

**CITY OF NEWARK
DELAWARE
PLANNING COMMISSION
MEETING**

February 5, 2013

7:00 p.m.

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

Chairman: James Bowman

Commissioners Present: Patricia Brill
Peggy Brown
Bob Cronin
Andy Hegedus
Edgar Johnson

Commissioners Absent: Angela Dressel

Staff Present: Maureen Feeney Roser, Planning and Development Director
Mike Fortner, Development Supervisor

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

1. THE MINUTES OF THE DECEMBER 4, 2012 PLANNING COMMISSION MEETING.

ON MOTION BY HEGEDUS, SECONDED BY BRILL, THE MINUTES OF THE DECEMBER 4, 2012 PLANNING COMMISSION MEETING WERE APPROVED AS SUBMITTED.

2. REVIEW AND CONSIDERATION OF A REZONING AT 221A, 221B, 221C MURRAY ROAD FROM THE EXISTING BLR (BUSINESS LIMITED RESIDENTIAL) TO RM (MULTI-FAMILY DWELLINGS – GARDEN APARTMENTS) ZONING AND MAJOR SUBDIVISION IN ORDER TO DEMOLISH THE EXISTING THREE APARTMENT BUILDINGS CONTAINING 16 UNITS ON THE SITE AND REPLACE THEM WITH 13 TOWNHOUSE STYLE APARTMENT UNITS.

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

“On November 22, 2012, the Planning and Development Department received applications from Chatham Bay for the redevelopment of properties located at 221 Murray Road. The applicants are requesting rezoning from the existing BLR (business limited residential) to RM (multi-family dwellings – garden apartments) zoning and major subdivision in order to demolish the existing three apartment buildings on the site containing 16 apartments and replace them with 13 townhouse style apartment units.

Please see the attached Becker Morgan Group development plans, applicants’ supporting materials and building elevation drawings. The Planning and Development Department’s report on the South Main Commons townhouses follows:

Property Description and Related Data

1. Location:

221 Murray Road, which also fronts on South Main Street between Murray Road and West Park Place.

2. Size:

.8476 acres.

3. Existing Land Use:

The South Main Commons townhouses site is a developed property containing three apartment buildings (221A, 221B, 221C Murray Road) currently known as Hanceton Court. There are currently 16 apartments in the three buildings on the site. The remainder of the site is used for parking and open area between buildings.

4. Physical Condition at the Site:

The site is relatively flat sloping gently from S. Main Street to the rear of the property. A berm runs along the rear property line. The site contains three apartment buildings; the remainder of the site is paved and open lawn space.

The property contains Elsinboro-Delanco-Urban Land Complex and Urban Land which are soils disturbed by prior development. The Natural Resources Conservation Service indicates no development limitations for the proposed use.

5. Planning and Zoning:

The South Main Commons townhouses site is zoned BLR. BLR is primarily a business zone with limited residential options that permits the following:

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

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

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

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

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

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

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

Regarding area requirements for RM zoning, please note that the applicant received variances for maximum lot coverage, minimum lot size, and setbacks from the Board of Adjustment at their September 20, 2012 meeting. The South Main Commons townhouses plan meets all other RM area requirements.

Regarding adjacent and nearby properties, immediately adjacent to the east is a duplex residential building and then a series of single family detached dwellings further east along Murray Road. Directly across Murray Road from the proposed development is the BC zoned Sunoco Gas Station and Mini Mart. To the northwest across S. Main Street is a cemetery which is situated between the BB zoned Lofts at Rittenhouse development and a BC zoned Penske rental location. Immediately adjacent to the southwest (on the south side of S. Main Street) is a BC zoned vacant lot and two BLR zoned office buildings fronting on West Park Place.

Regarding comprehensive planning the Comprehensive Development Plan IV calls for multi-family residential (medium density) for the site and surrounding area. The Plan defines these uses as “areas designated for dwellings occupied by one family either detached, semi-detached or townhomes, with overall densities of four to ten dwelling units per acre.”

Regarding gross residential site density, please note that the South Main Commons plan calls for 15.33 dwelling units per acre. It is important to note, however, in this regard that the current Hanceton Court apartments on the same site contains 16 apartments, which calculates to 18.88 units per acre. By way of comparison, the density of the nearby BB zoned Lofts at Rittenhouse development is 26.3 units per acre. The Rittenhouse Station I project is 14.58 units per acre.

Status of the Site Design

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

Be that as it may, the South Main Commons townhouses development plan calls for three rows of townhouse style apartments in a U shape. Two rows contain four units each and one row of structures includes five units. All townhouse buildings will be three stories in height and have garages as well as two off-street parking spaces. All buildings will front on Socum Court, which will be a private street. Access to the site remains from Murray Road.

Please consult the applicant’s submitted building elevation drawings and supporting letter for additional information concerning the proposed site design.

To evaluate the proposed architectural design, the Planning Commission should consult design criteria in Municipal Code Chapter 27, Subdivision and Development Regulations, Appendix XIII(d). Please note in this regard, that on a voluntary basis, the applicants reviewed the proposed building elevation drawings with the Downtown Newark Partnership’s Design Review Committee. As a result, the Committee recommends the design with specific suggestions for additional design features including: providing an elevation change by adding a few steps to the doors facing S. Main Street; adding more articulated bays to break up the pattern and make it look less box-like; and incorporating

some exterior down lighting on S. Main and along Socum Court. Beyond these suggestions, the Committee recommends the unique design of South Main Commons as it distinguishes itself from other buildings along South Main Street.

Fiscal Impact

The Planning and Development Department has evaluated the impact of South Main Commons on Newark’s municipal finances. The estimates are based on the Department’s Fiscal Impact Model. The Model projects the South Main Commons townhouse project fiscal impact; that is, total annual municipal revenues less the cost of municipal services provided. The Planning and Development Department estimate of net revenues follows:

	<u>Net Revenue</u>
First Year	\$24,171.60
Second Year and Thereafter	\$ 6,546.68

The reduction in net revenue in the second year is the result of the one-time impact of the real estate transfer tax in the first year.

Transportation

In light of the frontage along South Main Street, we have asked DelDOT to review the South Main Commons townhouses development plan. In response, DelDOT indicates that because Murray Road is a City Street, and the development will generate fewer average daily traffic trips based on the reduction in the number of units proposed, they anticipate no direct involvement in the entrance permitting process. However, they suggest that a DelDOT Letter of No Objection be required by the City. They also indicate that the proper sight distance needs to be maintained on Murray Road at S. Main Street.

Subdivision Advisory Committee

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

1. The Electric Department indicates:
 - An open utility easement must be shown on the plan.
 - No trees over 18 ft. at maturity can be planted along South Main Street. In this regard, the Red Maple and Dogwood trees proposed along South Main Street are problematic.
 - The developer must pay \$11,000 towards the cost of transformers, meters and materials.
2. The Public Works and Water Resources Department indicates:
 - A pre-application sediment and stormwater meeting is required to discuss how stormwater will be handled for this project.
 - A preliminary stormwater management report will be required as per DNREC’s minimal submittal requirements for a SWPP.
 - An infiltration test report, as per DNREC’s testing policy, is required.
 - The plan will need to provide more topographical information south of the plan line so off-site impacts can be determined.
 - Individual water meters will be required for each unit and installed at the developer’s expense.
 - An STP fee for each unit will be required at the issuance of the CO for that building. Credit will be provided for existing units.

3. The Parks and Recreation Department indicates:

- Additional comments will be provided during the CIP process.
4. The Planning and Development Department indicates:
- Building labels for the footprint and GFA for Unit C will need to be corrected before City Council review. When the plan is revised, the revision date needs to be noted in the table.
 - Trash pickup will be private and the development will use cans for both trash and recycling, not dumpsters. Therefore, the garage of each unit must have adequate room to store two vehicles and both cans.
 - To limit the impact of the development, the developer should voluntarily deed restrict the property's occupancy to a multiple of the number of units provided. The Commission may want to discuss the matter with the applicant at the meeting.
 - The subdivision agreement should specify that the proposed units be designed so they can be easily converted into condominium units.
 - The architectural design for the proposed new buildings should be carried out on all portions of the facilities visible from public rights-of-way.
 - Mechanical equipment and utility hardware shall be screened from public view with materials harmonious to the proposed architectural design and such equipment shall be located so as not to be visible from adjoining streets or public rights-of-way.
 - Exterior lighting and signage should be designed as an integral architectural element of the proposed architectural façade. All such lighting to be shielded to limit visual impacts on adjoining residential properties.
 - The Planning and Development Department indicates that a subdivision identification sign should be shown on the plan.

Recommendation

Because the proposed South Main Commons townhouse rezoning and major subdivision plan, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on nearby and adjacent properties, because the project with the recommended conditions conforms in general to the land use guidelines in the Comprehensive Development Plan IV for the area and in fact, will bring the site closer to the density recommended for the area in the Plan, because the proposal can meet all the applicable City Code requirements, and because the proposed use does not conflict with the development pattern in the nearby area, the Planning and Development Department suggests that the **Planning Commission take the following actions:**

- A. Recommend that City Council approve the rezoning of the .8476 acre parcel from BLR (business limited residential) to RM (garden apartments) as shown on the attached Planning and Development Department Exhibit A dated February 5, 2013; and,**
- B. Recommend that City Council approve the South Main Commons townhouses major subdivision plan, as shown on the Becker Morgan Group plan dated November 26, 2012, with the Subdivision Advisory Committee conditions."**

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

Mr. Bowman: Are there any initial questions for the Planning and Development Department from the Commission?

Ms. Peggy Brown: Is it feasible to make Murray Road one lane to help with traffic?

Ms. Feeney Roser: DelDOT did not indicate that there would be any traffic impact from this development. Actually, because there are fewer units proposed than currently exist, no adverse impacts were anticipated.

Ms. Brown: That doesn't mean there will be fewer cars. It depends on the number of people in there.

Ms. Feeney Roser: Murray Road is a city street. The Public Works and Water Resources Department didn't indicate a concern.

Ms. Brown: I was thinking coming from Main Street out of town and making the left-hand turn into Murray Road.

Ms. Feeney Roser: There is a median there now, so you can't make that left. That is probably why they didn't mention it.

Mr. Bowman: The applicants are here. If you would step to the microphone and state your name and address.

Ms. Lisa Goodman: Young, Conaway, Stargatt and Taylor, counsel for the applicant and here on behalf of Chatham Bay Construction, LLC. With me this evening and handing out the exhibits is Mike Riemann of Becker Morgan, the project engineer.

I am not going to repeat the details that Ms. Feeney Roser provided to you. That doesn't seem to make much sense. Let me just talk about, if I might, why we think this is the right project for this location.

This application is really a redevelopment project. It proposes to redevelop the existing apartment complex that is on this site and that currently has 16 units and was built in the 1940s and is in considerable need of redevelopment with 13 townhouse style units. We are also proposing to downzone the property from BLR, which as Ms. Feeney Roser indicated, is essentially a business zoning that might allow a second floor apartment but no more than that. So, you could have a bank here or an office here, which, frankly, we don't think makes sense given where this is. So, we are proposing a down zoning to RM which will make this project conforming and we think is a much better fit for the area. I'm sure you all know where this project is – the intersection of Murray Road and South Main Street, directly across from the cemetery and the Lofts at Rittenhouse and adjacent to the Sunoco Station. Currently, it has three buildings on it and we are proposing three buildings. And, those three buildings are about 30 years old.

The thinking behind this project is that the location of this project really represents, essentially, the end of the new streetscape that is developing on South Main Street, which has been characterized largely by BB or mixed use zoning. So, if we think about what has happened along South Main Street coming from Main Street, by the time we get to here, we are really more or less at the break where we start to get mostly residential uses and certainly behind here, we get residential uses. So, we think it makes good sense and the Board of Adjustment, I think, in granting the minor variances saw that as well that it made better sense to develop this project in this way, which A) is consistent with what is already there in terms of right on this site; and, B) is consistent with what is around it and the developing nature of this street.

Ms. Feeney Roser talked a little bit about the size of the property, which is .85. We have plenty of parking. Required parking spaces are 39. We are proposing 52, which we think makes sense given the location here. We want to have plenty of parking so parking isn't an issue, so we don't have parking spilling out anywhere else. We also want to have plenty of parking so that if the market ever changes – and markets do change – that these could be converted to owner occupancy and have plenty of parking and that is an important thing. So, each unit will have two spaces inside and there will be lots of additional spaces outside as well. We will be reducing the density of the project from 18.88 per acre, which is what is on it now, to 15.33 per acre. For a comparison, as Ms. Feeney Roser indicated, that is considerably below the Lofts at Rittenhouse at 26.3 and Rittenhouse Station, which is 14.58. Most importantly really, we think this the right use for the right spot because not only does it make sense for the transition from mixed use (commercial and residential) on the Main Street side to more residential as you go west, but it also makes sense from a transition from north to south in the sense that behind here, as you can see from this aerial, we start with single family homes. So, clearly, this isn't appropriate for a single family home. I don't think anybody would want to have a single-family house on South Main Street, but it is good to have a buffer for these single families, and that is what this provides

– a buffer, which is currently there now and will continue. That is also consistent with the east/west transition of the street. It is pulled up along the street, so it matches what is going on the rest of South Main Street. So, we think it is really put together to be a nice transition, and frankly, a nicer gateway for the folks who live back here to come in here and have a nice project that provides them with a building pulled up to the street, a new nice project, lots of additional buffering – some of this is existing and some of this is actually very tall.

If you look at the elevations that we handed you, I want to talk a little bit about what this looks like and also show you the size of those trees. So, the idea with this project is to do something that both echoes a little bit about what is going on across the street at the Lofts at Rittenhouse and elsewhere and to also come up with something that is a little bit different from the more neo-Georgian University of Delaware things that is more appropriately up toward the east. So, the idea here – and I have talked about this before – is to not have all of South Main Street look like it all got developed at the same moment and it all matches and it all looks pretty now and in ten years we are all going to say, what did we do. This is a more modern look. If you think about what the design that you saw for the Lofts at Rittenhouse, that was sort of a mix trying to think about what would an industrial building that was converted into lofts, which we see in some cool towns looks like. This is a little bit of a similar idea with a little bit more of an overlay of modern on it. So, we think it is a very cool addition to the streetscape. And, you can see the various views. If you look at the second view, we have sort of shaded these trees out. These are the actual height of the existing trees that we will be preserving. You are not really going to see that, but we wanted to show you both the trees and that side of the building so you can get a sense of what the buffering is that is already there and then, of course, the additional street trees that we will be, of course, providing per the Code and per good practice.

So, we have provided you with some different views of the project here. It is a mix of brick, composite trim, and stone on the bottom for some interesting types of mixes of materials. These are the same types of materials that you see used up and down the street, but obviously, in a very different and unique way. And, carrying over, if you look at the garage doors, into a little bit more of a, gosh, this kind of looks like you converted some sort of an industrial building, as we see in some of the cooler towns that people reference after they get done talking about how nice Newark's Main Street is. Then they talk about Portland, Maine and a few other cool towns that have done some of these conversions.

I want to note that the last page that we have provided to you which is this view here, there is a building here. We have taken it out so that you can see the back of these buildings, but you won't normally get this view because there is a building here. We wanted you to see the fence and to see what the backs look like, but that is not a view you could ever get in real life.

Briefly then, I want to talk about the rezoning. There are three standards. The first one is conformity with the Comp Plan. The Comp Plan here calls for multi-family including towns. So, we are consistent with that Comp Plan. Now, the Comp Plan does suggest dwelling units of up to ten per acre. However, the site currently has 18.88 per acre and we are going to, if this is approved, reduce it down to 15.33. So, we are going to bring it more into conformity with the Comp Plan than it currently is today. Second, consistent with surrounding properties. Of course, we are 100% consistent with what is on the site right now. We are going from multi-family residential to multi-family residential, and I talked about how we are consistent with the pattern of the street both east and west and north and south. That leads into the third standard that is, we are consistent with larger area. We provide that nice transition, we provide the buffering, we are consistent with the development pattern on South Main Street and, actually, are a perfect demarcation between the mixed use BB and the beginning of the residential and we buffer the single-family residential to the rear.

So, we think this is a great project, the right project in the right place and are happy to answer any questions.

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

Mr. Edgar Johnson: Lisa, I like the footprint, and you say what the architect was going after in the design of the building a more industrial loft. I can tell you when I looked at it, my first reaction was retro prison. But, the longer I look at it, the more I see the different materials and it is different than the surrounding areas. The reason it is this design is because you didn't want to be the same or you didn't want to look like a residential complex. Is that correct?

Ms. Lisa Goodman: I think that is part of it. I think the idea is to have different projects echo each other but not look identical. We have all probably been to towns where they all look alike and you start sort of hearing the theme to the Stepford Wives in your head. I don't think any of us wants Newark to become that kind of place. So, the idea here is to come up with something a little different that is still consistent in terms of materials and coloration and a little bit about what's happening across the street, but something different so as you start heading down toward the tech park where things are going to be techy, you are looking at something a little more modern. I am not the architect, but that is my understanding of the thinking.

Mr. Johnson: You used the word modern, I would use the word retro, but that is okay.

Mr. Andy Hegedus: You said there was some recommendations from the DNP Design Committee.

Ms. Feeney Roser: Yes.

Mr. Hegedus: Are you taking those recommendations into consideration? I didn't see those in here.

Ms. Goodman: Yes, we are indeed and I think these renderings actually reflect our adoption. We are still looking at one possible issue, which is steps. That is purely a question of whether they will work with the garages or not. Can we do that? Other than that, all of their suggestions have been incorporated into the plan.

Mr. Johnson: What is the purpose of the steps?

Ms. Feeney Roser: The Design Committee felt that an elevation change, at least along the South Main Street side of it, would enhance the appearance of the building and provide more residential appeal. That is what their suggestion is based on.

Mr. Johnson: Are we looking at one step, two steps, three steps, etc.

Ms. Feeney Roser: They did not articulate how many steps.

Ms. Goodman: We will keep looking at that. That is still a under consideration. Some of it becomes a math problem as to whether we can make the elevations work.

Ms. Brown: A step up or step down? I have to say, when I look at the rear elevation, if I were looking at that all of the time, especially the brown unit in the middle, I would feel like I was having some sort of monster looking at me. I do not like those window panes that are broken up, especially in the center. I find it unattractive. I understand how they are trying to create something other than the Georgian design, which is fine with me. But, I liked the design across the street far better than this design. This is a pretend industrial building. It is not an industrial building and it is supposed to look like it, but it doesn't quite get there. So, I don't particularly like the design of the building.

Mr. Bob Cronin: When I first saw this my thoughts were somewhat similar to my colleague's. I saw the composite siding which seems to have been replaced with brick in the latest rendition, but the first rendering, I'm looking at what could well be an administration building in the Port of Wilmington or, maybe, even beach condos. It just seemed out of character with what we are trying to do here and our Main Street locations in Newark. I appreciate your wording to connect the novel and the newness to the transition and the end of the line. I look back on our Main Street and you go to the Newark Diner at the corner of Main Street and Haines Street and that probably happened by accident before we had a lot

of controls a long time ago and has somewhat become icon and people seem to appreciate it. But still, it doesn't fit with much else. They have tweaked it a little bit with a new cheeseburger outfit, but it still doesn't seem to fit with compatibility in the rest of Main Street and what has been occurring and is occurring. I find it hard to recommend these elevations and the architectural design forward to the City Council. I am okay with this designated rezoning and so forth and the concept of the economics of it, but the appearance of it I see as inappropriate.

Ms. Goodman: My client is sitting here, the representative of both the engineering and the architectural firm are sitting here, so to the extent that this Commission wants to vote on the recommendation on the rezoning and then have comments on the elevations. Obviously, at the end of the day we need something that we can build. So, we will be happy to take those back under advisement before we go to Council because I feel certain they are going to take your recommendations on appearance into consideration when they vote and when they start thinking about it. Obviously, people can have different tastes in architecture, but you folks are here to provide your opinion on that and that is important.

Mr. Bowman: How many bedrooms are there per unit?

Ms. Goodman: There are four per unit.

Mr. Bowman: How many bedrooms are there in the existing 16 units?

Ms. Goodman: Primarily two bedrooms.

Mr. Hegedus: You just handed us the revised prints that changed from the siding to the brick, right? But, when you look at the rear elevation it is still composite siding in the back. Is that, intended, to be that way or is that changed to brick as well?

Ms. Goodman: That was intended to still be that way and that was discussed at the DNP Design Committee meeting.

Mr. Bowman: We will now open it up for public comment. I have no written requests. If anybody wishes to step to the microphone to comment on the project, please do so. Please step to the microphone, state your name and address, if you would please.

There being no public comment, we take the discussion back to the table.

Ms. Feeney Roser: Chairman Bowman, regarding the elevations, design is somewhat of a subjective thing – you know whether people like it or not. I happen to like it, but I liked it mainly because it was different than what we have been seeing over and over again. It is important that we separate the design issue from the rezoning and the subdivision. You don't have to vote on them all at the same time. You can make a separate recommendation about looking at the design again. I will note that the Design Committee, while they did have some suggestions for improving it, was actually positive about the design.

Ms. Brown: You have 13 townhouses and you have four bedrooms in each townhouse, so, how many parking spaces do you have?

Ms. Goodman: 52 parking spaces.

Ms. Brown: So, you are going to have parking for 52 people on that property?

Ms. Goodman: Assuming that each person brings a car, which is a practical matter speaking across many, many projects, doesn't happen. A certain percentage of tenants will have a car. And, many, especially who live here where they can walk, don't want the expense or bother of a car.

Ms. Brown: However, this is supposed to be able to be converted to a condo. I just wonder if four bedrooms is too many because we know that students, unless they are forced by their landlords, pack in. It is up front that this is for student housing and you may get two kids in each bedroom. That translates to eight. That is a lot. Is there going to be a restriction in

their leases for the number of occupants per unit. This is something that some landlords here in Newark do. It is not unprecedented.

Ms. Goodman: First, let me say that in the newer and nicer projects you don't get packing in. You get kids whose parents can afford to and want them to have, typically, their own room and that is what we are finding is most common. The number of tenants is not typically controlled by a restriction in the lease, it is controlled by the landlord and how they execute the leases. Landlords are very careful because if you get a situation where you have too many kids in an apartment, it is bad for the apartment. That is a bad situation that the landlord doesn't want to get into. In situations like these, I certainly have had clients enter into a voluntary restriction that would restrict the overall number. Nobody any more, except in very rare instances, restricts by unit. I am talking about Council doing that because it doesn't work in practice. You restrict overall by numbers for the entire project. If you wanted to talk about that to the extent that it gives you more comfort on a total number of people, we can certainly talk about that. And our suggestion – and this is what Council has typically done – has been a total number that represents the number of bedrooms per unit plus two. So, in the case of this, we would have four-bedroom units. So, you would restrict to a total number that would be six people per unit realizing that you never get that. It just doesn't happen, but it gives the landlord more flexibility because as they are transitioning they don't know exactly how many people that they are going to have in and they don't want to come anywhere close to that number and then have the City make them have to breach a lease. It becomes a mess. If that is a recommendation that you folks want to put on, I think my client is comfortable with that, mostly because they know they won't get that high.

Ms. Brown: I think that it should be restricted and I think it should be written down that it is restricted and the landlord should be obligated by the City to restrict the numbers.

Ms. Goodman: And that is how it would work. If City Council recommends that, the landlord will be required to enter into a deed restriction that is, frankly, much more binding than in a lease. It actually becomes a legal document that gets recorded on the title of the property.

Ms. Brown: I do not agree with the plus 2. I think that is too many – one body per bedroom is more than sufficient.

Ms. Goodman: I will tell you as a practical matter, the plus 2 has been what Council is doing that is standard. It is very difficult when Council doesn't treat similar projects similarly so they put a bigger restriction on one landlord than the other especially here where we have a project that has more parking than the Code requires rather than just the Code requirement. So, we also have to look across all projects and say, what is fair for all business people in the City. So, obviously, you are free to recommend anything you want.

Ms. Brown: Perhaps it is time that we did do something like that instead of (inaudible). I think we have found that often a boyfriend or girlfriend moves in but that doesn't mean it is right and we do have restrictions on the number of people that are allowed in houses, so it is not unprecedented that we would restrict apartments or townhouses like this either.

Mr. Hegedus: In the Planning Department's recommendation, the last bullet on one of the pages, recommended, it says, "To limit the impact of the development, the developer should voluntarily deed restrict the property's occupancy to a multiple of the number of units provided. So, we or they may want to talk to you about this, right? So, I'm assuming that one bedroom would be a four as a multiple, six would be a multiple of the number of units if they are all four bedrooms, right?"

Ms. Feeney Roser: Yes.

Mr. Hegedus: And is the six for a bedroom, two extra, is that (inaudible).

Ms. Feeney Roser: I haven't done that research, but Lisa has represented many of the last developments that have gone through. I know Council has done it. They have limited the overall number to a certain number, but I didn't look at how many that was.

Mr. Hegedus: Lisa, from your memory, it is two in addition to the number of bedrooms, so a three bedroom would be five.

Ms. Goodman: Exactly. The number of bedrooms plus two has been what I have found to be sort of the most standard. There are some projects that aren't restricted at all, and there are some projects where, for various reasons, a different number might be offered by the landlord, but in situations like this where there is abundant parking or even just Code compliant parking and for whatever reason a restriction is still a topic, it has typically been the number of bedrooms plus two in the many projects that I have represented where there have been restrictions at all.

Mr. Hegedus: So, overall in the total number of occupants between where it is today and where it will be even with the cap of six, it sounds like it is a doubling of the people that are in there.

Ms. Goodman: I would have to do the math. I'm sure you are probably better at math than I am.

Ms. Feeney Roser: If they are mostly two bedrooms and it is plus two, that is about 64 people who are residing there now. The six being four plus two, would be 78 and five would be 68. So, you are kind of in the ballpark. There are 64 now.

Mr. Hegedus: There are 64 now, two bedrooms at four a piece.

Ms. Feeney Roser: I'm assuming most of them are two bedrooms then there would be plus two in there.

Ms. Goodman: I think Maureen is right, I don't know whether those are one person per bedroom or two persons per bedroom, but if we apply the same assumptions. It is a good point.

Mr. Bowman: Are there any other questions or comments from the members of the Commission? The Chair will entertain a motion:

Mr. Johnson: Jim, could I suggest that we separate the issues of A and B of the recommendation and vote on the rezoning separately from recommendation B?

Mr. Bowman: I don't see any reason why you can't, but I don't see any reason to do it since it is really a rezoning and subdivision plan.

Ms. Feeney Roser: I have never seen Council approve a rezoning without a subdivision plan accompanying it.

Mr. Bowman: The question being on not approving the subdivision plan is, on what basis do you want to not approve the subdivision plan, the appearance of the building or what specifically?

Mr. Johnson: I am not in favor of the look. It isn't consistent with the area. I don't think it is consistent with the building that is going on in the City, and I personally – and Maureen and I can disagree here – voting my prejudices and I don't like it and I am not going to be persuaded by facts.

Ms. Feeney Roser: But, your objection is not to the 13 townhouses, it is what they look like.

Mr. Johnson: No, I have no objection to 13 townhouses, I have no objection to the rezoning. I just have an objection to the look of it.

Ms. Feeney Roser: I think you can amend B to indicate your dislike.

Mr. Cronin: I would rather see a new drawing before I vote for it – new elevations and new proposal for the exterior. This is just very unappealing as it is. I find it very hard to

recommend it with somebody else, hopefully, changing it later on to something that I and the Commission would be happy with.

Mr. Hegedus: Since this is time for discussion here at the table, I personally like it. So, the view from the back where it still is the composite material is not a problem for me personally. I would rather just vote on approving this thing and then have individual people's displeasure with the appearance of it be on the record for City Council to look at.

Mr. Johnson: Why don't you call the question, Jim, and then see where the vote goes.

Mr. Bowman: Just a reminder, we don't have anything to vote on yet. We don't have a motion. Let me just make a comment to the Commission. Just keep in mind that the appearance of the building has basically nothing to do with Code compliance and meeting all the standards. So, we have to be a little bit careful there in that respect. The options are to possibly make a motion not to approve with what has been presented to the applicant; we can also, obviously, make a motion to approve with certain stipulations; or we can table the motion and have them come back with something different, but it would be better if we table it to let them know exactly what the Commission would like to see when they return. Those are your options.

Ms. Brown: I do have one comment. I just don't like the windows. I don't mind the box. I like that it is modern cubic style. I just don't like the windows.

Ms. Pat Brill: It reminds me of when they put the UD Bookstore on Main Street and everyone said it isn't the Colonial design and it doesn't fit in with the Mall, but after it got built, I thought it was really quite nice. It is really not offensive at all. I think that with the brick and the modern industrial look is different but, to me, it is not offensive.

Mr. Bowman: We are at the point that we need a motion.

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

- A. RECOMMEND THAT CITY COUNCIL APPROVE THE REZONING OF THE .8476 ACRE PARCEL FROM BLR (BUSINESS LIMITED RESIDENTIAL) TO RM (GARDEN APARTMENTS) AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A DATED FEBRUARY 5, 2013; AND,
- B. RECOMMEND THAT CITY COUNCIL APPROVE THE SOUTH MAIN COMMONS TOWNHOUSES MAJOR SUBDIVISION PLAN, AS SHOWN ON THE BECKER MORGAN GROUP PLAN DATED NOVEMBER 26, 2012, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS; AND, WITH THE ADDED CONDITION THAT THE NUMBER OF OCCUPANTS BE DEED RESTRICTED TO ONE PERSON PER BEDROOM PLUS TWO ADDITIONAL PERSONS PER UNIT.

VOTE: 4-2

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

MOTION PASSED

Mr. Hegedus: Can I make just one more comment for the record. It was interesting the way Counsel said that this would be kind of the bookend and the end of the street that transitions. I'm not sure that there is not exactly true given that there are some other things behind it and that this one lot down here has been empty and has had construction equipment in it for years. So, my approval wasn't based on that argument, it was more that I liked the design and the thinking and the parking and all the features that you have.

3. REVIEW AND CONSIDERATION OF A REZONING FROM RD (ONE-FAMILY, SEMI-DETACHED RESIDENTIAL) TO RM (MULTI-FAMILY-GARDEN APARTMENTS), AND MAJOR SUBDIVISION IN ORDER TO CONSTRUCT EIGHT NEW TOWNHOUSE STYLE APARTMENTS IN PLACE OF THE FOUR SINGLE FAMILY RENTAL HOMES CURRENTLY AT 30, 34, 38 AND 42 CHAMBERS STREET.

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

“On November 26, 2012, the Planning and Development Department received an application from SMD Contractors for the rezoning and major subdivision of the .546 acre property at 30, 34, 38 and 42 Chambers Street to be known as Rupp Farm. The applicants are requesting rezoning from RD (one-family, semi-detached residential) to RM (multi-family-garden apartments), and major subdivision in order to construct eight new townhouse style apartments in place of the four single family rental homes currently at these addresses.

Please see the attached Karins and Associates major subdivision plan, supporting letter, and building elevations. The Planning and Development report on the Rupp Farm (30, 34, 38 and 42 Chambers Street) rezoning and major subdivision follows:

Property Description and Related Data

1. Location:

30, 34, 38, and 42 Chambers Street; north side of Chambers Street adjacent to the intersection of Chambers and Benny Streets.

2. Size:

.546 acres

3. Existing Land Use:

30, 34, 38 and 42 Chambers Street contain four single family rental homes.

4. Physical Condition of the Site:

The site contains four stucco single family homes now used as rentals. Each home has a detached garage/out building in the rear yard, with the corner property's garage fronting on Benny Street.

In terms of topography, this site is relatively level.

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

5. Planning and Zoning:

The Rupp Farm site is zoned RD. RD is primarily residential zoning that permits the following:

- B. Accessory uses and accessory buildings subject to special requirements.
- C. Cluster development subject to site plan approval as provided in Article XXVII
- D. A one-family detached dwelling.
- E. The taking of nontransient boarders or roomers in a one-family dwelling by an owner-occupant family resident of 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.

- F. 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 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 two boarders or roomers in any one-family dwelling.
- G. Church or other place of worship, seminary or convent, parish house, or Sunday school building.
- H. Public and private elementary, junior, and senior high schools.
- I. Municipal park, playground, athletic field, recreational building, and community center operated on a noncommercial basis for recreation purposes.
- J. Municipal utilities; street rights of way.
- K. Swimming pool, private; swimming pool, public.
- L. Temporary building, temporary real estate or construction office.
- M. Utility transmission and distribution lines.
- N. Public transportation bus or transit stops for the loading and unloading of passengers.
- O. Student Homes, with special requirements

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

- A. Nursing home, rest home, or home for the aged, subject to special requirements.
- B. 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."
- C. Police and fire station, library, museum, and art gallery.
- D. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- E. Professional office in residential dwellings for the resident-owner of single-family dwellings, with special requirements, including the requirement that the professional office is permitted only for the resident-owner of a single-family dwelling.
- F. Customary home occupations subject to special requirements.
- G. Substation, electric, and gas facilities, subject to special requirements.
- H. Day care centers, kindergartens, preschools, day nursery schools, and orphanages, subject to special requirements.
- I. Public transportation bus or transit shelters.
- J. Public transportation bus or transit off-street parking facilities.
- K. Swimming club, private (nonprofit) subject to special regulations.

The requested RM zoning our garden apartment district zone would permit the following:

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

rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.

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

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

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

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

Regarding RM zoning area requirements, the applicants have received variances for maximum lot coverage, minimum lot size, open space, distance of parking from perimeter streets, and setbacks from the Board of Adjustment at their August 15, 2012 meeting. With these variances, the Rupp Farm plan meets the RM zoning area requirements.

Regarding adjacent and nearby properties, to the north along Benny Street are RD zoned properties including an apartment type building; to the south, across Chambers Street are four RD zoned single family homes which are a combination of rentals and owner occupied. To the west is the University of Delaware's new dormitory complex and to the east are BN zoned apartment units owned by the applicant and further east across Chapel Street are UD owned properties.

Regarding comprehensive planning, the Comprehensive Development Plan IV calls for multi-family residential (medium-high density) uses at this site. The Plan defines these uses 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 gross residential site density, please note that the Rupp Farm plan calls for 14.65 dwelling units per acre.

Status of the Site Design

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

Be that as it may, the Rupp Farm development plan calls for the demolition of four existing single family detached dwellings and garage/out buildings and the construction of eight three-story townhouse apartment units with 30 parking spaces to service the development.

Please consult the applicant’s submitted building elevation drawings and supporting letter for additional information concerning the proposed site design.

To evaluate the proposed architectural design, the Planning Commission should consult the design criteria in Municipal Code Chapter 27, Subdivision and Development Regulations, Appendix XIII(d). Because the project is located outside of the Downtown Newark Partnership’s boundaries, the DNP’s Design Committee has not commented on the proposed elevations.

Fiscal Impact

The Planning and Development Department has evaluated the impact of Rupp Farm on Newark’s municipal finances. The estimates are based on the Department’s Fiscal Impact Model. The Model projects the Rupp Farm fiscal impact; that is, total annual municipal revenues less the cost of municipal services provided. The Planning and Development Department estimate of net revenue totals \$4,040.11 annually. Please note that because the applicant already owns the properties to be developed, there will be no impact of real estate transfer tax.

Transportation

Both Chambers Street and Benny Street are City owned and maintained roadways. However, because Chambers Street intersects with Chapel Street, which is owned and maintained by the State, we sent the proposed Rupp Farm development plan to DelDOT for comment. DelDOT does not anticipate a measurable increase in vehicular trips as a result of the Rupp Farm development and, therefore, suggests no improvements to the road system. It does recommend, however, that the sidewalk be maintained across the site frontage with depressed curb at the driveway in place of the curb return shown on the plan.

Subdivision Advisory Committee

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

1. The Planning and Development Department notes that the proposed land use at the site conforms to the land use recommendations in the Newark Comprehensive Development Plan IV.
2. The Planning and Development Department notes that any final redesigned development plans for this site for City Council review must meet all the requirements in the Zoning Code Section 32-11 RM Zoning. In this regard, please note that the developer received variances from the City of Newark Board of Adjustment on Thursday, August 16, 2012, for the following area requirements:
 - Section 32-11(a)(1)d, requiring a maximum lot coverage of 20% for apartments in the RM zoning district, to allow a proposed lot coverage of 32.2%.
 - Section 32-11(a)(1)h, requiring a minimum lot size of one acre, to allow a lot size of .546 acres.
 - Section 32-11(a)(1)i, requiring at least 40% of the development to be open area, to allow an open area of 30.6%.
 - Section 32-11(a)(1)j, requiring all uncovered parking and loading spaces to be located at least ten feet from all abutting perimeter streets and property lines, allowing 21 of 22 of the open parking spaces to be located less than ten feet from abutting perimeter streets/property lines.
 - Section 32-11(c)(5)a, requiring a 30 ft. minimum building setback from the line of all perimeter streets, allowing a 19.3 ft. setback from Chambers Street and a 25.8 ft. setback from Benny Street.
 - Section 32-11(c)(5)c, requiring a 25 ft. minimum building setback line from all exterior lines, allowing a building setback of 7 ft.
3. The Planning and Development Department suggests that the Planning Commission recommend that the subdivision agreement specify that the proposed units be designed so that they can easily be converted into condominium units.
4. The Planning and Development Department suggests that to limit the impact of the development, the developer should voluntarily deed restrict the property's occupancy to a multiple of the number of units provided. The Commission may want to discuss the matter with the applicant at the meeting.
5. The Planning and Development Department suggests that the Planning Commission consider the following conditions of subdivision approval:
 - The architectural design for the proposed buildings should be carried out on all portions of the facility visible from public rights-of-way.
 - Mechanical equipment and utility hardware be screened from public view with materials harmonious to the proposed architectural design or such equipment shall be located so as not to be visible from the adjoining streets or public right-of-way.
 - Exterior lighting and signage to be designed as an integral architectural element of the proposed architectural façade. All such lighting to be shielded to limit visual impacts on adjoining residential properties.
6. The Electric Department indicates that the developer must have Verizon replace Newark Pole #26G34 on Chambers Street in order to allow for transformer installation.

7. The Electric Department indicates that the developer must pay \$3,600 towards the cost of radio read meters, transformers and materials.
8. The Public Works and Water Resources Department indicates that:
 - Water meters are required for each apartment unit and must be paid for by the developer.
 - The STP fees for each building are due at the time of the issuance of the C/O for that building.
 - Meters shall be centrally located.
 - As noted above in the DelDOT comments, the Public Works and Water Resources Department indicates that the sidewalks should be ADA compliant and extend through the driveway off of Benny Street.
9. The Public Works and Water Resources Department indicates that additional comments will be forthcoming through the CIP process should the development be approved.

Recommendation

Because the proposed Rupp Farm (30, 34, 38, 42 Chambers Street) project, with the Departmental recommended conditions, will not have a negative impact on nearby and adjacent properties, because the project conforms to the land use recommendations in the Comprehensive Development Plan IV, because the proposed residential use conforms to the development pattern in the area, the Planning and Development Department suggests **that the Planning Commission take the following actions:**

- A. Recommend that the Rupp Farm property be rezoned from RD (one family, semi-detached residential) to RM (multi-family dwelling – garden apartments), as shown on the attached Planning and Development Department Exhibit A, dated February 5, 2013; and,**
- B. Recommend that City Council approve the Rupp Farm major subdivision plan as shown on the Karins and Associates plan dated November 20, 2012 with revisions through December 20, 2012, with the Subdivision Advisory Committee recommended conditions in the Planning and Development Department report.”**

Ms. Feeney Roser: I will be happy to try to answer any questions you have for me. The developer is here.

Ms. Goodman: I am here on behalf of Matt and Susan Dutt. Mr. John Garcia of Karins and Associates is our project engineer. You were passed out two things. One is a booklet and the other is a separate copy of this colored site plan. Again, I won't go over everything that Ms. Feeney Roser did regarding specifics except to say this site currently has four rental houses on it and toward the center of this book you will see lots of photos that show you what the site looks like now, house-by-house. These are small older houses that clearly are in need of renovation. Clearly, something is going to happen with these given where they are in proximity to where the University has decided to try to concentrate its housing, especially with the construction of the freshman dorms that are right here virtually on this block right at the end of the block.

Matt and Sue developed the property immediately to the right of this property as you are looking at it. They did a lovely job. We have photos here on the second to the last page of this book that shows the two previous projects that they have redeveloped and the buildings that they have built on those project. They currently own and manage those buildings as rental buildings and, I think, universally are acclaimed as having done a lovely job. This project is no different. It is to take these four pieces of property with these little old houses on them and to convert them into modern housing in conformity with the Comprehensive Plan. I hope you will be pleased to see that the architectural are, in fact, more what we would consider to be what is happening in Newark in terms of fairly traditional design – stone, siding, a nice variation of arches and straight lines, in

and outs, very nice architectural interest. Nothing that I think anyone would be concerned about in terms of looking out of place. We have more than the required parking. 24 parking spaces are required. We have 29 spaces. Each unit has a two-car garage. The entrances are off of Benny Street. You can see that here on the overall site plan which, as you can see, shows very classic nice front yards on Chambers Street. There are street trees and very nice buffering all the way around, a concentration of landscaping here, and we do have a professional landscaping plan. This is more representational. It does show you the landscaping units that are specifically going in.

The proposed zoning change from RD to RM is totally consistent with the Comp Plan. The Comp Plan here actually calls for multi-family residential medium to high density, which is defined as 11 to 36 dwelling units per acre. This proposal is 14.65. So, the Comp Plan is 11 to 36. This proposal is 14.65. So, we are very comfortably in at the lower end of what the Comp Plan recommends and we think that that is a good thing. As I said, this is literally half a block from the new freshman dorms. So, there is no better place in terms of where the City and where the University is thinking about housing for this type of project. Indeed, 13 of the 15 current houses on the street are rental houses and the other two that are owner occupied are in support of this project. So, we feel very comfortable about that. There are eight total units, a mix of five and six bedroom units. The proposal is two five-bedroom units and six six-bedroom units. Again, just to give you a balance and a sense of Matt and Sue's abilities and how they do this here. Their project next door here, approved earlier is eight bedroom units, and they manage those beautifully, with no issue. While we would all agree that eight bedroom units might not be what we would not want to see, say, on S. Main Street, here it makes sense and they have great experience in running them.

Legal standard, consistent with the Comp Plan. We just talked about that. It is actually not consistent with the Comp Plan now, but assuming approval here, it will be consistent with the Comp Plan with the zoning change and with this redevelopment. Certainly, it is consistent with surrounding properties. When you look at what is immediately next to it, 1) area of rentals; 2) multi-family immediately next to it; 3) the new freshmen dorms at the end of the street, which also makes it consistent with surrounding properties – Chambers and Chapel Streets, multi-family, freshmen dorms. It certainly is all consistent with this developing University housing area.

I am happy to answer any questions.

Mr. Hegedus: I like not having the old houses there. That is a good thing. Most of my questions came out of the engineer's letter that prompted a couple of things. One example was talking about how many renters are there currently because in the demographic it says each unit is projected to have four bedrooms for a total of 32 possible students. I just heard you say five or six bedroom units, and then from our prior discussion where it is plus two, you could have up to eight people in a six bedroom place. That is a lot more than four.

Ms. Goodman: I think that – and John can speak to that letter – letter was written at a time when they hadn't worked out the exact floor plans yet where they were going to be relating to the number of bedrooms. As a matter of fact, as you saw in the previous project, there was still some moving around both up and down until you do the floor plans, which is one of the last things you do. So, I think where we are on these units is, as I stated, two five-bedroom and six six-bedroom. I will tell you that the Dutt's policy here is one person per bedroom and I think they are very comfortable with that as an overall number, which is not what I said to you in the previous one, but I did say that sometimes there are owners or projects where that is acceptable. This is one where I think that is. And we do have the Code required parking to support that.

Mr. Hegedus: The variances, the first two that are on the Subdivision Advisory Committee report, which is the maximum lot coverage is 20% and this one is going to be 32%; and then, one acre and this is a little over half an acre.

Ms. Goodman: That is right. Those variances were granted by the Board of Adjustment which looks at a different standard. When you sit on the Planning Commission, you are

sort of looking at the big picture. Their job is to look to see whether a project meets the specific standard for zoning variances, which put simply is exception of practical difficulty. It is a different thing than you folks do. They don't really look at the big picture. That is not their charge like your charge is, but your charge – and I know Maureen can speak to this – is once those variances are granted then the plan is conforming. So, you then look at the plan as if it is conforming because by virtue of the grant of the variances, it is now a conforming plan.

Mr. Hegedus: In the engineer's letter it says that eight units on the property are needed to generate the financial resources required to construct a high-quality development. My question was, really, if you had seven units instead of eight could you not have had full coverage and required that variance. And then that gets to the next part in the letter that says current market projection in university studies have shown there is a need for additional student housing. And, again, that's really? I got an email from Maureen saying we are getting ready to update our number of things that have been approved. Those two pieces added up for me to have me question are we pushing this chunk of property too far to move it to eight units instead of seven or some other way to not have so much coverage on the lot.

Ms. Goodman: This is certainly very consistent with what has been done elsewhere. In terms of when you look at overall dwelling units per acre, as you can see we are at the far low end of what RM would permit. In terms of penciling out the units – that comes down to a rental stream. We all would probably be more comfortable living in a world where we could sort of think about things big picture and more theoretical. All of these projects that we all like so much on S. Main Street and other places, the bank will only lend you the money if you can show them the Excel spreadsheet where everything adds up at the end of the day so that they are comfortable that you can sustain it, setting aside what the banks were doing in 2004, 2005 and 2006. So, I was not involved in the writing of that letter, but I will tell you that that is not at all uncommon that calculations get made and when it is consistent with what has been done elsewhere and it is consistent with the Comprehensive Plan, and you are redeveloping a site where you are constrained by the existing development, by the amount of land that exists and what you can build, it is not at all uncommon. The Board of Adjustment hears cases every month and grants very similar variances to these. And, they ask themselves that same question when they see these projects. They don't just hand these out like get out of jail free card. They look at that very hard because, obviously, we have a Board of Adjustment because it is important to have a relief valve in the Code when it is necessary. But, we don't want to encourage everyone to go there. So, I think your point is a good one, but the Board takes those responsibilities – and I know Maureen can speak to this – very seriously in looking at that and in exactly what you are saying – not overbuilding a piece of property simply for a profit mode. It is a balance and they really do look at that before they grant these variances. I'm certainly comfortable that this is consistent with the other projects that I have brought to Council.

Mr. Hegedus: I'm sorry. I find it a little hard to believe that the Board of Adjustment would actually look at the financials for a project to be able to approve the variance. They don't. The statement here saying we have got to do this so the banks can approve the money is essentially what you said and the cash flow comes in and we can pay back our loan. Nobody really is looking at that. We've got to take that on face value.

Ms. Goodman: Correct. The Board of Adjustment certainly doesn't look at financials, but economic factors in whether one meets the standard for variance is one thing that the Board of Adjustment may consider. It is not at all uncommon for them to hear testimony about what will make this project viable or not viable. That they do take into account but certainly is not the only thing that they can or are allowed to take into account, which is good because the primary thing that they have to take into account is the exceptional practical difficulty test which comes down to a balancing test, which is three things: 1) is there something inherent in this piece property and the way that the development pattern has worked and all those factors that make these variances necessary; 2) then there is the balancing of the harm. So, what will happen to the applicant if the variance isn't granted vs. any potential detrimental effect on adjoining properties. So, they balance that very

carefully so that properties don't get overbuilt and have a negative impact beyond their borders. Because you are right, that is not what anyone wants to see.

Ms. Brown: It said in the letter four bedrooms. Now you are telling us they are going to have two units with five bedrooms and six units with six bedrooms. Is that correct? Part of the Planning and Development Department's suggestion to the Planning Commission was that in the subdivision agreement we specified that the proposed units be designed so they can be easily converted into condominium units. Having a five and six bedroom condo is very much the exception. That would necessitate tearing down and ripping out and redesigning floor plans which I very much doubt anybody is going to want to do in the future for a condo. Now, I understand that there are economics that work here, but five or six bedrooms is too many bedrooms. When I do the calculations for the number of occupants because we have also been asked to restrict the property's occupants, when I do the calculations, we have 30 spaces but we end up with 62 occupants allowed on the property. No, what are the numbers then?

Mr. Matt Dutt: 46

Ms. Brown: But you've got your plus 2.

Mr. Dutt: I'm going to limit it to one. No plus 2.

Ms. Brown: No plus 2. So, that is limited. That is still a lot of people. I very much doubt that you could meet the condominium conversion ability. I just don't see how it could be done.

Ms. Goodman: The condominium conversion requirement is more to do with metering the units separately and things like that so they can be converted. I actually do have clients that convert rental units into condominiums because elsewhere that is where the market is and it is not uncommon to take a six bedroom condo and knock down two of the walls in bedrooms so now what you have is a big master suite and an office or a playroom and then rooms for the kids. Not uncommon and not actually that big of a change. I think we are confident that we can meet the requirements regarding potential condo conversion, and, again, that has more to do with how you construct them so that they meet the Code. The second thing is that this is not the area of town where we would see that a condo conversion to owner occupancy is likely to happen. Keep in mind that we are in the shadow of the freshman dorms. I think if one of us were looking for a single family townhouse, it is unlikely to be there.

Ms. Brown: Part of our Comprehensive Plan is that anything new built like this should be able to be converted. I think we should follow the Planning and Development Department's recommendation and that before this becomes approved they say we could knock these walls down. It is not a load bearing wall or something like that.

Ms. Goodman: And we do intend to meet all the requirements that would permit conversion.

Ms. Brown: Will you speak to that, Maureen?

Ms. Feeney Roser: It is true. It is a construction issue. It is the individual meters. It's the way the load bearing walls are built; so, I think that is part of the CIP. If you put it into the agreement, then they will be reviewed that way.

Ms. Bowman: Is there anyone in the audience that would like to comment?

Mr. Thomas Passmore: I live at 39 Chambers Street directly across from the proposal. I am in favor of it. Like they said, there are four bungalows down that side of the street now and it would really improve the aesthetic value of the block. Matt has shown me the proposal and the plans ahead of time and I think environmentally it is real pleasing to your eyes to see that. At least I will be able to see that when I get up every morning and go out and pick up my paper and I won't see these four smaller houses that have been there since the 1950s. I am here in support of Matt.

Ms. Amanda Williams: I am a resident at 189 S. Chapel Street. I am one of the new eight person townhomes on S. Chapel and Chambers. It has been absolutely fantastic. Matt and Sue have been great landlords, and as far as college students living it is much nicer living in these newer home where we don't have the breakage. We don't have things breaking down. We don't have past tenants messing things up where we have to constantly have to have things fixed. Even with Matt and Sue having their office two doors down, it is very convenient for us to pop over if we need anything and they have been very accommodating. I think as far as adding these, it is going to be nice for the area as far as students go because you have the freshman coming in on the new dorms that are literally right almost in our back yard but it creates a smaller community for students where you feel like it is further from campus but you still have that campus feel, if that makes sense from a student's perspective. So, I am in support of it.

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

- A. RECOMMEND THAT THE RUPP FARM PROPERTY BE REZONED FROM RD (ONE FAMILY, SEMI-DETACHED RESIDENTIAL) TO RM (MULTI-FAMILY DWELLING – GARDEN APARTMENTS), AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED FEBRUARY 5, 2013; AND,
- B. RECOMMEND THAT CITY COUNCIL APPROVE THE RUPP FARM MAJOR SUBDIVISION PLAN AS SHOWN ON THE KARINS AND ASSOCIATES PLAN DATED NOVEMBER 20, 2012 WITH REVISIONS THROUGH DECEMBER 20, 2012, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT; AND, WITH THE ADDED CONDITION THAT THE NUMBER OF OCCUPANTS BE DEED RESTRICTED TO ONE PERSON PER BEDROOM.

VOTE: 6-0

AYE: BOWMAN, BRILL, BROWN, CRONIN, HEGEDUS, JOHNSON
NAY: NONE
ABSENT: DRESSEL

MOTION PASSED UNANIMOUSLY

4. DISCUSSION ON THE CITY'S "PLAN FOR PLANNING" REGARDING THE UPDATE OF THE COMPREHENSIVE DEVELOPMENT PLAN.

[Secretary's Note: Mr. Fortner and Planning Commissioners referred to a PowerPoint presentation that Mr. Fortner prepared for his presentation to the Planning Commission].

Mr. Fortner: I am here to give you an update on the Comprehensive Development Plan.

Since your last update we have had two meetings. We had a bicycle workshop on December 6, 2012. We had about 24 people show up to that. I provided a handout about that meeting which includes the exhibits we had and the comments that people made. It also has categories of goals that people voted on. This is part of the Comprehensive Development Plan but it is also part of the Newark Bicycle Plan that is being updated. The Comprehensive Development Plan will reference the Bicycle Plan and have general broad ideas of it, but the Bicycle Plan will have very specific things. Things like bike lanes and bicycle trails that they would like in the future but also how to promote safety, how to educate bicyclists, how to increase enforcement of bicycle laws. That is also part of the Bicycle Plan but not necessarily a part of the Comprehensive Development Plan.

Then we had a series of Neighborhood Workshop meetings. We went to three neighborhoods. We had the northern, southern and central neighborhoods. We had the

meetings at three different locations – Senior Center, George Wilson Center and Newark Free Library. We had specific things to those neighborhoods and people were able to come in and look at the past Comprehensive Plans, the maps and land uses and give comments towards that. And, also participate in the SWOT analysis where we had it broken down by dots. What you see in that is the votes that people got from common responses that I got from the SWOT analysis. Those are there for your review. We will be coming back to those later.

We had 55 participants for these neighborhood workshops, and 46 were first time participants. We reached a lot of new people with these outreach workshops. We didn't do tweeting at that time. We got more people for the Comprehensive Plan Newsletter that goes out.

We have also filled out a Uniform Planning Work Program application for the Comp Plan process. It is a proposal for WILMAPCO to give us funding to support the Comprehensive Development Plan update. The Executive Director of WILMAPCO, Tigist Zegeye, gave us the go ahead to proceed. We are going to hire the Institute of Public Administration to give us some technical assistance. We will have an intern and they will help us with our mapping and doing things like that for us. We will have, hopefully, better to read maps and better maps that will be easier for the public to read and understand.

Upcoming Workshops is something I would like to work with the Planning Commission on. These are the tentative dates for Planning Commission Workshops where I would like for you to be more involved. These are where you will be the center of the discussion. Each one is going to cover an element of the Comprehensive Development Plan. The first one is set up for Tuesday, February 26th for the Housing Planning Commission Workshop. I would like to have as many of you there as possible and have as many stakeholders there as possible as well, who work directly in the field. These include Delaware State Housing Authority, Newark Housing Authority, New Castle County's Department of Community Services; also, working with the local area developers, and working with Newark Landlord Associations and getting tenants (college students) involved and other kinds of stakeholders that are directly involved with the housing market here in Newark. We are pushing this in the forefront because we are getting a lot of development proposals. We are putting together a lot of housing assessment characteristics and inventory. A lot of this is from the census, but a lot of it we would gather for you for this meeting so that you would be able to see this analysis which includes the average household's size, occupant and vacancy units, home ownership and rental vacancy rates, the number of owner occupied units, types and number of units, the year the structure was built, the number of rooms, the value of the owner occupied housing units, mortgage values and median mortgage values.

I'd like to create illustrations and maps showing you the development patterns that we are getting in terms of what things are zoned, what has the potential for being, based on its current zoning, be more developed. For example, something that is zoned RM for garden apartments but currently has single family housing on it. Also, an analysis of vacancy rates within the core of downtown vs. things on the outskirts of town. I hope to have a variety of analysis for you on this to give you as much information as possible; first of all, to move the Plan forward in terms of our housing component, but also to give you as much information on the study of housing in Newark, our future needs and housing affordability and as much information as possible as we get these proposals in. Everything that is coming in now falls under our current Comprehensive Plan, but I want to give you a lot of analysis because I know that some of you have been concerned about it and want to know information about how many apartments do we need, what kind of housing needs are we going to have into the future. So, I hope to give you as much of a breakdown as we can and as much information as we can for that meeting.

And, at that meeting we will have a variety of stakeholders and you will hear from them and hear their analysis of the housing market, what they find good, not so good, what they think the needs are, what their projections are. I heard Lisa Goodman reference a study that looks at what kind of studies have been done, what do the apartment developers see in Newark, why they are bullish about apartments in Newark

and that is one of the purposes of this, to get the housing element moving. This workshop will be held before your next Planning Commission meeting. That meeting will be scheduled for Tuesday, February 26th.

With your permission, the next meeting will be Tuesday, March 26th for economic development segment. I am working with Ricky Nietubicz who is our Downtown Newark Partnership Administrator and oversees a lot of Community Development and Economic Development Activities. Then, finally, in April, we have a workshop scheduled for transportation. We would have a similar workshop where we would bring in key stakeholders and key intergovernmental agencies that we work with to give you as much background and analysis as we can on each element. These will eventually lead to creating goals and objectives.

Also, not on here, but as I say, we are working with the Institute of Public Administration to do more of a visioning workshop. I hope that they will bring together the visioning that we have done in the first phase of the Comprehensive Plan with the SWOT analysis and the neighborhood workshops and bring together what we are getting with these different elements by bringing those together and bridging the gaps. We will have an outside facilitator for that. I am expecting that to happen in April.

At this point, I will be happy to take any questions.

Ms. Feeney Roser: If you don't mind, Michael, so I understand and the Commission, the housing assessment workshop and the other ones on transportation what you see is providing as much information as we can gather about that specific topic, letting people digest that and then having the Commission hear testimony from folks about what they think about the housing market needs?

Mr. Fortner: That is correct. I hope it will become like a discussion. My vision is maybe having a table and you are sitting at the table with the public. The public will be invited because it is an open meeting, but we will specifically invite certain stakeholders to attend and ask them to speak and give you as broad a range from a variety of different stakeholders as possible and also open it up for public comment. I don't know if there is going to be one clear answer, but I hope to give you as much information as I can and enough things to think about as we proceed.

Ms. Feeney Roser: So, it is an informal information session.

Mr. Fortner: It is. No decisions will necessarily be made. It is an information exchange and to get clarity about the housing element of the Comprehensive Plan so that I can proceed creating and finishing that. And, then, there will be a review on that as well. It won't be a final thing of the housing element for the Plan, but this will give you a lot of information.

Ms. Brown: The information that you are talking about – the data – will we get that at the meeting or beforehand?

Mr. Fortner: I am probably going to try to get you a lot of information beforehand. Some things might be new at the meeting. Some of the things are easy to get with American fact finder and census data. So, you might get some raw data and then I hope to do some analysis of the data trying to find trends and important points so I can bring out. Some of that you might see for the first time at the meeting.

Ms. Brown: Give me an example of a stakeholder.

Mr. Fortner: A stakeholder is anyone who has a vested interest in the current or future of the town. For housing you would have landlords, people in the development field, the Newark Housing Authority, The Delaware State Housing Authority, New Castle County's Department of Community Services that oversees the fair housing elements and renters (students). The big thing we are working on right now is the renters in apartments. I think this is one of the main issues that is in the forefront. I think that is what you are interested in hearing most of.

Ms. Brown: I would be interested to hear what homeowners think about Newark.

Mr. Fortner: In terms of housing, homeowners are a stakeholder and we are getting the homeowners. Every workshop has been for residents and these will all be open to the public. In terms of the invitation, I'm trying to target people who are able to bring you diverse opinions on and more insight into the field. So, there will be presentations from them, but also, there will be homeowners there and it will be advertised through all the channels for anyone who is interested in the housing component and housing in Newark and what they would like.

Ms. Brown: I'm thinking about civic associations.

Mr. Fortner: I think it is a good idea to reach out to them. I have been reaching a lot of civic associations with those neighborhood workshops. Those have been very successful in getting people that I haven't met before, but I can reach out to certain civic associations.

Mr. Bowman: Mike, have there been any projections as to what the growth is going to be in the University over the next five to ten years in regards to student population. Has it gone up some percent every year? Is it leveling off? Has the University given us any insight as to what they expect.

Mr. Fortner: The University and their growth would certainly be an issue so if someone from the University, Student Life or someone appropriate like that might be a good person to invite, but the things I am hearing is that there is not so much growth in the undergraduate population but doing a lot of growth in graduate student populations and international students has been where a lot of their growth is. Looking at their rate of growth and then having someone here from the University to tell us about what they are thinking about their growth and their housing needs would be appropriate. That is something I didn't have on my list, but that would be good. Thank you.

Mr. Hegedus: I would like to echo the University people because there is lots of talk about knocking down dorms and replacing dorms with other things, then you put lots of kids into housing that way. I am traveling so I can't attend the February workshop. If it works for most people do it. If you can get me all the dates, including when you want to do the stakeholder meeting, I can put them on my calendar and will see if I can arrange my travel to be there.

Mr. Fortner: If it was on a Thursday, would that be better?

Mr. Hegedus: It is just that I am gone that week.

[Secretary's note: It was noted that Pat Brill would also be gone the last week in February].

Mr. Hegedus: I really want the information as fast as I can so anything you could get ahead of time would be great. If there is a way to meet with you on the following Monday, March 4th, before the Planning Commission meeting in March, I would love to be able to talk to you about the data and understand what is there.

[Secretary's note: Mr. Fortner will meet with Commissioners Brill and Hegedus on March 4th].

Mr. Fortner: What about the other Commissioners, will you be able to make that meeting?

Mr. Johnson: February 26th?

Mr. Fortner: February 26th will be a Tuesday or we could do another day if that would be better. I need some time to get some data and prepare for it and advertise it. That is why it is that week and then the next week you are getting into the Planning Commission meeting week. That is why the last week in February is a good week.

Ms. Brown: We just said it would be very nice to have this data that you are talking about.

Mr. Fortner: Some of the data I could get you reasonably quickly because it is essentially on the census and it is just getting it off the web.

Mr. Hegedus: The three big things for me are what is the current amount of rental properties that exist now with occupancy, what have we already approved that isn't built yet or that is going to come before us in March. So, what does that look like to the inventory? And, then, what are the projections for rental growth over time and that is partly University and University housing but there may be other economic factors here like the Chrysler site redevelopment. Those are three drivers for me.

Mr. Fortner: The things that are approved and existing and are in the pipeline are easy to get. The last item is more analysis driven and maybe that is something we can meet on Tuesday and give you a record. Maybe we can record the event and you can listen.

Mr. Bowman: Are there any other questions for Mike? Okay, Mike, thank you very much.

As there was no further business, the meeting adjourned at 8:30 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Elizabeth Dowell".

Elizabeth Dowell
Secretary, Planning Commission