the right number of houses is. I think that clearly requires a very careful traffic study, and probably not just reusing the traffic study from eight years ago when there was the proposal in 2007 to develop the property and put 270 houses on the site.

I did have a couple of questions which I was hoping to be able to ask Mr. Tucker because he appeared before the Commission in October and November of 2007 and made some statements whose factual basis were not entirely clear to me. I would like to just put this on the record in the hope that the Planning Commission may be able to get some precise answers to them. One of them concerns the value. At the October 2, 2007 meeting, Mr. Tucker stated as estimating the house, the range of house prices if the plan is developed as between 500,000 and 700,000 dollars. He said he can estimate the price range because of the area, because of current values. I went online to Zillow and looked at three houses along Country Club Drive which I imagine is as close as possible as you can get to the Country Club, and I found that going back to 2005 those houses were 4-bedroom houses, three or four bathrooms, were consistently priced between 250,000 and 350,000. I don't know where the numbers of 500 to 700 thousand came from. I would suggest that it would be good to look into. Everybody should want to know what the true value of this property is before they make decisions. I can distribute these copies that I made to the Commission if they would like them.

Ms. Feeney Roser: Yes, please.

Mr. Silverman: Yes, we'll take those Dr. Morgan. Is there a title on that I can refer to?

Dr. Morgan: I just found it in a Google search.

Ms. Feeney Roser: Thank you, John.

Mr. Silverman: I'm going to mark my copy as Morgan 1.

Speaker [unidentified]: Thank you.

Dr. Morgan: I attended the City Council meeting on the 10th of August where Mr. Tucker appeared and stated that the original plan that was approved in 2007 by the Planning Commission and by Council in 2008 was still alive. I guess I don't know really whether it is, whether that's something that's changed in the last month or two. I would note that a statement was made by Mr. Tucker at the Planning Commission meeting on the 6th of November, 2007, in

which he was repeatedly insisting, and I'll just quote here, each month of delay costs my client tens of thousands of dollars.

Mr. Silverman: How is this germane to what we're dealing with today?

Dr. Morgan: Well, I think, again, it gets into what's the actual value of this property? How much money has been lost by not developing it? I just don't know. I don't know what the factual basis of these statements is. I guess I'll just wind it up there.

Mr. Silverman: Okay, thank you.

Ms. Feeney Roser: Next we have Thomas Runnels.

Mr. Thomas Runnels: Good evening, Mr. Chairman. Mr. Chairman, Commissioners, news representative, the Planning Department, Mr. Solicitor, my name is Thomas Runnels. I've lived in this fair berg at various locations for an excess of 60 years. For 19 plus years, I had my law practice on Main Street and I thank you for the opportunity to speak to you today. I am residing presently at 261 West Main Street, a 4-minute walk from the bar at the Country Club, where I'm a member. I am also a taxpayer in this City so I cast a double whammy here, and Mr. Commissioner, I offer my condolences for your overwhelming coronation as Chairman of this August body.

Now, let us focus in on your criteria. As our good friend Dr. Morgan has pointed out, and as certain of you distinguished Commissioners have pointed out, three of your four criteria are impossible for you to meet. Let's walk around the Country Club for a minute. Next door to the Country Club, there is a Presbyterian church and as befits being between the church and the Country Club, there is a building which is primarily used for outreach to the recovering community. Across the street, there is a doctor's office, there is a water tower, there is a house that is now sort of a half-way house for recovering felons or addicts, I'm not sure exactly which, something of that nature. And, by the way, next to the church, is the nursing home where my mother, God rest her soul, passed away. Now, behind the 16th green, there is an apartment building. Next to the apartment building, there is a drug store. Behind the 18th fairway, there is a community center. Is this a mixed-use community or what? It's not residential. It is a mixed-use community. What is the defect with the posture of the matter today? There is no site plan. With no site plan, we're facing a chimera, a mirage, an illusion, something that everyone in this room has a different idea of what will exist on that facility.

The fact of the matter is that no one knows. I will also be perfectly confident in saying whether the Newark Country Club can stay here or not, has yet to be shown and if you were to poll the members today, you would be overwhelmingly in favor of maintaining the property as it is. If I were in litigation, and I were wearing my former attorney's hat, and my client came to me with this complaint, it would be real simple. I would dash off a motion to dismiss under Rule 12(b)(6), failure to state a claim for which relief can be granted. You have unfortunately been placed in a very, very uncomfortable position under which no decision you can make in this matter will be correct but also, no decision will be incorrect because we have no idea what we're dealing with. Thank you very much.

Mr. Silverman: Thank you.

Ms. Feeney Roser: Next we have Laura DelPercio.

Ms. Laura DelPercio: Good evening. My name is Laura DelPercio. I'm the General Manager of Newark Country Club. I am not a resident but I am here to represent the club. I am also here to represent one of our members who is not able to be present and would like this to be on the record, so I have her statement. Members of the Planning Commission, I cannot be with you tonight but I would like my voice to be heard. I am happy to be a citizen of the City of Newark. I enjoy all it has to offer, especially Newark Country Club.

The Country Club has been an institution and a part of the City's landscape for almost 100 years. The property is been privately owned and operated for all of these years and the City

has never interfered in its operation until now, when it wants to change the zoning to RH. This would reduce the value of a privately owned parcel by a government agency. The question is why? City Council's answer cited the City's Comprehensive Development Plan and I so read that plan, Chapter 5 Housing, Community Development. According to the population density paragraph on page 44, areas surrounding the club are zoned RS and fall into least densely populated areas of Newark. Table 4-5 reflects Newark homeowners are affluent enough to afford more expensive housing and tend to make more conservative and long-term mortgage choices, which keep their housing costs affordable over time.

Under Housing Needs and Trends, page 45, I quote, "The population cohort in between, often referred to as Gen X, persons born between the years 1964 and 1983, are now the primary market for single-family houses in suburbs. However, this is a smaller cohort than the Baby Boomers and the Millennials." The DPC projections indicate that there will be a larger number of suburban homes placed on the market by Baby Boomers and that there will be a decline in the number of buyers who typically seek larger homes.

Finally, under Plan Goals and Action Items, Housing and Community Development, nowhere does it point to the necessity for homes on half-acre lots. This is contrary to all the City's research and current and future needs of the City. I will say, if you are looking for half-acre lots, there are three that are sitting across the street from us that have been up for sale for over a year. Obviously, people in the neighborhood and in the community are not looking for these large homes.

Again, I would ask you why even consider changing the zoning. I don't know but I can tell you why not. First, you will devalue private property. Next, you will subject the city and its taxpayers to yet another lawsuit. It hasn't been more than two years since zoning allowed for the data center and the 285 megawatt power plant in the residential neighborhood. How much in legal fees did this cost the taxpayers or the reservoir lawsuit, which the city has lost. The best reason not to change the zoning, if or when a development plan for this parcel is put before the Planning Board, you hold the power to accept or reject the plan based on its impact on the citizens and the City's infrastructure. You do not need the bidding for Council. You do not need once again a party to polarize the community or costing taxpayer's money. You have the opportunity to gain the community's trust by doing the right thing in turning down the ordinance to rezone Newark Country Club. This is from Jaclyn Legacy. Thank you.

Mr. Silverman: Okay, that is...

Ms. Feeney Roser: You need to talk into the microphone.

Mr. Silverman: The microphone again. That represents the people who filled out forms asking to formally speak. Based on the discussion and the comments that you've heard, are there any other people who would also like to speak for or against or just comment on the proposal? I see no hands. I would like to ask Mr. DeNote if he would like to come to the microphone again to make any responses to some of the comments that have been made.

Mr. DeNote: Just briefly, just a couple, Mr. Tucker is not here tonight so I can't speak to what he may or may not have said in 2007, the accuracy of the statements. I will say that in 2007, the economy was much different than it was just a year later in 2008, so maybe his statements were accurate then. Maybe they're still accurate now. Maybe they weren't accurate in 2010, I just don't know so I don't want to speak for Mr. Tucker for what happened back in 2006. I wasn't even an attorney yet in 2007, so I'm not going to speak to that.

I just want to reiterate, and the folks from the Country Club have stated it also, this rezoning of a significant negative impact on the property. I feel like the zoning, as it currently is RS, is consistent with the current Comprehensive Development Plan and also consistent with the zoning in the neighborhood that surrounds the Country Club. So, with that, unless you have any further questions, I'll leave it to the Commission.

Mr. Silverman: Thank you. I'm going to take a moment and confer with the Planning Director. We're at the point in our deliberations, or our hearing rather, where I'm going to open the floor

for the Commissioners' comments in reaction to the public comment, and particularly the proposal and the comments from the legal representation from the Country Club. Commissioner Stozek?

Mr. Stozek: Bob Stozek, District 1. I'll probably be repeating what I've said before but based on what I've heard to night, number one, the vast majority of the surrounding land is zoned RS. I see that the net loss of potential revenue to the city is significant and, although there are some concerns about increased traffic in the area, DelDOT's comment, it did not rise to the level of severe concern. Even they said, until we have a plan, we can't evaluate this. So I've heard a lot of comments tonight against this proposal. I have not heard any testimony in favor of the proposal, so that's where I'll end my comments.

Mr. Silverman: Commissioner Hurd?

Mr. Hurd: Thank you. It's Will Hurd. I agree. I hear no support for this proposal. I see it's surrounded by RS zoning. When I reviewed the minutes of the Council workshop, it was clear that this was not a community supported request. This came from a Councilman in that district who's main concern seems to be traffic. I don't see that the rezoning benefits the community in the sense of providing more public space. I'd like to see rezoning like this come out of the community process, I mean there's a master plan process that could be taking effect, there's the Comp Plan process. That's the opportunity I think to examine the zoning of parcels and to determine if the zoning is appropriate.

I personally, and honestly, am angered the Council dumped this on us and made us have to deal with this when they started it. I think that the values that were tossed around of the property don't matter so much. What matters is that this is a reduction of, the rezoning will reduce the value, and that's going to get us sued. And I think that's really what makes me most angry about Council bringing this to us is to say that they're dumping that on us. That's my comment.

Mr. Silverman: Commissioner Johnson?

Mr. Johnson: Edgar Johnson, District 3. I'm concerned that we have no plan before us. Like Will, I'm angry, upset, displeased that council unilaterally did this. I believe that the precedent of having the owner of the property request rezoning is one that we should adhere to. If the City wanted to exercise eminent domain and pay fair market value for the property, they should do that but they shouldn't rezone it without the owners requesting it. I'm not in favor of it and I haven't heard, like all the other commissioners, anyone speaking in favor of this except for one Council member. I am disturbed that the Council vote was 6 to 1 pushing this forward, so it's very troubling to me.

Mr. Silverman: Okay, as District 5...

Mr. Stozek: Alan, can I make one other, follow-up comment?

Mr. Silverman: Yes, Commissioner.

Mr. Stozek: Bob Stozek, again. If and when the Country Club does decide to sell and develop its property, I would encourage them and the developer to work with the Planning Department early on to bring up some basic plans so we don't have to get to a point there's a confrontation. If there are differences of opinion about things, let's work on them as you're developing the plan, rather than come up with something and surprise dumping it on the City. I said if and when. Okay, that's all.

Mr. Silverman: Okay, I'll make my comment as a Planning Commissioner appointed from District 5. I'm taking off my chair hat at the moment. I'm really torn on this particular proposal. It lacks a major ingredient in the mix and that's exactly what's going to be placed on the ground. What's going to be placed? Where it's going to be placed? How it's going to be interconnected? What impact it's going to have on the existing sewer system, the existing water system? Does it offer opportunities for the City? For example, my recollections of some Public Works

infrastructure problems was a link between the water tank on Route 273 and the piping system down at the bottom of the hill on 896 coming across the Country Club.

The Country Club is another opportunity to disperse traffic with taking another road between State Route 896 and State Route 273; not only to serve the community but serve general traffic patterns. As I commented with the attorney representing the Country Club, there's an option, the site plan approval process, and I agree with Commissioner Stozek that there is a considerable design opportunity to take advantage of the topography and the natural features described in the Director's report.

Now, with respect to the Comprehensive Plan, I look at the Comprehensive Plan not as a zoning document, not as the immediate surrounding properties, but as a general overlay, and to my mind, the proposal, whether it's the existing zoning or the zoning proposed by City Council, does conform with the spirit of the adopted Comprehensive Plan. Its land use is predominantly residential. Institutional uses such as nursing homes are part of the residential fabric. A doctor's office in a house is part of the residential community fabric. So I see it as generally conforming in either case, the existing zoning or the future zoning.

The proposal requested by City Council maintains the character of the neighborhood. Single-family detached, now whether that's 4-bedroom units or 3-bedroom units or large lot units or smaller lots, it's still predominantly single-family detached, and I think it generally reflects community character. In irony, it actually increases the amount of half-acre zoned lots in the City of Newark. Whether there's a market for it or not, that's another question but the irony is, it does actually increase the amount of acres available in a particular zoning category should the marketplace be looking for that kind of opportunity.

The thing that I see, whether it's the proposed zoning, the larger lots or the maintenance of the relatively smaller lot, no matter what the number is, that the site plan approval process and that massaging the parcel and working with the amenities of the parcel is the key to this. And that doesn't exist because we don't have a development plan in front of us. We're dealing with gross figures and when I say that I mean an overlay of one half-acre lots overlaid across 120 acres. When we know in reality, and based on my experience, about 30% in a cornfield open and nothing is there parcel, is devoted to right-of-ways, utility open easements, streets, open space requirements, storm water management, so you're not going to net out this. This site has some attributes that could reduce that number even further.

I'm at a point where I cannot support this Council-proposed rezoning. We just don't have enough to work with. I'm going to put on my Chair hat. Commissioners, are we ready to take the vote? I see nods of approval on that. All those technical questions, I need to consult with the Planning Director again.

Ms. Feeney Roser: We have the recommendations but we need a formal motion.

Mr. Johnson: Makes no difference to me. You take it, Will.

Mr. Hurd: Okay.

Mr. Johnson: I'll second you.

Mr. Silverman: Okay, we'll just keep this simple. The Chair will entertain the motion for action on this site.

Mr. Hurd: I make the motion.

Mr. Silverman: Commissioner Hurd, your motion?

Mr. Hurd: I make the motion that we vote on the rezoning of the parcel.

Alan Silverman: Okay.

Mr. Johnson: Second.

Mr. Hurd: As described in the Planning Department report, or however you want to phrase that.

Mr. Silverman: Refer to the date on the...

Mr. Hurd: Oh, date as of October 6, 2015.

Mr. Silverman: Okay. The second was by Commissioner Johnson. All those in favor?

Mr. Johnson: This is just whether we're going to vote on it. This is not voting Yay or Nay.

Ms. Feeney Roser: No, I believe your motion is to approve the Planning Department's recommendation, which was to rezone the property.

Mr. Hurd: Correct, correct.

Mr. Silverman: That's where I was heading.

Ms. Feeney Roser: Sorry.

Mr. Silverman: Was there any discussion you wanted to make?

Mr. Johnson: No.

Mr. Silverman: All those in favor of approving the Planning Department's recommendation, which is to rezone this property, signify by saying Aye. [silence] All those opposed, signify by saying Nay.

VOTE: 0-4

AYE: NONE

NAY: HURD, JOHNSON, SILVERMAN, STOZEK

MOTION DEFEATED UNANIMOUSLY

Mr. Silverman: By unanimous vote of those present, the recommendation is defeated. [gavel]

4. REVIEW AND CONSIDERATION OF THE 2016-2020 CAPITAL IMPROVEMENT PROGRAM

Mr. Silverman: Thank you very much for very rapidly settling down. Item number 4 in our agenda, review and consideration of the Capital Improvements Program, although it was listed on tonight's agenda and advertised, that has been postponed. We will be hearing the Capital Improvements Program and some administrative items, like hopefully electing a Vice President.

Ms. Feeney Roser: Chair.

Mr. Silverman: I'm sorry, Vice Chair on the October 20th special meeting.

5. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT, REZONING, MAJOR SUBDIVISION AND SITE PLAN APPROVAL APPLICATION FOR THE 1.02 ACRE PROPERTY LOCATED AT 53, 57, 63 WEST CLEVELAND AND 56 CHURCH STREET TO CONSTRUCT 17 TOWNHOUSE-STYLE APARTMENTS TO BE KNOWN AS CLEVELAND STATION.

Mr. Silverman: Moving on to agenda item 5, for those of you who are new to our process, let me outline it. It's a little different than the proposal we heard before. We will hear a report from the City Planning Director. There will be comments and discussions and questions from the Commissioners about the Director's report. Then we will open up the floor to the applicant. The

applicant and their supporting people will make their presentation. The Commissioners may, during the presentation, ask clarification questions of the applicant. Then we will open it up to the floor for questions, as we did before.

Again, we'd ask you, if you have not already, to fill out the form or we will take your comments one at a time by virtue of requesting, by raising your hand and then the Commissioners will deliberate and we will make a decision tonight. That's how the process is going to go.

Ms. Feeney Roser: Thank you, Chairman Silverman. For the benefit of those of you who haven't had the opportunity to read the report on this project, which is relatively long, I will try to summarize.

Mr. Silverman: We ought to give them the title of the project.

Ms. Feeney Roser: Yes, I'm going to.

Mr. Silverman: Okay.

Ms. Feeney Roser: The Comprehensive Development Plan Amendment, Rezoning, Major Subdivision and Site Plan Approval for 53, 57 and 63 West Cleveland Avenue and 56 Church Street to be known as Cleveland Station. [Ms. Feeney Roser summarized her report, which reads as follows.]

On June 4, 2015, the Planning and Development Department received an application from Cleveland Holdings, LLC for rezoning and major subdivision approval for 1.02 +/- acres at 53, 57 and 63 W. Cleveland Avenue and 56 Church Street. The applicants are requesting rezoning from BN (business neighborhood) for the 53 and 57 West Cleveland Avenue parcels; from BLR (business, limited residential) for the 63 W. Cleveland Avenue parcel; and from RD (one family- semi-detached residential) for the 56 Church Street parcels to RM (residential multi-family – garden apartments) and subdivision approval to create one tax parcel out of the five parcels to construct 17 townhouse style apartments with associated parking and access ways. A Comprehensive Development Plan amendment is also requested to accommodate the proposed development, as well as site plan approval.

Background

A plan for a portion of the site was originally submitted in 2009, prior to a Code change to the BLR zoning district, which now allows apartments only in conjunction with a non-residential use permitted in the district. The original plan was submitted prior to this change, but never acted upon. Therefore, as the City did not have a requirement for sunseting subdivision applications (only for approved subdivision plans), the City Solicitor opined that the plan had to be reviewed under the previous Zoning Code provisions, which allowed residential uses without a non-residential use on the property. The associated subdivision plan, which did not include 53 or 57 West Cleveland Avenue or 56 Church Street, was approved by City Council on August 12, 2013, and provided for the construction of six (6) townhouse style apartments. Subsequently, the applicant submitted the required Construction Improvements Plan (CIP), which was also approved, and now needs only to apply for a building permit to commence construction.

While preparing for the construction of the six (6) approved units, adjacent parcels at 53 and 57 West Cleveland (the former Elk's Club) and 56 Church Street (a single family residence) became available for sale, and now the applicant requests approvals to combine all parcels and expand upon the approved six unit subdivision, by adding 11 additional townhouse-style apartments and associated access ways and parking, with site plan approval. If approved, the new combined 17 unit plan will supersede the August 12, 2013 plan. If the proposed 17 unit plan is not approved, the previously approved six (6) unit townhouse style apartments plan will continue to be in force, and therefore, may be built unless construction does not begin within five years of approval (August 11, 2018).

The Planning and Development Department's report on Cleveland Station follows:

Property Description and Related Data

1. Location:

The properties are located on the south side of Cleveland Avenue and the north side of Church Street at addresses 53, 57 and 63 W. Cleveland Avenue and 56 Church Street. The Cleveland Avenue properties are all adjacent and front on Cleveland Avenue. The 56 Church Street property is adjacent to the south of the Cleveland Avenue properties. The Cleveland Avenue properties are located approximately 240 ft. east of the intersection of New London Road and Cleveland Avenue and the two 56 Church Street parcels are approximately located 215 ft. east of the intersection of New London Road and Church Street intersection.

2. Size:

1.02 +/- acres

3. Existing Land Use

53 and 57 W. Cleveland Avenue currently contain the now vacant Elk's Club building with associated access way and parking lot. 63 W. Cleveland Avenue site is a vacant lot currently being used for parking. The 56 Church Street properties contain one single family home, which straddles two separate tax parcels, with associated yard and driveway.

4. Physical Condition of the Site:

The 53 and 57 West Cleveland Avenue properties contain the now vacant, two story Elks' Club, which is set back approximately 50 feet from the road. The balance of the site contains a parking area which is partially paved and part gravel, with grass areas along the rear yard. There is an outbuilding/shed and picnic table also in the rear yard. The property is fenced with chain-link on the sides and stockade fence at the rear property line. The property slopes gently from north to south, and west to east. A large tree is located at the southwestern property line. 63 W. Cleveland Avenue is a partially paved open lot, with some gravel and bumper blocks, which is used for parking. This parcel has a chain link fence along the Elks' Club property line, which is adjacent to the east, and along the the backyards of New London Road homes to the west, as well as along Cleveland Avenue. The parcel is relatively level with a slight slope from north to south. Several large trees grow along the southern and western property lines of the 63 W. Cleveland Avenue property. In addition, this parcel has frontage on New London Road, which was previously an RM zoned vacant lot, but was combined with 63 West Cleveland and rezoned BLR as part of the August 12, 2013 approved Cleveland Station plan. The 56 Church Street property currently contains a single family, brick and siding single story dwelling with asphalt driveway and open grass/yard. This property slopes north to south and west to east as well.

Regarding soils, according to the subdivision plan and the United States Department of Agriculture's Natural Resources Conservation Service, the site consists of Mattapex-Urban Land Complex series, 0-5% slopes. No development limitations for these soils are proposed or indicated.

5. Planning and Zoning:

The Cleveland Station sites are zoned BLR (63 W. Cleveland Avenue), BN (53 and 57 West Cleveland Avenue) and RD (56 Church Street).

BLR (63 W. Cleveland Avenue) zoning is a limited business-residential zone that currently allows the following:

A. Churches or places of worship

- B. Schools
- C. Parks and Playgrounds
- D. Municipal utilities uses
- E. Public transportation bus or transit stops
- F. Social club, fraternal, social service, union and civic organizations
- G. Accessory uses
- H. Hospitals
- I. Apartments in conjunction with any nonresidential uses permitted in the district.
- J. Offices for professional services and administrative activities
- K. Undertakers
- L. Barber shops and beauty parlors
- M. Personal service establishments
- N. Specialty retail stores with a maximum floor area limited to 5,000 square feet
[Non-food]
- O. Finance Institutions, banks, loan companies
- P. Six apartment units in any single detached or semi-detached residential building
- Q. Bed and breakfast, with special requirements

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

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

As reference, a summary of BLR area regulations, may be found below:

- (1) *Minimum lot area.* 3,000 square feet, except for apartments in conjunction with nonresidential uses, the minimum lot area shall be one-half acre, with a maximum number of dwelling units per gross acre not to exceed 16.
- (2) *Maximum lot coverage.* 40% except for those uses otherwise regulated and except for apartments in conjunction with nonresidential uses, for which the maximum lot coverage shall be 25%.
- (3) *Minimum lot width.* 75 feet.
- (4) *Height of buildings.* Three (3) stories or 35 feet.
- (5) *Building setback lines.* 20 feet.
- (6) *Rear yards.* 15 feet, but in no case less than one-half the height of the building, shall be provided on every lot except for apartments in conjunction with nonresidential uses, for which a rear yard of 25 feet, but in no case less than one-half the height of the building, shall be provided on every lot.
- (7) *Side yards.* Minimum 10 feet/Aggregate 25 feet.
- (8) *Open area.* At least 35% of the lot area shall be devoted to open area; except for apartments in conjunction with nonresidential uses, where at least 40% shall be devoted to open area.

BN (53 and 57 West Cleveland Avenue) zoning is a neighborhood shopping commercial zone that permits the following:

- A. Parking spaces, off-street.
- B. Public transportation facilities, including bus or transit stops, stations, and depots.
- C. Street right-of-way.
- D. Utility transmission and distribution lines.
- E. Water tower, water reservoir, water storage tanks, pumping station, and sewer.
- F. Social club, fraternal, social service, union, and civic organization.
- G. Community recreation center, for nonprofit use only.
- H. Studio for artists, designers, photographers, musicians, and sculptors. The maximum floor area for any one establishment shall be 5,000 square feet.

- I. Instructional, business, or trade schools. The maximum floor area for any one establishment shall be 5,000 square feet.
- J. Offices for professional services and administrative activities. Finance institutions, banks, loan companies.
- K. Retail stores, which shall be limited to the sale of gifts, antiques, flowers, jewelry, newspapers, books, hobbies, stationery, art supplies, radio or television, hardware, variety, clothing, drugstores, beverages, or liquors. The maximum floor area of any one establishment shall be 5,000 square feet.
- L. Personal service establishments, limited to a maximum floor area of 5,000 square feet.
- M. Laundromats.
- N. Restaurants, excluding fast-food and drive-in restaurants.
- O. Retail food stores such as bakeries, bakery-restaurants, candy, convenience grocery, meat markets, delicatessens, and excluding the preparation of goods for sale off the premises.
- P. Neighborhood shopping center.
- Q. Related indoor storage facilities are permitted as an accessory use to any of the permitted uses in this district, excluding the storage of highly combustible or explosive products or materials which are likely to burn with extreme rapidity, or which may produce poisonous fumes or explosions, or products and materials which involve highly corrosive, toxic, or noxious alkalies, acids, or other liquids or chemicals producing flames, fumes, poisonous, irritant, or corrosive gases.
- R. Accessory uses and accessory buildings, excluding semi-trailers and similar vehicles, for storage of property.
- S. Repair and servicing, indoor on-site and off-site, of any article for sale which is permitted in this district. A 20 foot setback is required with no vehicular parking permitted in the required front yard area.
- T. Photo developing and finishing.

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

- A. Police and fire station.
- B. Substation, electric and gas, and telephone central office.
- C. Church, or other place of worship, seminary or convent, parish house, or Sunday school building.
- D. Library, museum, art gallery.
- E. Drive-in and curb service for other than eating establishments, with a minimum setback from all street lines of 65 feet.
- F. Restaurants, with alcoholic beverages, except as otherwise regulated in this chapter.

Regarding area regulations, BN requires the following:

- (1) *Minimum lot areas.* 5,000 square feet, with exceptions.
- (2) *Lot coverages.* 30%, with exceptions.
- (3) *Minimum lot width.* 75 feet.
- (4) *Height of buildings.* Max three stories or 35 feet.
- (5) *Building setback lines.* 20 feet.
- (6) *Rear yards.* 15 feet, but in no case less than ½ the height of the building.
- (7) *Side yards.* Ten feet/minimum aggregate 25 feet, with exceptions.

RD (56 Church Street) is a one-family semidetached residential district which permits the following:

- A. A one-family, detached or semidetached dwelling.
- B. No Impact Accessory uses and buildings
- C. Cluster or neo-traditional types of developments as provided in Article XXVII, Site Plan Approval.
- D. The taking of nontransient boarders or roomers, with restrictions (6.1)
- E. Church or other place of worship
- F. Public and private schools.
- G. Parks and Playgrounds
- H. Municipal tower, water storage tank, water reservoir, water pumping station, and water treatment plant.
- I. Municipal sewage pumping station, and sewers.
- J. Right-of-way, street.
- K. Swimming pool, private; swimming pool, public.
- L. Temporary buildings
- M. Utility transmission and distribution lines.
- N. Public transportation bus or transit stops for the loading and unloading of passengers.
- O. Student home, provided requirements are met.
- P. No impact home

The following are also permitted in RD with a Council-granted special use permit:

- A. Nursing home, rest home, or home for the aged
- B. Police and fire station, library, museum, and art gallery.
- C. Country club, regulation golf course, subject special requirements.
- D. Professional office in a residential dwelling, subject to special provisions.
- E. Customary home occupations subject to special requirements
- F. Substation, electric, and gas facilities, subject to special requirements.
- G. Day care centers, kindergartens, preschools, day nursery schools, and orphanages, subject to special requirements.
- H. Public transportation bus or transit shelters and parking facilities
- I. Swimming club, private (nonprofit).

Regarding area regulations, a summary of RD requirements follows:

- (1) *Minimum lot area.* 6,250 square feet.
- (2) *Maximum lot coverage.* 25%, and the total maximum lot coverage of 50%.
- (3) *Minimum lot width.* 50 feet.
- (4) *Height of building.* Max three stories or 35 feet.
- (5) *Building setback lines.* 15 feet.
- (6) *Rear yards.* 20 feet, with 20% “skewing” allowed for a corner lot.
- (7) *Side yards.* Eight feet/aggregate 20 feet.

The applicants are requesting all five (5) parcels be rezoned to RM. RM zoning is our residential multi-family/garden apartment zone that permits the following:

- A. Garden apartments, subject to special requirements.
- B. One family, semidetached dwelling.
- C. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- D. Nursing home, rest home or home for the aged; subject to special requirements.
- E. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding

- semi-trailers and similar vehicles for storage of property.
- F. Cluster or neo-traditional types of developments, included uses that many not be permitted in this district, as provided in Article XXVII, Site Plan Approval.
- G. One-family detached dwelling.
- H. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for a rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.
- I. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- J. Public and private elementary, junior, and senior high schools.
- K. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- L. Municipal utilities, street rights of way, treatment plant.
- M. Temporary building, temporary real estate or construction office.
- N. Utility transmission and distribution lines.
- O. Public transportation bus or transit stops for the loading and unloading of passengers.
- P. One-family town or row house subject to the requirements of Sections 32-13(a)(1) and 32-13(c)(1).
- Q. Student Homes, with special requirements

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

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

Regarding area regulations, a summary of RM requirements for apartments is found below:

- A. Dwelling units per gross acre. 16.
- B. Lot coverage. 20%.
- C. Number of dwelling units per building. 12
- D. Distance between buildings or groups of attached buildings. No part of any building, or groups of attached buildings, shall be nearer than 25 feet to any other building, or groups of attached buildings, and no portion of the front or rear of any buildings, or groups of attached buildings, shall be nearer than 50 feet to the front and rear of another building or groups of attached buildings. No more than three buildings shall be attached to one another.
- E. Street frontage. 50 feet.

- F. Minimum lot size. One acre.
- G. Open area. 40%
- H. Parking and loading spaces. All uncovered parking and loading spaces shall be located at least ten feet from all abutting perimeter streets and property lines.
- I. *Minimum lot area.* 2,725 square feet per family for garden apartments, unless certain density bonuses are granted, but in no case shall the minimum lot area be less than 2,350 square feet per family for a garden apartment.
- J. *Minimum lot width.* 50 feet.
- K. *Height of buildings.* Three stories or 35 feet.
- L. *Building setback lines.* 30 feet from the line of all perimeter streets; 25 feet from the line of all interior streets; and 25 feet from all exterior lot lines.
- M. *Rear yards.* 25 feet.
- N. *Side yards.* 20 feet. In case of a building more than two and one-half stories in height, each side yard shall be not less than one-third the height of the building.

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

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

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

<u>Section</u>	<u>Code</u>	<u>Plan Shows</u>	<u>Difference</u>
32-11 (a)(1)a – Max du/acre	16.32	17	+ .68
32-11(a)(1)d – Max Lot Coverage	20%	31.6%	+ 11.6%
32-11(a)(1)f – Distance between buildings	50’	30’	- 20’
32-11(a)(1)i – Open Area	40%	26.9%	- 13.1%
32-11(a)(1)j – Location of parking spaces	10’setback	2.5’ – 6’	- 7.5’
32-11(c)(1) – Min Lot Area/du	2,725 sq. ft.	2,613.6 sq. ft.	- 111.4/du
32-11(c)(5) – Setbacks from ext. lot lines	25’	3-23’	- 22’
32-11(c)(7) b and c – Side Yards	20’	3-47’	- 17’

The plan is, therefore, noncompliant in terms of units per acre, maximum lot coverage, open area, location of parking spaces, minimum area per unit, and at varying measurements for the distance between buildings, setbacks from exterior lot lines and side yards. The front setback of 25’ from Cleveland Avenue is permissible as it conforms to the average setback as provided in 32-56.2(d)(1).

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

In terms of comprehensive planning, the Comprehensive Development Plan IV, by virtue of amendment approved during the 2013 Cleveland Station development approvals calls for “multi-family residential (medium to high density)” uses at the 63 W. Cleveland Avenue portion

of the site. “Multi-family residential (medium to high density)” uses are defined as “areas designated for dwellings designed for and occupied for more than one family, living independently of each other in apartments, condominiums, townhouses, with a density from 11 to 36 dwelling units per acre. The 53 and 57 West Cleveland Avenue parcels are identified as appropriate for ”light commercial (local shopping) uses in Plan IV. Light commercial (local shopping) is defined in the Comprehensive Development Plan as “administrative and professional offices, personal services and retail stores, restaurants and similar kinds of neighborhood shopping uses that may be found in limited business, business-residential or neighborhood shopping districts.” Finally, Plan IV cites single family residential (medium density) as appropriate for 56 Church Street. Single family residential (medium density) are areas designated for dwellings with overall densities of 4-10 dwelling units per acre. Please note the Comp Plan IV land use designations reflect the current zoning of these parcels.

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

Regarding this amendment, please note that Comprehensive Development Plan IV indicates, “Residential” uses may be “... accommodated very satisfactorily within areas not necessarily designated for such uses, depending upon the specific use involved, site design considerations, proposed site amenities, and the availability of adequate services and facilities.” Further, please note that in the Purpose and Plan Design Section of the Plan, it indicates that the Comprehensive Plan is “not proposed as a warranty against alternative decision making when public needs or experience change – which, of course, may require Plan amendments – but, rather, it is intended as an officially adopted, legally required public document designed to establish strategies and policies to ‘guide’ our community’s growth over approximately the next five years to ten years.” As you know, we are currently in the process of updating Comprehensive Development Plan IV, which was adopted in 2008.

Regarding adjacent and nearby properties, to the north across Cleveland Avenue from the site is a single family type dwelling owned by ARC of Delaware on the corner of Rose Street and zoned RM, and further east across Cleveland Avenue are vacant lands owned by the University of Delaware. Immediately adjacent to the W. Cleveland Avenue parcel, on either side, are BN zoned parcels containing the Elks Club to the east and to the west, a triangular shaped vacant parcel. To the south and adjacent at 56 Church Street are RD zoned homes, along Church Street. Regarding the New London Road frontage, on either side immediately adjacent are RM zoned rental units fronting on New London Road. Across New London Road are also RM parcels containing single family homes, which are a combination of rentals and owner occupied units, as well as the Prayer Temple Ministry Church.

Regarding density, the Cleveland Station proposes 16.32 units per acre. The area’s average density per acre is 12.5 in the immediate area, however, the most recent RM development in the general vicinity, Campus Walk on New London Road, is closer to the proposed density of Cleveland Station at 15.36 dwelling units per acre.

Based on recent discussions at both Planning Commission and Council meetings, the following density calculations are also provided. In terms of bedrooms per acre, the 69 proposed bedrooms associated with the Cleveland Station project calculate to 67.6 bedrooms per acre. While the same bedroom information for the immediate area is not readily available for comparison purposes, recent Council RM zoned, approved developments’ bedroom densities calculate as follows:

Rupp Farm (Chambers and Benny Streets):	88
South Main Commons:	61
Campus Walk:	77

Based on Council imposed restrictions on residency in these projects, bedroom counts translate into the following number of unrelated individuals permitted to reside in them:

Rupp Farm:	48
South Main Commons:	78
Campus Walk:	72

The applicant proposes to voluntarily deed restrict the site to a total occupancy (not per unit) of 85 persons, which averages 5 per unit.

Status of Site Design

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

Be that as it may, the Cleveland Station rezoning, major subdivision and site plan approval plan calls for a one-way access roadway to the site through the frontage on New London Road leading to a 24’ wide, two-way fire lane with ingress/egress on Cleveland Avenue. The plan also calls for a building group of nine units, a four pack and two sets of duplexes for 17 units in total. Each building is proposed to be three stories in height and according to the developer, 16 will contain four bedrooms and one five. The plan also shows 56 associated parking stalls, which exceeds the parking requirements for 17 townhome apartments with more than three bedrooms each (51 spaces) by five spaces.

Fiscal Impact Study

The Planning and Development Department has evaluated the Cleveland Station development plan on Newark’s finances. The estimates of net return are based on the Planning and Development Department’s Fiscal Impact Model. The Model projects that the Cleveland Station fiscal impact – that is, total anticipated municipal revenues generated, less total cost of municipal services provided. The Planning and Development Department’s estimate of net annual revenue for the project are as follows:

First Year:	\$ 22,711
Second Year and Thereafter:	\$ 6,211

The difference between the first and future years’ net revenue is from the City’s transfer tax in the first year.

Traffic

Because Cleveland Avenue and New London Road are both State owned and maintained roadways, the Planning and Development Department requested DelDOT’ s review of the Cleveland Station Comprehensive Development Plan Amendment, Rezoning and Major Subdivision with Site Plan Approval plan. The Department indicates that the proposed development does not meet the warrants for a Traffic Impact Study (TIS), which are 400 trips per day at 50 peak hour. Having said that, however, DelDOT had comments which will need to be incorporated into the plan as follows:

- The developer should make an initial stage submission to the Department, including among other things, a turning template for the a SU-30 type vehicle for both entrances
- Minimum right-of-way dedications totaling 40 feet from the center line of Cleveland Avenue and New London Road are necessary, and should be shown on the plan;
- A 15' permanent easement should also be provided beyond the right-of-way is required and should be shown on the plan;
- A traffic generation diagram should also be shown on the plan.

Subdivision Advisory Committee Comments

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

1. Electric Department indicates:

- Service is available onsite from Cleveland Avenue and Church Street.
- No trees over 18' at maturity can be planted under power lines.
- All meters must be grouped together for each building and must not be positioned to negatively impact the architecture as shown on the approved elevations.
- The developer must pay \$20,000 towards the cost of electric services. One half of this amount is required prior to the issuance of the first building permit, with the remainder due before the first CO. The price is subject to annual CPI adjustment from date of approval.
- The developer must insure that 5' of sidewalk remains on Cleveland Avenue at poles, and must repair the sidewalk on Church Street after pole replacements
- All electric is to be installed underground from utility poles to buildings.

2. The Public Works and Water Resources Department indicates that:

- Entrance plan approvals from DelDOT will be required for Cleveland Avenue and New London road entrances.
- A Letter of No Objection from DelDOT will also be required. Owner assumes any and all risks for proceeding without this documentation from DelDOT.
- Each water meter location shall have easy access for meter installer. The developer shall pay for the cost of the meters. STP fees will be due at CO.
- An access easement to enter the property to turn off water valves will be necessary.
- The developer will be responsible for the repair of any interference with the City's smart metering system, which may result from the development.
- The Department will have additional comments during the CIP process.

3. The Parks and Recreation Department indicates they have no concerns with the landscape plan as submitted. Additional comments will be provided during the CIP process.

4. The Newark Police Department indicates that:

- They have a concern regarding cut-through traffic from New London Road to Cleveland Avenue.
- The access drive must have adequate lighting.
- The access road will also increase noise from pedestrians and vehicles on the property.

5. The Planning and Development Department's Code Enforcement Division indicates:

- The buildings must meet 2012 ICC Codes, as amended, in force at the time of submittal, including the 2012 IFC and the Delaware State Fire Prevention Regulations, whichever is more restrictive.

- Fire hydrants along New London Road and Church Street should be shown on the plan
 - As required by DelDOT, a turning performance verifying fire department vehicles can make the turn off of New London Road onto the access road should be submitted.
 - The division has concerns about the 15' of depressed curb along the one-way access way from New London Road west of unit 15. While depressed curb at this location was initially approved by the Public Works and Water Resources Department, the City reserves the right to revisit the design at CIP and require changes, if deemed necessary.
6. The Planning and Development Department believes the architecture associated with the Cleveland Station development to be superior, and further acknowledges that the LEED-like energy conservation measures proposed are considerable, as they exceed City requirements and in fact address all points possible under the local ordinance, but we continue to have concerns regarding the 16.32 units per acre density of the development, and the associated deviations from Code area requirements necessary to accommodate that density. While it is important to note that some of the requested variations from the RM area requirements are inherent in the already approved Cleveland Station six unit townhouse-style apartment development, which conforms to BLR district requirements; and further that the already approved development received variances from the Board of Adjustment for lot area, lot coverage and building height (which apply to the 63 W. Cleveland Avenue parcel only); and finally, that the development, as proposed, will significantly improve the aesthetic appeal of this section of Cleveland Avenue, the department suggests that the plan could be improved by reducing the density. For example, even one less unit would bring the plan into conformance with Code density requirements (at 15.69 units per acre) and reduce the associated deviations for some area requirements, such as lot coverage, open area, minimum lot area per dwelling unit. The Commission may want to discuss this suggestion with the applicant at the meeting.
 7. The Planning and Development Department notes that while the overall parking for the site exceeds Code for 17 townhouse apartments with more than three bedrooms each, the configuration may cause some confusion as to which spaces are assigned to which unit, and how those spaces will work practically. Therefore, a parking assignment plan will be necessary and should be submitted as part of the CIP process.
 8. The Planning and Development Department indicates that 17 townhome apartments at the currently near-vacant site will significantly increase density in the area. Therefore, to minimize the overall impact of the development, the Department believes the applicants should voluntarily deed restrict the property to a total maximum number of unrelated tenants permitted to reside in the development to a multiple of the number of units approved. Please note in this regard, the developer suggests a total occupancy of 85 tenants at the site. The Commission may wish to discuss this restriction with the developer at the meeting.
 10. The Planning and Development Department indicates that the Comprehensive Development Plan amendment from light commercial to residential multi-family is appropriate for the area and conforms to the development pattern and zoning of parcels in the area. The Department also indicates that rezoning the Cleveland Avenue parcel from BN (neighborhood shopping) to RM is suitable for the location, considering the residential uses in the immediate area. And further, the Department believes that the Church Street properties' Comp Plan land use designation from single family residential (medium density) to multi-family residential (medium to high density) is also appropriate considering the street's student home ordinance exempt status and the number of rental units currently at the location.
 11. The Planning and Development Department notes that the plan shows the height of the buildings to be 35 feet, but plan note 20 c. references a variance of 5 feet to allow a 40 foot building height (for the 63 W. Cleveland Avenue parcel only). If buildings are no taller than 35 feet in height, the note should be removed; if the buildings are proposed to be 40 feet in height, site plan approval applies and it should be noted on the plan as such, as well as

considered by the Commission. This matter should be discussed and settled at the Planning Commission meeting, and the plan adjusted appropriately before Council review.

12. The Planning and Development Department indicates:

- The architectural design of the proposed facades should be carried out on all building elevations visible from public ways.
- Storage areas, mechanical and utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
- Lighting should be designed to limit impact on adjoining and nearby properties.
- Buildings should be designed to allow for future conversion to condominium, should market conditions change.

Recommendation

Because with the proposed Comprehensive Development Plan amendment, the Cleveland Station rezoning, major subdivision and site plan approval plan will conform to the requirements of Comprehensive Development Plan IV, and because the rezoning, major subdivision and site plan approval plan, with the Subdivision Advisory Committee recommended conditions, should not have a negative impact on adjacent and nearby properties, and because the proposed use does not conflict with the development pattern in the nearby area, and if following the Planning Commission's review of this report and consideration of the applicant's presentation and public comment, the Commission determines that the project is compatible with the surrounding area in terms of use and intensity of development; the Planning and Development Department suggests that **the Planning Commission takes the following actions:**

- A. Recommend that City Council revise the existing Comprehensive Development Plan IV land use guidelines for this location from "light commercial (local shopping)" "single family residential (medium density)" to "multi-family residential (medium to high density);" and,**
- B. Recommend that City Council approve the rezoning of .457 acres from the current BLR (business limited residential) to RM (garden apartment) zoning; .327 acres from BN (neighborhood shopping) zoning to RM (garden apartment); and the rezoning of .236 acres from RD (one family semi-detached residential) to RM (garden apartment) zoning as shown on the attached Planning and Development Department Exhibit A, dated October 6, 2015; and,**
- C. Recommend that City Council approve the Cleveland Station major subdivision and site plan approval plan as shown on the McBride and Ziegler, Inc. plan, dated June 4, 2015, with revisions through September 18, 2015, with the Subdivision Advisory Committee conditions.**

That completes the summary of our report. I'll be happy to answer any questions that the commission may have for me.

Mr. Silverman: Commissioner Stozek?

Mr. Stozek: Bob Stozek, District 1. First of all, I'd like to say, thank you for not coming in and requesting a parking waiver. That's a refreshing change. I guess I have a couple of questions and concerns. Who do you estimate to be your clients living in these facilities?

Ms. Feeney Roser: Mr. Stozek, we can certainly open it up to the developer now or if you have any questions for me.

Mr. Stozek: I'll wait for that then. Okay, well I'll get back to what was in your report. Again, I see there was no traffic study required by DelDOT, and I'll get back on my soap box. I understand that because this project is relatively small, they don't see it's required. What concerns me is the incrementalism. We keep doing these one project at a time, and then we have

traffic problems like downtown where you have so many apartments or whatever, I've been caught on Main Street several times recently, and it's not a fun proposition.

When we get into the requests for waivers of relief, I see eight things listed here that do not meet the Code, and the building height is one that would be nine. A couple of these are relatively insignificant or relatively minor, the maximum units per acre and the overall area. Those are relatively minor changes, but some of these are significant. The open area from 40% in the Code to 26.9%. The distance between the buildings, thirty feet down to ten. Setbacks and side yards from 20-25 feet down to as little as three feet. I guess my main question is why do we have codes if we're going to have these kind of requests all the time? I think the project is a beautiful looking project. I think it will enhance the neighborhood. My concern is, basically, the density, and we have to give these waivers to Code to fit this in there. Those are my comments.

Mr. Hurd: Will Hurd, District 2. I just have one question. Do you know off-hand what the density was with the original plan prior to this, the six units?

Ms. Feeney Roser: Not off the top of my head. I can look it up for you.

Mr. John Tracy: I didn't hear the question.

Mr. Hurd: What was the density of the original plan, the six units on the...

Mr. Tracy: I'll repeat it when I get up there. It's the same as we're asking for something like thirty people per the six units.

Ms. Feeney Roser: I think he meant unit density per acre, not residents per acre.

Mr. Hurd: I was just curious where this stands relative to the previous one.

Mr. Tracy: It's probably thirteen or fourteen. I'd have to do the math.

Mr. Hurd: Okay, that's close enough. Thank you. That was my only question on the report.

Mr. Silverman: Commissioner Johnson?

Mr. Johnson: Edgar Johnson, District 3. One, I think it's beautiful. The buildings are beautiful. It's the kind of thing we need in Newark to spruce it up, but I do have concerns, like Mr. Stozek, with the issues with the Code. Have we had a proposal before us in the recent past that asked so much relief from Code requirements as this one?

Ms. Feeney Roser: The Commission has, not very recently, but somewhat recently, reviewed plans that have asked for variations. I did not compare them, so I can't tell you exactly the differences between them. We have also had plans that had gone to the Board of Adjustment and received variances, some significant variances, before they got to you, but that is something we could look at if the Commission feels it's necessary.

Mr. Johnson: My concern is, as a Commissioner, what does the Code mean? Is it just a recommendation and that we don't have to follow it if we don't want to?

Ms. Feeney Roser: Well, site plan approval is part of the Code, and does allow for variances in the Code. It's up to your discretion to decide if, in fact, the excellence of the development and its design merit those kinds of deviations from Code.

Mr. Johnson: Well...

Mr. Silverman: Its Alan Silverman, it's actually an overlay that allows certain additional things to alter the base Code, so it is Code.

Mr. Johnson: Okay, thank you, Mr. Chairman.

Mr. Silverman: Are any other questions on the Director's report by the Commissioners? We'll open up the floor to the applicant.

Mr. Tracy: I can get by over here?

Ms. Feeney Roser: Yes. Yes. Is the microphone on?

Mr. Tracy: No.

[inaudible]

Mr. Tracey: This one? Okay, this is on. Good evening members of the Commission. John Tracy from Young Conaway Stargatt & Taylor here on behalf of the applicant. I will introduce a couple of folks here. Seated is the property owner, Kevin Heitzenroder, who I think the City is somewhat familiar with. To his left is our architect, Rick Longo, who I think the City is also familiar with, and immediately behind Kevin, to his right, is Mark Zeigler from McBride & Zeigler, the project engineer. They will all be available for questions to the extent you need somebody more qualified than I to respond to those issues.

We have a PowerPoint presentation. I think, with the exception of Mr. Johnson, none of the members of the Commission were actually on the Commission when Cleveland Station was first approved several years ago. I am really hopeful that when I hit this, a garage door in Kansas won't go up, but I am not technically, if you point...

Ms. Feeney Roser: I don't know.

Ms. Michelle Vispi: If you point it up at the projector.

Ms. Feeney Roser: Like this.

Unidentified Speaker: Point it at the computer.

Ms. Vispi: Up at the...

Ms. Feeney Roser: No, that turns it on. That just turns it on, right? I think you can do it on the laptop.

Mr. Silverman: You need to advance it through the laptop.

Ms. Feeney Roser: There we go.

Mr. Tracy: Okay, there we go. That means garage doors are saved. As I mentioned, my name is John Tracy. I'm here on behalf of the applicant, Cleveland Station, who's the owner of most of the property that's subject to this application, the equitable owner to the balance. These first few slides are reflecting the proposed design architecture. This is from the Church Street view. We will be coming back to these at the end of the presentation.

This is an overall reflection of the site area. You can see, kind of in the middle, just above to the left of the UD Studio Arts Building is an outline of the properties that are part of today's application. The only thing that's missing from that is a red tail that represents the access way that takes this out to New London Road. You can see the various institutional and university properties around our property, as well as a couple of the more recent residential additions to this area.

Again, as I think Mr. Johnson was alluding to, and this has been a theme that we will be returning to, this is kind of one of the gateways into the City of Newark. You all have heard me talk not that long ago about South Chapel Street. We had discussions in that area. This is another one with people coming into the City from New London Road. This property sitting very close to the intersection is an example to do the improvements that we've seen in the City over the last five, ten years and being able to carry it through.

These next few slides are photographs of the property from different angles. This is, as you could see, in the right hand corner will be where the picture was taken from. This is the existing Elks building, which was purchased by my client within the last six months. This is what is on the opposite side of the site. You can see some vacant properties here as well. Again, continuing down this angle towards Cleveland Avenue, looking towards the opposite corner, you can tell the weather was better during this picture. Across the street are some vacant properties that are there. This is looking towards the rear. This reflects the Church Street property that is under contract as part of this proposal. This is the front view of the same property from Church Street. As you heard Maureen in her presentation, this is actually two lots with a house that straddles the lot. This, again, is looking from across the street into our site. This would be the last photo of the existing Elks building.

Kevin Heitzenroder, as I think many are aware, has been involved in a number of projects in the City of Newark, I think projects that have been viewed very favorably from an architectural standpoint as well as an operational standpoint. These are some of those projects starting with the Delaware Avenue Mixed Use Project, Amstel Square, The Amstel Avenue Townhomes, The Baptist Student Ministry, and a couple of properties on South Main Street, 119 Elkton Road and what was formerly 111 Elkton Road, now 111 South Main Street.

You heard Maureen talk about the existing Cleveland Station Project, so I wanted to have that up so that everyone had a baseline of where we were before we got here today. This is the plan that's presently approved in the City and ready for construction, essentially. What I will point out about this, as you see, the six existing townhomes that were approved. They were deed restricted to thirty occupants. You will note, also, that the one-way access from New London Road was actually part of this project, so that was approved back when the original six lot Cleveland Station community was approved. Again, it was to provide one-way access. You would have ins and outs from Cleveland Avenue.

This is what is currently being proposed for Cleveland Station. This incorporates a couple of different things. The original Cleveland Station project, I should mention, is currently zoned BLR, and it was approved at a time when there was no commercial component required as part of the BLR zoning. It was purely six residential townhomes. This proposal, while we were waiting to commence construction on the original Cleveland Station project, there were a couple of things that occurred that caused us to want to go back and look at this more comprehensively.

First, as I alluded to, the Elks building was on the market and was actually sold to my client within the last six months. He now owns the property that is adjacent to the existing Cleveland Station property. Also, you'll notice to the rear of the property fronting on Church Street is owned by Jamie Roy. Mr. Roy determined that it was appropriate for his house to be on the market. It's a house, I believe, that was owned by his mother. The house was placed on the market, and we actually put that lot under contract as well. We own everything that fronts on Cleveland Avenue, and we have, under contract, the property that is part of the Roy family.

As you see here, it give us an opportunity to do some comprehensive planning as opposed to just planning for one parcel and leaving what happens to adjacent parcels to the next person that comes along. I guess in some respects, it's fortuitous that we had not actually started construction on the original Cleveland Station parcel.

This is an overview of the existing zoning on the site. As you can see, the property that we're dealing with is actually a mix of zonings, the purple representing the BN zoning, the gold, or dark tan, representing the BLR zoning, and the green representing the RD zoning. What you see in this picture is that the bulk of everything else that is around us is the RM zoning that we're actually seeking for this parcel. With the slide, you can see that now what you have is largely one zoning classification dominating most of this area.

For comparison purposes, and this was an exercise that we went through with the original Cleveland Station project, under the existing BN zoning, as Maureen indicated, that's available for the commercial uses, the neighborhood commercial and in this instance, we just chose a typical use that one would probably find to be appropriate. From the use standpoint in this area,

it's a convenience mart or a convenience store. That square footage and the parking shown there would be compliant with the Code.

There's obviously a much larger impact when you look at doing a commercial use on that property. This slide here represents the traffic that would be generated by a commercial use under the existing BN zoning, but it's on the Elks building property. To compare that, this is your traffic generation from college townhouse apartments. Again, these numbers were compiled because we have several such apartments that have been developed or are into our own. This does point out that, of the seventeen lots in the community, fifteen would be taking access in and out of Cleveland Avenue for the ins and outs. The two that front on Church Street would have no vehicular connection with the balance of the project, so the only access in and out of the two units on Church Street would be from Church Street. This is just a comparison slide showing the difference in the trips, both at AM and PM peak hours as well as during the average daily figures.

This is a broad snapshot of the existing uses in the area. The site is blocked out in red. We have identified them by existing rental properties, University of Delaware properties, institutional properties, and vacant properties. You can see that there's a domination of properties in this area that are other than owner-occupied.

This is a reflection of some of the new projects that have come online in the last few years in this particular area. We have pictures of each: Campus Walk, which is on New London Road, has been previously approved, as has Campus Side, and the Kohre Property. These are examples of some of the architecture and the designs that we had seen on this area of New London Road coming up towards Cleveland Avenue. It's a design trend that, obviously, we want to continue. These are also the Cleveland Avenue townhomes which, I believe, are just down the road from us.

Returning back to Cleveland Station, what you're seeing is the overall architectural concept. This is facing into the property from Cleveland Avenue itself. This is more internal to the site. Again, you're looking at the architectural features that we are going to be carrying through the project, and we return to the view of the duplex that would be on Church Street.

There are a couple of additional things that go beyond the slide show that I wanted to talk about. As I mentioned, the intention here is to comprehensively plan these areas as opposed to do them on an ad hoc basis. Again, the fortuitous timing on the desires to sell the surrounding properties has allowed us the opportunity to do that. We have, as has been tradition in our projects, carried through what we believe to be architectural superiority. I think from looking at Department's report, there is a concurrence with that, with the design of mixing the brick elements with the stone elements to create a very, very nice experience.

Additionally, as is part of the site plan process, we have done the LEED study that's required by the Code, and as Maureen's reports noted, we are at the top, if not exceeding, the requirements that the City has for looking for energy conservation designs.

There was some discussion about the setbacks. There's three setbacks in particular, the parking off of Cleveland Avenue as well as the side setbacks. We have discussed the most narrow setback, the three foot setback, with the adjoining property owner on that side, and he does not have objections to that setback there. With regard to the other side, I believe, and Mark Zeigler would throw something at me if I'm inaccurate at this, those intrusions are no closer than what was approved on the original Cleveland Station plan with the six units. The waiver is necessary because we're going through the site plan process, but we actually got variances for those, I believe, in front of the Board of Adjustment.

Mr. Silverman: Can you put your site plan back up?

Mr. Tracy: Yes.

Mr. Silverman: So we can follow what you're talking about.

Mr. Tracy: I will do that because you asked nicely.

Mr. Silverman: Thanks.

Mr. Tracy: There you go. Nope, sorry. There we go. So I'm going to try not to blind anyone with this, I was practicing plenty with my cat the other day, so this is where you see the three foot right here. We had conversations with the neighboring property owner as part of this. That property owner did not have any objection to our location at three feet of the property line. Over here is where I was talking about, but this is intruding no closer than what was already approved by that plan. It's just wrapped into this because now there's a different zoning classification because we're looking for RM for the entire site. The same thing, I believe, holds true with the intrusion along Cleveland Avenue, that we're not intruding any closer to that than what was already approved on the original Cleveland Station project. Again, Mark will throw something at me if I'm inaccurate on that.

With regard to the height issue, I wanted to clarify that. We had received a variance for the original Cleveland Station to go up to forty feet. I think what happened is we listed the variances that had been previously granted on the plan. In reality, we can comply with the thirty-five foot height limitation for this entire project, so we are not seeking to increase to go to forty feet. We have volunteered a deed restriction with regard to the number of unrelated individuals living here. It is a deed restriction that just carries forward what had already been approved on the project. I should make one note, there's one correction to what Maureen's report stated. There's actually one extra bedroom. There's one five unit, and all the rest are four unit, so it's sixty-nine bedrooms instead of sixty-eight bedrooms. We're not sure where the sixty-eight came from. We're not going to claim credit to that, but there's sixty-nine bedrooms, so it would be a maximum of five per unit, totaling the eight-five that we have, which is how we arrive at that number. It's consistent when you look at a couple of the other projects that were cited in the report from the Department with regard to the density, with regard to bedrooms in the area. We fall right in between the two projects, which were Campus Walk and South Main Commons. Our ratio is right in between the two. One of those is more, one of those is just less. They're both in the 1.2 range, which is where we are as well.

We also will create a parking assignment plan as suggested by the Department. One, I should, this is something, and I was distracted, Mr. Hurd, that you had asked me a question, and maybe Maureen can clarify for us. One of the other variances that was pointed out was the ten feet between buildings, and we are, unless we're missing something, more than ten feet between all of the buildings here. We're not sure where that came from. I mean just looking at the, see, there's more than ten feet here, there's more than ten feet here, more than ten feet here and here obviously. So, that's just something we're...

Ms. Feeney Roser: Do you have an answer?

Mr. Tom Fruehstorfer: Yes.

Ms. Feeney Roser: Yes? Then please answer. This is Tom Fruehstorfer of my office who did the review.

Mr. Fruehstorfer: This is between the front and rear of buildings is thirty feet. It's supposed to be fifty feet, so there would a twenty foot variance required for that.

Mr. Tracy: Okay, then we misread something as ten feet.

Mr. Fruehstorfer: It wasn't ten, it just isn't as big as it should be.

Mr. Tracy: Got you. I appreciate that, thank you.

Unidentified Speaker: [inaudible]

Mr. Tracy: Yeah, it's thirty feet. It's not a ten foot distance. I guess it's a thirty foot distance between the buildings. With regard to the density issue, actually, the original plan we submitted

in here was actually eighteen units, and based on the Department comments, we actually knocked a unit off to get us down to seventeen units, which I think was noted as just above the permitted density. It's about a third of a unit per acre that's more than this. Obviously, when you were making efforts to do architecturally superior projects not using faux materials, but using real materials, when you're doing an effort to do the LEED certification, you want to try to be able to balance all of that out. By dropping it to, by dropping it from eighteen to seventeen, we still feel that A, it's appropriate for the area, but we're not actually being greedy, I think as I described it to Mark. We hadn't grabbed the bag of M&Ms and then we're also reaching for the Reese's Cups. We just were fortunate to find an extra M&M or two in the bag.

So that's the overall site. Mr. Heitzenroder obviously had a number of projects that he has done. We've had success with those projects entered. We try to target between four and five folks. We don't want to get above five. We wouldn't want to do an instance of just getting additional bedrooms in a building. It makes it much easier to spread it out. That's the site as a whole.

I do know that Mr. Roy is here as well, the property owner for the Church Street properties. I think he said that he has anything he wants to add, and obviously Kevin, to be said if he wants to add anything as well. We're all here for questions.

Mr. Stozek: Before you leave the site plan, quick question. What...

Mr. Silverman: Commissioner Stozek.

Mr. Stozek: Yes, Bob Stozek. What does the green signify on the site plan?

Mr. Tracy: Non-impervious cover, green lawn area, green areas, storm water.

Unidentified Speaker: Grass and landscaping.

Mr. Stozek: I just wanted to make sure it was green.

Mr. Tracy: Yeah, unlike the zoning map, we didn't find different colors to put in here. That's the end of my presentation, so actually Jamie do you want to, Mr. Roy, who is the owner of the property on Church Street, wanted to say a few words before we get into questions.

Mr. Jamie Roy: Thank you, my name is Jamie Roy, and I was left with the task of bringing some closure to my family's estate on 56 Church Street. I had been here before, but I was in a different capacity with these guys when they had those other projects. I was on the other side of the floor, but what I see now is an opportunity for me to bring closure to my family's situation. I've had some direct direction, both verbally and in writing, that was left through my mom, and so, for me, it's the beginning of some closure.

My family was on that property since 1946. My dad got that property with his World War II GI Bill at the age of 23. He built our first home, which was a former pool hall, and raised six of us. Thirty years later, he bought the adjoining property and he built the home that's on there now with recycled material that was built, gathered through my uncle, George Wilson's demolition company, he salvaged. They call it recycling now, but he salvaged stuff and he built us our home that's there today.

For me, it's a two thorn thing. I would really would not like to have had to do this, but because my mother left some specific direction for my family and for the estate that my dad had, and it would be seventy years that we've had this, I see in these projects that these developers have built around this community, and I must admit that, visibly, they are some beautiful properties. They're some beautiful buildings. With that in mind, I can understand that, when this is done, that what it will be on my family's estate will be something that will be very memorable. And so, with that, I have no problem with what these developers are trying to do at this point.

Like I said before, I was on the other side, but times change and progress happens. I just want my family's legacy to continue. I was also told that there is a possibility that the street name could be named Roy Lane. I didn't solicit that, but it added some mmph to my decision to try to do what I have to do. It really, I can only understand that maybe forty or fifty years later there is some legacy in the Roy family that's going to still remain in there. Like I said, I'm twofold, but my heart is there for these developers at this point because I have to make a transition with my family's estate under direction of my mom so that's why am here, and I'm going to be carrying that out.

My mom passed away about a year and a half ago. My dad passed away twelve years ago. Thirteen years ago, my dad did not want to sell, but my mother did. My dad said they were going to have to carry him out of there, and literally, that's what they did when he got sick. They carried him out. When he passed, away my mom developed that same attitude that she was going to have to be carried out of there. From that point, that's why I did what I had to do through the last years to try to protect my mom's quality of life.

I had the opportunity to retain that, but for me I do not want to live in that environment. No disrespect to the students, but it's no longer the village from when I grew up. Truly, if it was still a village, I would still be fighting. Nonetheless, progress happens. Time goes on. I'm just here to support these developers as far as what they said they're going to try to do for the neighborhood. Aesthetically, it will bring a different dimension when people ride and enter into our community. Well, what's left of the community in which I grew up, but nonetheless, with the thought that there will be something with the Roy name on it, I'm leaning toward that that really makes me satisfied in a sense that there will be some closure, and there will be a legacy left on my family's behalf.

Pretty much, it's just that it's the time. This is an idea, as far as I'm concerned, that the time has come. When times come for certain ideas, it's their time. With that, I just wanted to verbally give support from my behalf on these developers and what they're trying to do and try to retain my family's legacy. I appreciate the time that you've given me to speak on my behalf. If you have any questions for me, I'm willing to answer them.

Mr. Silverman: Thank you very much.

Mr. Roy: Thank you.

Mr. Kevin Heitzenroder: Thanks Jamie. My name is Kevin Heitzenroder. I reside at 271 Beverly Road here in the City of Newark. I don't have much to add following that act, of course. I just want to put my face, my local residence with these projects that I own them, I maintain them, I oversee them, and we're really pleased to work with Jamie on this project and have his family's name live on as the name of the street. I also just want to point out quickly that in negotiations with the Elks Lodge, which we do own, there's some historical significance, obviously, with the Elks Lodge in the community, and we've committed to create some type of plaque monument. There is a plaque that's on the side of the Elks Lodge that will remain on the new development site, should it be approved, whether it's on the side of the building, or we're hoping to do something a little more significant with a monument on the site.

Finally, Commissioner Johnson's questions right now, the gate. What I'll say, and then I know there's probably some public comment and back to the table, is Mr. Longo, our architect, is here and he is a wonderful architect. He's super expensive to build what he designs. They're great looking buildings. It's the first thing that Commissioner Johnson picked up on. Bringing the Roy piece into this, adding to the density but committing to this architecture of brick, stone, EIFS, ornate metal, monuments, nothing cheap at all, LEED certification well and above and beyond what's required. I know it's not the Commission's job to think about money, but it's real. It costs extra money to perform that kind of construction, and we're only, in return, asking for .3 of a unit over what the code allows. We're all here for questions as the hearing continues. Thank you very much.

Mr. Tracy: That was it for our presentation.

Mr. Silverman: Okay.

Mr. Tracy: Whether you want to ask us questions or do public comment and have us do questions after, that's entirely up to you.

Mr. Silverman: How about if we could directly ask you the questions?

Mr. Johnson: That's fine.

Mr. Silverman: Mr. Stozek?

Mr. Stozek: Stozek. Thank you for clarifying that green means green, because that was one of my concerns. A lot of what we're building around the city is, what you see is asphalt and masonry, and there's nothing to soften the look of the building. I see from the plan, you plan to put in some plantings, and trees, and whatever, so I thank you for that. I'll go back to my original question. Who do you anticipate renting?

Mr. Tracy: The anticipated tenants from the beginning will certainly be students. That's what we see in this area. I will say that the City has asked, and obviously the design will incorporate, the ability should there be this transformation of buildings becoming a desire to go to condominiums, that these would be able to be condos.

Mr. Stozek: I guess my concerns are still a little bit about the density and some of the setbacks and whatever. Apparently, if the neighbor doesn't have any objection to it, which is the one where the biggest discrepancy is, and you've clarified the height issue, the only other thing, again, I still have concern about is the traffic. You know, there's minimal traffic there now. You're going to have fifty-some potential cars in this place, and Cleveland Avenue is not easy to get on to. It's just not rush hour AM and PM, lunch time is a big pain because typically lunch time is when the City picks up the trash on Cleveland Avenue. I've been stuck there several times the last couple of weeks, so I know that.

Mr. Tracy: I got it during move-in day.

Mr. Stozek: Yeah, we won't even talk about that. Again, I do want to commend you that it's a very attractive development.

Mr. Tracy: And just a couple things about the traffic side, and I can let Kevin speak if you would like to, obviously, we put the perspective for what could go on the commercial site as a matter of right from a comparison purpose. Obviously, Kevin has developed and owns a number of these buildings, and the experience has been that the traffic, those numbers that we put up, if I can find them here, kind of reflect that the cars are not getting on the road at the times where you see a lot of people getting on the road. The reality is, this is walkable to the university, which is what everybody is looking for.

I remember the days when I was in the university and it was Town Court as opposed to Studio Green. I had a car when I lived there because, let's face it, I'm lazy. I wasn't going to walk to Memorial Hall or to my poli-sci classes over by Purnell. Folks today like to walk, and they want to be in proximity to the university. Obviously, there have been a number of these developments that way. I'm certainly not representing that there wouldn't be any trips. Obviously, there are going to be people having cars, but the point of this is that you have a very, very limited number of trips from this clientele. Kevin, I don't know if you wanted to add to that because you look eager.

Mr. Heitzenroder: I just wanted to specifically point out we don't want to build, it's not our choice, we really don't want to build a commercial use at this site. I think that that's horrible for the location, but it is at least noteworthy that if you look at the daily trips from a commercial use compared to the daily trips of student housing or townhouse apartments, they're not even in the same stratosphere. We believe that the use that we've selected is about as low a traffic impact as could possibly go on this site.

Mr. Tracy: Just following up finally, as I mentioned, its fifteen units that have access to Cleveland Avenue, the two fronting Church Street, where you were pointing out to the green earlier, at one point, I think there was a desire to try to have an interconnection down to Church Street which would've eliminated some of that green. That was obviously not something that was carried through, but the other thing that you do have, at least from an access point, is the ability to folks to access the property from New London Road so that they can avoid making the turning movement across Cleveland Avenue, which one would expect the tenants to be used to.

As far as the comment with regard to the cut-through, I think one of the departments had mentioned that. Looking at that design, you're not seeing much of what I would call an attractive cut-through, but the reality is a more direct cut-through was already approved by this. This is the plan that can be built right now, and that includes the access from New London Road to the extent anybody wanted to, they could make the turn and go through there and get on Cleveland Avenue. This is, I would say, not something that folks would necessarily want to do by choice.

Mr. Stozek: Just make sure they can't turf and get over to Church Street.

Mr. Tracy: Yeah.

Mr. Stozek: Again, that's my concern about the traffic. It's not so much just your project. I'll go back to my comment before, that's the incrementalism. You know more of Cleveland Avenue is going to be developed over time, and the City has to come up with some way of dealing with this traffic issue, because we're going to increase the density and increase traffic, and I don't have a solution but we need to look at it and see how it's going to affect the City. That's all I have.

Mr. Tracy: Thank you

Mr. Silverman: Thank you. Will Hurd, District 2?

Mr. Hurd: I wanted to actually start with talking about the connections to the street that you were talking about. Looking at the plan, I can see that you're preserving, essentially, the original plan with the connection to New London Road. To my eye, at least for traffic flow, connecting to Church Street seems to make more sense because you get to reuse the intersection with Church and in New London instead of adding a new intersection. It gives you a two-way access because you have the problem of, if you try to get out of here, you can't make a left turn, so you have to go right down to Cleveland and then around the block or something like that. But if you could come out on Church and off New London, you have that opportunity to go the other direction. To my eye, it would remove that sort of awkward one-way access road with the parking along it and maybe give you an opportunity to collect it in a better spot. So I guess I would have liked to see that alternative developed perhaps, or explored, because I think that that would make this a stronger project in the City.

Mr. Tracy: A couple of responses to that. One, starting from the beginning, as you said, that was what had been approved previously, and we were trying to work with that with the secondary access point. The parking spaces that you see along that access road are part of the reason we don't need parking waiver which was referenced earlier. As far as the connection down through to Church Street, there's also twofold, one, you can see that that oval in the middle is a storm water management feature that's in that area, so there's concern we're using that area as part of the storm water management. And then I think also, in practicality, we're trying to have as little as an impact on Church Street as possible. There's two residential lots there now, and we're placing two lots on Church Street, so the traffic in and out from there. Yes it is, as I pointed out on the map, it's RM to New London Road from there, but it remains RD to our, I guess that would be our east. I don't know if, Kevin, if you wanted to, you were standing next to me ready to hit me, so.

Mr. Heitzenroder: I don't have much to add, but it was really being conscious about Church Street, and the residents of Church Street, and with conversations with the Planning Department of not dumping any traffic out onto Church Street.

Mr. Hurd: All right, well if it's been through the Planning Department that may cover it.

Mr. Heitzenroder: Any more questions?

Mr. Hurd: I think that's my only question, thank you.

Mr. Silverman: Commissioner Johnson?

Mr. Johnson: I have just two comments. One, everything that Mr. Longo designs and Mr. Heitzenroder builds is beautiful. I think the design of the project is wonderful, and I'd like to see more of that Newark, and I've made my point about Chapel Street. But to follow up on Mr. Hurd's comment about Roy Lane being one way in and going out onto Cleveland Avenue, I think that would be an impediment for people to get in their car and drive around the City when you can walk rather than have to go around the block, they would simply just walk unless they're traveling some distance. So, I, myself, like the design and the site plan. My only question would be, will there be a chance, and these are students who are going to live here, will there be a chance that students can walk from Roy Lane down to Church Street through the Church Street properties and then out on Church Street to get to the main campus, or do they have to walk straight out Roy Lane? In other words, will there be a sidewalk, or will the students make a path there themselves, or what?

Mr. Heitzenroder: There's no plan to make a path through there. Will that ever happen? I don't know.

Mr. Johnson: If there's nothing but...

Mr. Heitzenroder: What is planned is to have a safe avenue to walk down Roy Lane and down a public sidewalk that's on 896 that leads directly to Main Street.

Mr. Johnson: Sure, sure.

Mr. Heitzenroder: And that's the lighted area that we want to encourage the pedestrian traffic. We don't want to build a connector to Church Street to encourage any type of traffic whether it's pedestrian or car.

Mr. Johnson: You're not going to have a fence between the two properties there?

Mr. Heitzenroder: No, but we are, I believe we may hear from an adjoining owner who didn't know was coming tonight, but we have talked to him tonight about putting a fence up between Roy Lane and the two properties to the east of the former Roy property to prevent any type of pedestrian traffic going onto his site.

Mr. Johnson: All right, thank you.

Mr. Stozek: I will just make the comment students will walk in that grassy area, no doubt in my mind.

Mr. Tracy: We had that conversation the last time I was here.

Mr. Silverman: I would like to open the floor up for public comment. Sir, please come up to the microphone and if you could give us your name and general location where you live in Newark. You can give your street address as you choose, but you don't have to.

Mr. Joseph Word: Hello, my name is Joseph Word, and I own 55 Church St. I'm just listening to all the comments that I've heard here. I mean, the project as it is, I have no objections to it. It's funny how ten years makes a difference because I can remember asking to put up a three-story building on mine, and I was told that I had to go through the City planner at that time. He treated me very poorly, but it's just, a change comes. I know the one gentleman made mention about having access from Church Street. Well, there's still residents that live there. We still have some very small children that live down on Church Street. The thing is, you're absolutely right. The students will be making a cut down through the property there to Church Street, and depending on what you build there, they will be using it as a restroom because I've been at my

house on Church Street, and I've had not only just gentlemen, I've had ladies who absolutely pull up their dresses four, five at a time and sit ten feet away and urinate right in front of my house. I would be in objection to you having any sort of an access on Church Street. The other thing is, if I heard correctly about renaming Church Street?

Mr. Roy: No.

Mr. Silverman: No.

Mr. Word: Oh, it's the access road?

Ms. Feeney Roser: It's the private access road that serves that development.

Mr. Word: Okay, that's cool, because I would have a problem with that. I love Mrs. Natalie and Mr. Porter, but [inaudible] we all got to eat. I don't want her neighborhood. That's basically all I have to say.

Mr. Silverman: Thank you sir. Gentleman in the back?

Mr. Dan Beaver: Good evening, Dan Beaver. I'm out of District 4, and my parents own the adjacent property to 56 Church Street, there on 54 Church Street. I own 52 Church Street which is just touching the border of this project there, you see. I did have a couple of concerns. Yesterday, I came into the Planning office and saw that the water retention area there addressed one of those concerns. I'm very satisfied that they're dealing with that water problem. The other issue dealt with a fence and the conversation you just heard about people cutting through yards and things. That would be a problem. Kevin did assure me that the fence that's there now would [inaudible] somehow, that would take care of those folks cutting through the yard. The other problem or concern I had was what was going to happen to the historical marker. Happy to hear that was taken care of as well. And then the last concern I had was with the Roy family, and I was really glad to hear from Jamie tonight. I think it's a beautiful project. I know my folks would support it as I do. Thank you.

Mr. Silverman: Thank you.

Mr. Roy: Can I just say one last thing since, I don't mean to...

Mr. Silverman: Either microphone sir.

Mr. Roy: And I appreciate you giving me this opportunity. I don't know when the next time I'll be before you guys because I actually reside in New Castle, but if you're familiar with the Delaware Historical Society, if anyone of you are, it is in Wilmington, Delaware. In May, this spring's edition, I was going to leave this with you, but this kind of explains where my family, my dad, this was providing the article of the, I remember, you saw this with [inaudible]. I'm just saying, if you would read that, then you could understand my sentiments of why I came before you for this, why I'm doing what I have to do with my family's legacy.

Everything that my dad owned, the medals, the World War II medals, his Elks paraphernalia, everything that was important to him is now in the Delaware Historical Society. That was my way, I didn't want anything to end up in a dump five, fifteen, twenty years from now. So but that was an excerpt out of the Spring edition out of Delaware Historical Society which in March of 2016 will be opening up a Delaware African-American Historical Center in that Society, and they've been soliciting throughout the whole State of Delaware for historical things of African-Americans representing this state. So I saw that as an opportunity for me to put my hometown, from the village of which I grew up on, in that market, in that arena that they were soliciting for. So I was really happy that they came to my parent's house. They took a lot of stuff out, of artifacts that I know now from a hundred years later, a hundred years down the road, that I know that my family's legacy will be memorialized in this historical society. I don't want to take up any more of your time. I could've read that, but you can read that. It explains my family, my dad's legacy, and I appreciate your time. Thank you.

Mr. Silverman: Thank you. Sir, please come to the microphone.

Mr. Stan Cochran: Hello, Stan Cochran. I reside in the Nottingham neighborhood. I'm just here. I don't have any extensive family legacy in Newark, but I just want to say that it's a beautiful project. I go past the site several times a day. Based on what's there, it's an eye-sore, the chain-link fence, the overgrown grass, the trash. I think it would be a great improvement, and I definitely don't want to see a convenience store. I would just encourage the approval of the full project. I think it would be a great addition to Newark. Thank you.

Mr. Silverman: Thank you. Is there anyone else?

Ms. Carol McKelvey: My name is Carol McKelvey, and I'm from District 4, and I would like Maureen to restate what she said about an architecturally superior project, even though it's not quite Code, is up to the Commission's discretion based on the fact that they're looking at something that has superior quality, therefore they have to have a different vision or a different way of looking at that. Do you remember what you said and can you try and say it again?

Ms. Feeney Roser: What I was referring to was the site plan approval process and the Code provides for alternatives for new development and redevelopment proposals to encourage variety and flexibility and to provide an opportunity for energy-efficient land use, by permitting reasonable variations from the area regulations. The Code indicates that site plan approval shall be based upon distinctiveness and excellence of site arrangement and design, and then, I go into the components of that. I'm not sure whether that's what you wanted or whether we got into the departmental comments when I talked about the design or was that enough? Is that enough Ms. McKelvey?

Ms. McKelvey: That's enough because I think it answers the questions as to when you're going to deviate from Code. The rationale has to be that you're making a better thing for the City of Newark. You're not making a better thing for the investor.

Ms. Feeney Roser: Yes.

Mr. Silverman: Okay.

Ms. Leslie Purcell: Hi, I'm Leslie Purcell from District 1, and I just want to reiterate and thank Mr. Stozek for raising the, what I would call cumulative impact of traffic overall and in this area, and the densification of building here in Newark. There's just so much going on and I know that ultimately that traffic is a real problem, and I'd like to raise one. I'm a bike rider a lot and so I did have a questions as to are there going to be bike racks, bike parking? Are we going to encourage students, if they're not going to be driving and/or walking, to use bikes?

Mr. Silverman: How about if you go through your list of comments and then we can give a comprehensive...

Ms. Purcell: Okay, okay, great. So I'd also like to know about the chimneys and are they functional or are they just decorative? If they're just decorative, I personally think they just raise the height of the building and aren't really necessary. I think the other thing I'm also always interested in is solar roofing. I know in Germany they have solar roofs. I think that, you know, it's something that we could be looking at more here in the City. Thanks.

Mr. Heitzenroder: In terms of bike racks, yes there will be bike racks. Every project that we have has extensive bike racks. We will certainly, here's certainly plenty of space on the plan to have multiple areas for bike parking, as well as, every one of these units has a garage. In the garage, there is two cars that fit into the garage. There's also ample room in front of that. They are not jammed in like sardines. There's at least ten feet in front of the cars in each garage where people can park their bike securely and out of the weather.

The chimneys are decorative. They are not functioning. I won't attempt to try to get into the type of architecture. I will leave that to Commissioner Hurd and our beloved Rick Longo here. But they are not functioning chimneys, and as I said at the outset, Rick's designs cost a ton

of money and there is no other budget for additional solar items or other things on top. The LEED is not to be diminished. I mean, energy efficiency insulation, there are a ton of things going into this building that make it as energy efficient as anything I'm aware of that has been built in Newark. Thank you. I hope that answers your questions.

Ms. Purcell: I would just say take off the chimneys and put on the solar panels.

Mr. Silverman: Ma'am, your name and where you live.

Ms. Donna Jackson: Donna Jackson. I'm one of three owners of 46 Church Street. We had a lot of concern about the traffic. I seem a bit satisfied now. I cringed a bit when you talked about opening up Church Street, but I think that the City still would need to look at the allotment that they have for cars on Church Street because now without the addition of [inaudible] people in that townhouse that have access to Church Street. You may need to look at that and kind of minimize the parking. Actually, it's the university allots spots because you have to be able to have space. I mean you really can barely get down there sometimes now and when the snow comes, it's just a big mess. I just don't want that to be ignored.

Mr. Silverman: Comment on parking?

Mr. Heitzenroder: Yeah, I just want to point out that on the only vehicle access to the units that faced Church Street, or the two units, we would anticipate the occupancy being no more than ten in those two units, and there are eight parking stalls for those two units. There are two in each garage and two more outside of each garage off street. There are eight off-street parking stalls for just the folks that live in those two units.

Our experience managing many units in Newark, is we're not even close to one car per occupant. We're way below that. Now a lot of that has to do with projects like this that are very close to downtown or a block or so from Main Street. We just don't have tenants that all bring their car. So we feel more than comfortable with eight off-street parking spots at Church Street that we're not going to contribute or add anything to what's going on presently.

Mr. Silverman: Any other comments? Ma'am? You'll approach the microphone?

Ms. Jean White: Jean White, Ratcliff Drive. I have a number of different comments on the project before you. But first, I'd like to read something to have inserted verbatim in the minutes.

Mr. Silverman: Does it deal directly with this project?

Ms. White: It deals directly with the project. Okay? As you'll see. At least in my estimation is does. I want to read verbatim the historic plaque which is on the front side of the Elks building which, the building which will be demolished.

The Pride of Delaware Lodge #349 IBPOEW. This is not very long.

The Improved Benevolent Protective Order of Elks of the world was formally organized in 1898. Designed to promote civic improvement, the IBPOEW is one of largest fraternal organization of its type in the world. Responding to a group of Newark citizens, the IBPOEW issued a charter for Pride of Delaware Lodge #349 on March 29, 1923. The first Exalted Ruler of the new lodge was W. G. Saunders, a long-time leader in Newark's African American community. The present Lodge Hall was purchased in 1938. Formerly a store and a pool hall, it has served as the home Lodge #349 since that time. It is also the meeting place of Elizabeth Boulden Temple #269, a women's organization that is affiliated with the IBPOEW. Since its founding in 1923, the Pride of Delaware Lodge has continued its efforts to promote "the nobleness of soul and goodness of heart" through various activities within the Newark community.

At the bottom, Delaware Public Archives - 2003 NC-129.

I'm going to give this to the Secretary in a minute. It has been said already by Kevin Heitzenroder that the metal plaque, this is a heavy duty metal plaque with raised letters and I actually went over there and managed to write this in a notebook by hand to get this with some difficulty because the yellow sign is partly over it. But, anyway, definitely, this should remain on the site and it shouldn't be tucked away so it can't be seen by people who might be walking by. One possibility is to put it on a pole, the other is to put it against, for example, on a stone slab. So I don't know if, Kevin, you have thought more clearly about where this would go but perhaps you could respond to that.

Mr. Silverman: How about if we go through all your questions and then we can get them answered comprehensively.

Ms. White: Okay.

Mr. Silverman: Please.

Ms. White: I don't if I have them as questions. Okay. The resettling of 56 Church Street. The other day I walked on Church Street. I hadn't been there for quite a long time, and I see that it's converted to a lot of student rentals, but it has been a charming street and, of course, historically has had a use for many times that Mr. Roy has talked about. And I will say that I was originally against rezoning this property RM. All the others are RD, and they're either one story or two story and when I came across #56, I didn't yet know which one was being included in the whole plan. I saw what I felt was particularly a charming, you know, looking at the past use of it with a beautiful load side yard. And I thought, this is lovely and it's a shame it's going to be destroyed. It's a shame it couldn't be fixed up or kept and everything. But if, in fact, the residents of the street do not have an objection to it, than I, who do not live there, could be said don't have the right to have an objection too, either. I will say that I think on the plan, it's not there now, there should be, the units that face Church Street, there should be a fence even though it's part of one whole plan. There should be a fence. It's not there, but anyway, separating it from the other units to keep people from cutting through. And, as has been said by somebody on the Commission, students will cut through.

The one way cut through, which I understood is really the street that would be named Roy Street, I actually wondered where this was. I actually drove up today to look at the space where there's something unoccupied. I actually had a little trouble finding it. It's all grassed over and very narrow but I guess those properties are narrow. I will say that will make it unpleasant for what are rentals on either side. But, people live there. Real residents live there, be they student or whoever. To have traffic going there, even one way, I think will not be pleasant.

The question was asked and I did not actually understand the answer, since the purpose, or let's say the hope, is that some students will walk to this property and be walking on this cut through street, without a sidewalk, I think it will be dangerous and so, because cars will be occasionally coming along. So I'm asking if a sidewalk could be put, perhaps on the upper side, the left side, northern side because otherwise, it's just the road and it seems to me that's dangerous.

Okay, the project itself, with or without 56 Church Street, is too dense. It make sense, I do think, to have one zoning facing Cleveland Avenue. And, of course, I'd actually like to see two stories but I guess that's not going to happen so I won't belabor the point. I'm getting tired of three story buildings and higher. But anyway, that's beside the point. It's too dense.

It bothers me that the, just to name two things, the maximum lot coverage, which should be 20% under RM zoning, is 31.6%. And, the open area which should be 40%, is 26.9%. I realize that with site plan approval, these can be adjusted but, to me, that's too big an adjustment.

Furthermore, we're talking about the number of cars of the students who are there. It's been said by every developer, no matter where it is in the city, even on Main Street or right around the corner, that students don't bring cars anymore, or few of them do and they just want to walk and everything. Actually, if you have a chance, I can't say that I've had a chance to question most of the students, but nevertheless, but they actually, almost all bring a car and if

there isn't room, some of the waivers on Main Street, they find a place to put the car someplace else. So I think it's too dense and it doesn't have enough room, and I don't even think it has a little bit of tiny open space, true open space, not around the edges. True open space where students could have a picnic or barbecue or something outside. I mean, it's just really very cramped.

I stood on Elkton Road, I also took a camera along and I was thinking it was my opportunity since I was nearby to take some pictures because I always have been in distant past, taking pictures. I wanted to get a picture across, around or whatever without cars, and the cars were constantly coming around from New London Road, making a right turn onto Cleveland. They were constantly coming from Cleveland Avenue and Main Street, coming across that way. They were constantly coming up the far part of New London Road and making a left turn, across me, and they were constantly coming the other way. I'm not sure when the developer and those with him, got their pictures. There are times, of course, when there's not too much traffic, I suppose. But let me tell you, I think it's, the more cars you put there, the harder it is even to get out. And I certainly hope there will be no accidents when resident or students are edgy and want to get out of there quickly. Okay.

Mr. Silverman: So far, all the points that you have brought up have been topics of discussion. Do you have anything for us that has not been discussed this evening?

Ms. White: Let me just see here, okay. I feel when you look at the plan, which is not up there, you have the part around there that is edge of the things and you have the storm water management behind, excuse me, two units on Church Street, but actually, as you look at it over all, it's actually a lot of macadam. I guess that's all I was interested in. Another speaker raised the issue about the chimneys and I had been wondering about if they're functional and now I'm hearing that they're decorative and, with all due to Mr. Longo, who I know is a very well-respected architect and who has designed for some very beautiful things, there are some people in Newark, including myself, who are getting tired of chimneys. But, anyway, those are my comments and I did want to hear whatever my question was at the beginning which I've forgotten.

Mr. Silverman: Thank you very much.

Mr. Heitzenroder: Well, it's glad to see Mrs. White is back, keeping a keen eye on us. We haven't seen her in a while.

I'm just going to respond to a few of the items. The plaque, I mean we negotiated that with the leadership of the Elks. It's certainly our intent to put that front and center along Cleveland Avenue that can be witnessed by all. The exact location has not been selected yet but my guess is that it's going to be on the eastern side of the front building, either on the building, but our preference would be some type of free standing monument with a little bit of landscaping around it or something like that.

We're certainly willing to look at the fencing situation heading south to Church Street. But that is a storm water management area. It is not a wet pond. It is a dry pond. There's some grade differentials there but we're happy to take a look at that as we move forward into the construction and improvement plan process which is well down the road.

I just want to reiterate, in our projects, we certainly don't see all of our occupants bringing cars. There is a provision in the Code for parking. We exceed that provision in the Code by five stalls. So between the five extra stalls and the fact that we already know we're going to have empty stalls by default, we feel more than comfortable that we have ample parking for each townhouse and the guests that may come through and occasionally visit. Thank you.

Mr. Silverman: Last speaker.

Ms. Purcell: Leslie Purcell again. I just wanted to ask a follow up on the solar roof. I don't know how to get this more into the policy maybe for the City, but if you've got this...

Mr. Silverman: You would have to approach council to modify the Code.

Ms. Purcell: Okay. But if we've got these decorative chimneys, I don't know how much they cost, and the developer said, oh, we don't have money for the solar roof, but, if you could exchange the chimneys for solar panels it would be actually be functional and help with climate change. I think that would be a benefit to everybody.

Mr. Silverman: Thank you. That's not an item to be considered by the commission. If you would like to negotiate that with the developer or contact a Council person to modify the Code, then we could get into that in this forum.

I have two written communications I just want to make the public aware of and it will become part of our record. I'll summarize this very quickly.

This letter is from a, I hope I'm pronouncing this correctly, Dr. Bugher, who has properties at 66 and 70 New London Road. I'm going to read his closing paragraph. As an adjacent property owner, I'm in favor of the proposed development of Cleveland Holdings, LLC. I suggest you find a way to approve this project. It would be an attractive, contemporary addition to an area the city which is frequented not only by UD students, but also by their parents when touring the campus. Working together, I believe we can benefit. That's his closing paragraph.

And I also have a letter from Carol McKelvey, who spoke earlier. She has a concern about the way that the Comprehensive Plan is approached with respect to amendments and amending. She feels that there is some piece-mealing going on and that the action plan of the City may not be reflected in those proposed amendments. Does that generally reflect what you stated?

Ms. McKelvey: That's not relevant here.

Mr. Silverman: Okay. Ms. McKelvey just responded that it's not necessarily relevant to this particular proposal. Okay. Any questions from the commissioners? Any comments? Let's move on.

I do have my comments. With respect to the Comprehensive Plan amendment, this is an interesting proposal because it's used, it's the opposite of the Comprehensive Plan amendments that usually come before this court. Usually, the Comprehensive Plan amendments are asking for some type of use, of land use, deviation from what the Comprehensive Plan calls for. In this particular case, this Comprehensive Plan revision is to cause existing properties to reflect the predominant use around the property, removing legacy commercial and fraternal uses to bring it into conformance with primarily a residential use. In my opinion, it also eliminates an abandoned property which is a maintenance problem and unsanitary conditions. It also, as was pointed out by the applicant, brings student rental housing, even though that word is not popular in some circles, closer in to the desired area of the students and I believe will help reduce the pressure on renting in further out subdivisions. As somebody observed, these kids walk today. They seem to be very interested in being close by.

Right now the property is highly impervious. There gravel parking lots, grooves. The site is, again, a legacy site. There's drainage onto adjoining property owners. Somebody expressed an interest in the storm water management with respect with water coming down, I'm sure, on Church Road. This development proposal offers to install a storm water management facility to modify the drainage and grading on the site to cause the water that is going offsite now to be collected in a storm water management facility, controlling uncontrolled run off, as well as contributing to water quality and water quantity and flow management, which is called for in the Comp Plan.

I think this particular applicant demonstrates a skilled use of the site plan approval process. We had talked around that in developing this property, particularly since we don't have it up here. It's a highly irregular shaped parcel in an already developed area and what happens is constrained and has to reflect the activity that's already there.

There was some concern about side yard variance, I'm sorry, with respect to building location and property lines. A property line is an imaginary line. An existing structure and how people use that adjoining site is real. If you saw on some of those earlier slides, where they're moving the building slightly closer to that imaginary property line, there was green open space and significant parking behind residential units that were literally fronting and not many feet off of New London Avenue. So this proposal and the location of those building would have minimal impact on the enjoyment of the surrounding property owners.

Finally, we talked about value to the city in an earlier application. I'm going to assume that the part of the Elks property is the tax free 501C3 organization and probably is not paying property taxes. This is going to bring revenue-producing residential property back onto the tax rolls. In addition, the property will extinguish legacy commercial uses. I believe the Director's report talked about the Comprehensive Plans in the past, including the one that's standing now, reflected the zoning that was in place. Those of you that have been around a while, remember Poindexter's Package Store that used to be on that site. That zoning will be extinguished and it will reflect the residential zoning. Maybe not the same density, but the residential zoning and the residential characteristics of the area.

That's my comments, and one comment to the engineering firm. I had to hunt long and hard to find the purpose statement on your drawing. I know by the time we get all the information that the State requires and DNREC requires and Code requires listed, you run out of white space on that piece of paper. However, the purpose statement does not state that one of the purposes of this plan is to combine, I believe, five parcels into one and extinguishing the common lot lines. That should be on there as part of the information. That's an important aspect.

So let's move on the vote if the Commissioners are ready. Madam Director, can I ask you to read the recommendations as usual. Should we vote, we need to vote on these as a package, correct?

Ms. Feeney Roser: Yes. You don't want to rezone it and then not approve the subdivision.

Mr. Silverman: Also, in addition to paragraph three, I'm sorry, six, it says with respect to certain Advisory Committee conditions, and let's add the points raised at tonight's hearing, long with the commitments made by the applicant.

Ms. Feeney Roser: Okay. You may want to talk about the density because the Subdivision Advisory Committee comment from the Planning Department was to make the density less than what was requested. It doesn't sound like that's what the commission would like to do, so we need to make sure that your motion will say except for that, if that's what you would like to do.

Mr. Silverman: Okay, let's draft the word in here so we get that in the proper place.

Ms. Feeney Roser: Okay. So, well, let's see, you wanted to add that the purpose of the plan be changed to indicate it extinguishes lot plans?

Mr. Silverman: Not be changed, but also to include it.

Ms. Feeney Roser: Also, five lot lines.

Mr. Silverman: That the purpose is to combine five parcels into one.

Ms. Feeney Roser: Okay. Did you want to include that the plaque for the Elks Lodge will be preserved and predominant?

Mr. Silverman: In a prominent place, yes.

Ms. Feeney Roser: Prominent, thank you.

Mr. Silverman: Yes, please.

Ms. Feeney Roser: Okay. Was there anything else?

Mr. Silverman: Were there any other points?

Mr. Hurd: We need to include the deed restriction for 85 residents.

Ms. Feeney Roser: It think it's already in there but we can certainly put it on, it won't hurt.

Mr. Hurd: If it's listed on the plan and we're approving the plan, then we're okay.

Ms. Feeney Roser: Well, it's not listed on the plan.

Mr. Hurd: Okay, because it's not in the motions.

Ms. Feeney Roser: And neither were bedrooms apparently, which should be. Okay. The recommendation was that we suggested the Planning Commission take the following actions:

- A. Recommended that City Council revise the Comprehensive Development Plan IV Land Use Guidelines for this location from light commercial local shopping and single family residential medium density to multi-family residential medium-to-high density; and,
- B. That the commission recommend that City Council approve the rezoning of .457 acres from the current BLR to RM zoning, .327 acres from BN zoning to RM garden apartment, and the rezoning of .236 acres from RD to RM zoning as shown on the Planning and Development Department attached Exhibit A dated October 6, 2015; and
- C. Recommend that City Council approve the Cleveland Station major subdivision and site plan approval plan as shown on the McBride & Ziegler plan dated June 4, 2015, with revisions through September 18, 2015, with the Subdivision Advisory Committee conditions, except for the Planning Department condition that the density be reduced, and with the additional conditions that the plan purpose indicate that it extinguishes existing lot lines and that the Elks Club plaque be prominently displayed, and that 85 total occupancy of residents at the site.

Mr. Silverman: That was the agreed upon deed restriction, for the 85?

Ms. Feeney Roser: Yes.

Mr. Silverman: Okay. Commissioners, are we ready to vote?

Mr. Hurd: I so move.

Mr. Stozek: Yes.

Mr. Silverman: It's been moved, and seconded?

Mr. Johnson: Second.

Mr. Silverman: All those in favor of the proposal as read by the Director, signify by saying Aye. [all]. All those opposed? [silence]

VOTE: 4-0

AYE: HURD, JOHNSON, SILVERMAN, STOZEK

NAY: NONE

MOTION APPROVED UNANIMOUSLY

Mr. Silverman: [gavel] Motion carried.

Ms. Feeney Roser: Thank you.

[inaudible]

6. COMMISSION DISCUSSION REGARDING 2015 ANNUAL REPORT AND 2016 WORK PLAN.

Mr. Silverman: If I can poll the Commissioners. It has been a very long evening, do we want to pick up? Do we want to continue Item 4 for a future meeting or work program?

Mr. Hurd: Item 6? Probably

Mr. Silverman: Okay, well I see no opposition so we will do that, but I want to make one comment. I threw the term work program around. This is our opportunity, according to the Code, to bring forth items where we've had questions throughout our years of experience with respect to Code items, procedures or a lot of things that have to do with how meetings are run. For example, tonight I picked up very quickly that the site plan approval process, I don't think is clearly understood as what it really does and how it can be used in a positive manner. Maybe we need to either self-educate or have a workshop on it, or have staff provide references or examples so we can see exactly how those variances to the existing plan work. I see it as an overlay. That if the side yard says three feet in the Code, I'm sorry, says ten feet in the Code, and somebody wants to place a building nine feet from the property line, should they really have to go before the Board of Adjustment if they can demonstrate that they've met LEED, that they've provided additional open space, that they're handling other things above and beyond the Code minimum. It allows some negotiation.

Ms. Feeney Roser: I think that whenever a developer comes in and meets with staff and we talk about those things, we offer it as an option if we know that they're going to need a ton of variances. And we really leave it up to them. You can go to the Board of Adjustment and you can ask them or you can come in for site plan approval. The differences are that if the Board of Adjustment approves your variances, then you're coming in with a plan that technically meets Code. The site plan approval is discretionary. So that is explained to them. So they have that option.

Mr. Silverman: Okay, but this is the kind of thing I'm talking about, a workframe. Do we want to hear more about that kind of thing? Yes or No? We've talked about the parking waiver. Do we want to generate some discussion about it?

Mr. Johnson: I would like to generate some discussion about the parking waiver and the cost of the parking waiver because I don't believe it truly reflects the value of the parking space.

Mr. Silverman: They're the kind of things we would, that's the kind of thing we would put under the heading of parking waivers, and then we would develop at a later meeting. The kinds of things that we would like to see considered.

Ms. Feeney Roser: I will tell you that that has come up at a Council meeting at least one, perhaps two, and the Planning Department has a list of projects we're trying to figure out to prioritize. If this group would like that to be a priority project, that makes sense to me.

Mr. Silverman: Okay

Ms. Feeney Roser: We can move forward with that. We're not going to be able to do everything on the list but that's why I think it's important for this group to sit down and think about what do you struggle with when people come here in front of you, and how can we work on Code issues to make it so that its more reasonable or...

Mr. Silverman: For example, one of the things I spotted, if you notice on your drawing for this particular project, literally a third of the street is taken up with street addresses of people who've been contacted. Yet the exhibit they put up there didn't have it and that very drawing all of a sudden became bigger and easier to read. So maybe we ask for Code change that says that list of people who have to be contacted are in written document X.

Mr. Johnson: Alan, I sort of like it on the plans myself.

Mr. Silverman: Okay

Mr. Johnson: I like it that way.

Mr. Silverman: Maybe it goes on a separate sheet.

Mr. Hurd: The thing I did like is that they had that sort of rendered site plan.

Mr. Silverman: Yes.

Mr. Hurd: Which focused just on the site issues and I think that that's something we could maybe start asking for is, beyond the civil stuff, because the civil drawings are hard to read.

Mr. Silverman: Yes.

Mr. Hurd: They're something more architectural. They're really just getting into what's green space, what's the plan, something that kind of merges maybe landscape and the site approval plan and highlights things like this is where our setbacks are going to be narrow, because that is what I was missing.

Mr. Silverman: Right.

Mr. Hurd: It's like where is, where are out of compliance with the setback. I had to kind of measure it to figure it out. So you could highlight and say, these are the areas we're talking about and you can see where we need to do this and it makes it easier for us to discuss it.

Mr. Silverman: And not only that, easier, since this is all on the internet, easier for the public to look at. And maybe it reduces some of the questions that come before us.

Mr. Johnson: I doubt that.

Mr. Stozek: Maureen, this really has nothing to do with Code, but could you talk about your projects that you have to prioritize. I remember at a City Council meeting, six months to a year ago, there was discussion about fees, planning fees, that they came nowhere near covering the costs. I don't remember hearing any report back. Has anything been done with that yet?

Ms. Feeney Roser: We started a report and then got distracted with other things that we need to do. Poor Tom over there is still waiting for some of the departments to get back to him. But if that were a priority, then we could move that up. We're juggling a lot and we're, at this point, not up to full staff.

Mr. Stozek: Right.

Ms. Feeney Roser: And it takes, you know there are two-and-a-half planners, essentially, because about half of my time is spent on land use and planning issues. And, you know, there's only so much time to go around and we have the Comp Plan, which I will tell you last night, Council has referred back to you. So we're getting closer to the end of that process. That'll free up some of Mike's time and we are embarking on the Resident Survey, which is also going to take considerable time. I just sent a memo to the City Manager asking for help with prioritization. So if the Commission has projects that they would like to see us advance, I think that's going to hold a lot of weight.

Mr. Johnson: Is it possible for you to basically send us that list of active projects so we could...

Ms. Feeney Roser: Absolutely.

Mr. Johnson: And then maybe we could put our thoughts into it and we could get some sort of list of, here's all the things that we're thinking about. You know, parking waiver fees and planning fees, and all that stuff.

Ms. Feeney Roser: Or things that may not be on it, that should be.

Mr. Silverman: For example, I really believe what the developers are saying about how students use their cars. I've done some informal looking and at 2 o'clock in the afternoon, for example, the apartment complex that's behind this building. You walk through there, you drive through there at 2 o'clock in the afternoon and it's two-thirds or three-quarters full. Those students are not moving their cars. And I said if somebody did some informal work among the landlords, they would find, ask how many students do you have in your occupancy, how many automobiles do you have? So we can start dealing with some hard numbers.

Mr. Stozek: What day of the week was that?

Mr. Silverman: Umm.

Mr. Stozek: If it was Friday, they were probably resting, getting ready to party.

Mr. Silverman: No.

Mr. Johnson: Still hung-over, Bob, from Thursday night.

Mr. Stozek: Of, from Thursday night. One thing you said, oh, this housing committee that Bob Cronin was on at the [inaudible] and I volunteered to take his place but we didn't approve it or vote on it, or something, at the last meeting. And I think the first meeting is in October 21.

Mr. Silverman: Its two weeks from tomorrow.

Ms. Feeney Roser: Yes, it's the 21st and we should have done that.

Mr. Johnson: Bob, you've been approved.

Mr. Hurd: Motion to approve Bob to take Bob's place.

Mr. Johnson: Second. All in favor, say Aye. [all] See how easy that was, Bob?

Mr. Stozek: I just want to be official.

Ms. Feeney Roser: No, that's true. I did say we had to put it on the agenda.

Mr. Stozek: Do you have any paperwork you could send to me about?

Ms. Feeney Roser: I will get you, yes.

Mr. Hurd: If there is, I haven't seen it, so.

Mr. Stozek: What they're going to discuss?

Ms. Feeney Roser: Because you're on it too, right?

Mr. Hurd: All I've seen is the note from Mike saying he had scheduled.

Ms. Feeney Roser: Okay, he did give you Phase I, right? I mean the information about Phase I, and what Phase II is supposed to be doing?

Mr. Hurd: No.

Ms. Feeney Roser: Well, I'll get you that.

Mr. Silverman: [gavel] If I hear no objection, we stand adjourned.

Mr. Johnson: Excellent.

Ms. Feeney Roser: Well before you leave though, I want to introduce you to Michelle Vispi. Michelle is our new secretary.

Mr. Stozek: Ahh.

Ms. Feeney Roser: In the Planning and Development Department and she doesn't actually start until Monday but volunteered to come here tonight and God bless her for it.

Ms. Vispi: A glutton for punishment.

Ms. Feeney Roser: And she has learned, you did a great job with keeping the PowerPoint working and hopefully this recorded. Thank you all.

Ms. Vispi: Thank you.

Ms. Feeney Roser: And thank you, Bruce. Thanks for being here.

There being no further business, the Planning Commission adjourned at 9:17 p.m.

Respectfully submitted,

Michelle Vispi
Planning Commission Secretary

/mv