

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

February 6, 2018

7:00 p.m.

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

Chairman: Jeremy Firestone

Commissioners Present: Bob Cronin
Will Hurd
Frank McIntosh
Stacy McNatt
Alan Silverman
Bob Stozek

Commissioners Absent: None

Staff Present: Mary Ellen Gray, Planning and Development Director
Tom Fruehstorfer, Planner
Paul Bilodeau, City Solicitor

Mr. Jeremy Firestone called the Planning Commission meeting to order at 7:01 p.m.

1. CHAIR’S REMARKS.

Mr. Firestone: The Planning Commission meeting for February 6, 2018 is called to order. Item 1 is Chair’s Remarks. I first want to welcome the new City Solicitor, Paul Bilodeau. We are really happy to have him. We had a good working relationship with him when he was Deputy City Solicitor, and congratulations on your full-time appointment.

We’ve got a very busy agenda and a lot of people here. We do have the ability to sort of change our normal rules of procedure, so I did want to get a sense of a show of hands of how many citizens are here and interested in speaking on the Benny proposal. Okay. How many citizens are here and are interested in speaking on the Park N Shop proposal. Okay, so a relative [inaudible] number. I think we’re good to go. Thank you.

2. THE MINUTES OF THE JANUARY 2, 2018 PLANNING COMMISSION MEETING.

Mr. Firestone: The next items on the agenda is the minutes of the January 2, 2018 Planning Commission meeting. Commissioner Hurd?

Mr. Will Hurd: Thank you. Michelle, other than the corrections you have noted, have there been any further corrections submitted? Michelle?

Ms. Stacy McNatt: Michelle is gone.

Mr. Hurd: We lost her.

Ms. Mary Ellen Gray: She was making additional copies of the agenda. I believe there were no additional corrections.

Mr. Hurd: Okay. Then the minutes stand as submitted.

Mr. Firestone: Do I have a motion to approve the minutes?

Ms. McNatt: Second.

Mr. Hurd: We need a motion.

Ms. McNatt: Oh, sorry, I'm too busy analyzing all of this. I make a motion to approve the minutes with the corrections as provided.

Mr. Alan Silverman: Second.

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY MCNATT, SECONDED BY SILVERMAN THAT THE MINUTES OF THE JANUARY 2, 2018 PLANNING COMMISSION MEETING BE APPROVED.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

- 3. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT, REZONING AND MAJOR SUBDIVISION WITH SITE PLAN APPROVAL OF THE PROPERTIES LOCATED AT 24 AND 30 BENNY STREET AND 155 SOUTH CHAPEL STREET. THE PLAN PROPOSES THE REZONING OF THE BENNY STREET PROPERTIES FROM RD (ONE FAMILY SEMIDETACHED RESIDENTIAL) TO RM (MULTI-FAMILY DWELLINGS – GARDEN APARTMENTS), COMBINING THREE PARCELS INTO ONE PARCEL, DEMOLITION OF THE EXISTING BUILDINGS AT THE SITE, AND CONSTRUCTION OF 11 TOWNHOME STYLE APARTMENTS ON THE COMBINED PARCEL. A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT IS REQUIRED TO CHANGE THE LAND USE DESIGNATION OF 24 AND 30 BENNY STREET FROM "RESIDENTIAL, LOW DENSITY" TO "RESIDENTIAL, HIGH DENSITY."**

Mr. Firestone: That gets us to Item 3, a continuation from the last meeting for the Comprehensive Development Plan for 24 and 30 Benny Street and 155 South Chapel Street. In light of the fact that we have a full agenda and we heard from staff at the last meeting, I've asked the applicant to move directly to make their presentation. You are strictly limited to 15 minutes.

Mr. John Tracey: That includes figuring out the technology?

Mr. Firestone: It starts right now.

[Secretary's note: During the course of his presentation, Mr. Tracey referred to a PowerPoint presentation being displayed for the Commission, Planning Director, and public.]

Mr. Tracey: Thank you, Mr. Chairman. Tom is ably assisting me, as all folks in the City would do. Thank you very much, Mr. Chairman and members of the Planning Commission. John Tracey from Young Conaway Stargatt and Taylor here on behalf of the property owner. With me is Roger Brickley from Bakhsh & Associates, who is the project engineer, Nick Baldini, who is the principal and the property owner, as well as members of his family are here on this application, as well. I recognize, as the Chair alluded to, that there has been a prior practice of the Department reading, in verbatim almost, its recommendations with regard to these proposals. I also recognize, as the Chairman alluded to, that we're moving away from that, which is fine. I will try not to be repetitive of that recommendation, other than to state at the

outset that the Department is recommending in favor of the various applications that are before you this evening on this matter.

[Secretary's note: A link to the Planning and Development Department report on the Comprehensive Development Plan amendment, rezoning, and major subdivision with site plan approval for 24 and 30 Benny Street and 155 South Chapel Street can be found at the end of this document.]

I will also note that this matter may be repetitive to most because the Commission considered and recommended in favor of a project at 36 Benny Street a couple of months ago. That project was ultimately approved by Council at its December meeting. So, again, a lot of what you hear may be similar to that.

What I will say is, unlike the application at 36 Benny Street, this actually focuses on two properties – 30 and 24 Benny Street, which are one property, essentially, with a garage and an existing student rental house, and the property at 155 South Chapel, which also contains a student rental house. That is the house that is marked, if you can see on the aerial exhibit, with the red pin. 155 South Chapel is zoned RM and thus does not need a rezoning or a Comp Plan amendment. It's just site plan and subdivision plan. Behind it sits 24 and 30 Benny Street. Like 36 Benny Street, it is zoned, presently, RD, and thus requires the four pieces of relief that 36 Benny Street got, as well – subdivision and site plan approval, as well as rezoning and a Comp Plan amendment. For purposes of keeping things concise, as best as I'm going to do, I will be discussing it as one project.

As I mentioned, this is the aerial photograph with the pin denoting 155 South Chapel Street. The Department highlighted this, as well, in their report. This is primarily a residential area, although you find a wide variety of housing types ranging from single family and student rentals to dormitories down at your lower left, to higher density apartment-type uses located along Chapel Street, as well as some RM zoning at either end of Benny Street, as well as next door to us on Benny Street. And you can tell from the aerial photographs, there are also some non-residential uses along Chapel Street and behind. Again, I'm focusing on a block that's largely bounded by South Chapel Street and Benny Street to the east and west, and Chambers Street and Lovett Avenue to the north and south.

This is a further breakdown and part of the exhibit that's in the Department's report. You'll note the variety of zoning classifications denoted by the different colors. RM, which is the current zoning of the South Chapel Street property, is outlined in the blue rectangle. The white rectangle below that is the 24 and 30 Benny Street property that's presently zoned RD. You'll note the RM approval immediately below that, which is what this Commission recommended in favor of and Council approved in December, and you'll note the RM at either ends of both Lovett and Chambers Street. There is also represented, to a large degree, some more recent approvals, as denoted in the Department's report.

Benny Street is, as the Department noted when it discussed the 36 Benny Street application, this would be within its report, that 20 of the 22 homes located on Benny Street are utilized as student rentals. Those you see outlined in red are multi-family type dwellings – duplexes or otherwise. Properties that, again, would probably more emblematic of RM zoning if this area were rezoned today.

The next few slides reflect what's currently on the property. This is the South Chapel Street property. It's had a reputation for a number of years, certainly a number of years prior to my client's purchase of the property in 2015, of operating as a fraternity house. This is the Benny Street property that we're talking about, as well. This is what's currently on the property. So, what you have are some old student rentals that have been used with permits that allow anywhere from three to, I believe that South Chapel Street is currently six or seven, that have been kind of emblematic of what we've seen in areas where there have been primarily a large number of student rentals in single family homes on larger properties. You end up with certain

concerns that I know Mr. Prettyman discussed, when he was before you a few months ago, with kind of open air activities and party congregations for these homes. And that as you move forward with these new projects, you tend to not only be improving the area from both an architectural standpoint, but also from a lifestyle standpoint, as you tend to be moving away from these large, outdoor gathering which have gotten a lot of press, as we know, over the last few years, with cleaned up houses and tenants who, by and large, tend to respect the properties more so than perhaps they do some of the older homes.

These next few slides kind of reflect what I'm talking about from the new construction. This is actually immediately to our south. This is The Heights. This is zoned, if I'm not mistaken, RA. As you can see, it is a 4-story structure. These are representatives of other projects in this area that have been approved and constructed over the last few years. This, I believe, is the Rupp Farm, which is located to our south along Chambers Street. This is another shot of the same. These are some of the other projects, more towards Lovett Avenue. And this, of course, represents the BLR-zoned property that's immediately across the street.

When we purchased these properties in 2015, the intention was to move forward rather quickly with the redevelopment of both properties. In fact, I think you'll note from the Department's report, our initial submission on this project was actually in 2016, which had a much different layout than what you see on the screen in front of you. As a result, we went back to the drawing board following the Department's first comments and revised the property, and that is what actually allowed 36 Benny Street to kind of jump us, and why you heard their project before our project got in front of you.

This is the landscape plan which I'm going to use for the purposes of discussing the project. We are proposing to combine this as one parcel, so you'll end up with roughly a 0.85 acre parcel. There are five units proposed that would have access solely in and out from South Chapel Street. Those five units would have four parking spaces each – two in the garage and two in front of the garage. Behind it, on Benny Street, you would have six units, which is one less than what this Commission considered on the application for 36 Benny Street. They're six 3-story townhouses. These are not 3 ½ stories like were considered previously. They would be six-bedroom with one bedroom on the first floor, one bedroom on the second floor, and four bedrooms on the third floor. The Department's report contains the layout for all of those.

There is no vehicular interconnection between the two properties. We wanted to avoid the ability to use this for folks on Benny Street being able to drive through and get to South Chapel Street. Instead we're utilizing the center portion of the property for both, as you can see, onsite stormwater management – that is the landscaped area that is in the middle of the two properties. There will be infiltration with outfall, as necessary, as shown on the exhibit that's on the board. There would be, also, significant amounts of landscaping being added to the property, along both of the streets to improve the streetscape in the area, as well as in the middle of the property. The Department had also asked, and you can see it in the detail there, when we were going through meetings, incorporating a bench as part of a sitting area underneath the tree that you see on the middle of the property towards the top. So we've added that detail and incorporated the bench into there, as well.

These are the architectural renderings of the site. We are trying to build upon that which the City has been seeing as of late. So we are varying materials as well as appearances, which you see there is, if I'm not mistaken, the Chapel Street side. We're treating the side of the building, as well as the fronts of the building, with architectural treatments such that you're not looking at the side building, from a visual standpoint, when you are on both streets. And we, as you can see, are adding different features such as cupolas and porticos and columns to break up the front, as well.

This is the rear of the building. This would be, for reference, would be facing the rear of the building that was just approved on 36 Benny Street, so that you would have the backs of the buildings closer to each other and you would have the architectural features on both the

buildings on our property, as well as 36 Benny Street, more visible and more prominent as you are driving up and down the street there. Again, concluding with the back.

This was actually considered by the Downtown Newark Partnership Design Committee. We're not part of the jurisdiction, so to speak, of that area, but we voluntarily went in front of the Partnership. I think the meeting was actually today. It's not because we were waiting until today. We actually were on several agendas but meetings got cancelled for a variety of reasons. Mary Ellen, I don't know if the Commission has the positive recommendation of the Partnership with regards to the architectural designs and the layout of the property.

As I mentioned, the overall property is seeking, as part of its approval, site plan approval. This relief is less than that that was considered for 36 Benny Street. By that, I mean we're seeking fewer deviations from the current Code. I believe there were eight requests on the 36 Benny Street application. We have five requests here. Three of those are identical to what you considered at 36 Benny Street and all deal with setbacks. They are so we can match the setbacks of what was recently approved. We also have a lesser variance when it comes to the overall acreage. We're at roughly 0.85 acres, as opposed to 0.44, which was the 36 Benny Street application. And then, likewise, our request for lot coverage is actually significantly less than what the 36 Benny Street was. They were at roughly 33%, and we're at 26.5%, and the overall requirement is 20%. We're not seeking variances to add the additional half-story that 36 Benny Street received. We're not seeking variances from open area, either. We're meeting the open areas required by the Code.

As far as the site plan criteria, the Department's report covers these so, with the Chairman's urging, I will not restate what's in the Department's report, other than to note that, in addition to the elements the Department cited with regards to the site plan applications, which were in our initial applications as well, with regard to the common open space and the streetscape, as we showed in the landscape plan, we are actually heavily landscaping the area. We're also going to be adding a six-foot privacy fence along most of the borders of the property, with the exception of the border that we share with The Heights. There would be no fence along that. But the landscaping would be added along Chambers Street, would be added along Benny Street, would be added along both property lines, and would be added, of course, within the stormwater feature that you see in the center of the site.

So, with that, I'll take your [inaudible] that we've met the 15 minutes, and certainly open it up for questions.

Mr. Firestone: Thank you. You made it under, with a minute to spare.

Mr. Tracey: With my voice dying at the same time.

Mr. Firestone: First, I'd like to invite the people who have just come in to take a seat, if you'd like to. If you prefer to stand, that's okay, too. Second, before we do anything else, I would entertain a motion to accept into the record the Downtown Newark Partnership Design Committee Project Review Report which we received late. I understand the reason was related to an earlier meeting that got cancelled due to weather. So the Chair would entertain a motion.

Mr. Hurd: I so move.

Mr. Firestone: Is there a second?

Mr. Bob Stozek: Second.

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. The report is added to the record.

MOTION BY HURD, SECONDED BY STOZEK THAT THE DOWNTOWN NEWARK PARTNERSHIP DESIGN COMMITTEE PROJECT REVIEW REPORT FOR 24 AND 30 BENNY STREET AND 155 SOUTH CHAPEL STREET BE ACCEPTED INTO THE RECORD.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

Mr. Firestone: The Chair will now recognize any member of the Commission who has a question of the applicant, at this time.

Mr. Stozek: Yeah, I have a couple of initial questions, and I'll come back later for some more. But there was a letter sent out by the City dated November 17, 2017, in which there were several concerns registered, two of them by the Police Department talking about, historically, this area has had problems with parties and such, and they had some concern about the addition of another 45 residents, it would only compound the issues that they'd had in the past. And then there was another comment about . . . and I realize that you're providing parking for the residents, but we all know that people live, especially in higher density areas, they have visitors that I'm not sure where the visitors are going to park. I presume on the street. And they had a concern from the fire department about being able to traverse Benny Street with the added vehicle parking on the street. So, do you have any answers to those comments?

Mr. Tracey: Yes, I do. First of all, with regard to the party aspect, similar to what you've seen with the 36 Benny Street application, the advent of these new constructions, the elimination of the large yards with the replacement with the required parking and the drive aisles and the like, and the inability to utilize those areas for congregation, you actually end up reducing, I think you've seen as was represented at the last hearing, the likelihood of fewer police concerns at these newer construction type complexes, as opposed to what you've seen at these individual houses. We have agreed that we will not allow any parking on Benny Street. We'd be deed restricting the property so that nobody would be able to get a residential parking permit to park on Benny Street. In addition, we certainly would not have any objections and would allow the police to come onto the property to enforce issues with regard to parking in the drive aisles. One thing my client pointed out to me, as well, that's he's been doing on most of his newer complexes that he's been renovating and redoing, such as what is known as Skid Row as well as Kershaw Commons, is he's been adding security cameras to the outsides of those properties. And those have had a tremendous success when utilized in curbing both unwanted activity, as well as assisting in the identification of folks who are participating in unwanted activities. And that would be added to this, as well. He is intending on adding those security cameras. So, as far as the Benny Street concern, the fire department shouldn't have any concerns from our project because there won't be an ability to park on Benny Street.

Mr. Stozek: There will be no parking on Benny Street at all?

Mr. Tracey: From our project.

Mr. Stozek: Okay, but what about visitors to your project and other projects that go in that area? Where are the visitors going to park?

Mr. Tracey: I think we've seen, and Nick can correct me if I'm wrong, from his other projects that he's had, he hasn't had those issues of folks coming and overwhelming the areas, similar, again, as to what you've heard at 36 Benny Street and some of the other projects. I mean as part of the idea of being close enough to campus is that the folks have the ability to walk back and forth from all of the central locations that are on campus itself.

Mr. Stozek: Okay, I . . .

Mr. Hurd: Sorry, I'll just note that Benny is a residential restricted street, so you have to have a permit or a guest pass to park.

Mr. Stozek: Okay. And I guess part of my concern is not just with your project but I know over the next ten years, the rest of the properties in this area are going to be developed similarly, which is going to put additional pressures for all these things such as visitor parking or whatever, and I'm not sure what the provisions are going to be for those kinds of issues. The other thing I wanted to talk about initially was, you know, when you look at the plan, right now the property is probably about 10-15% impervious and it's going to go to probably 90% impervious surface. And I understand you're putting in some sort of retention pond. How, exactly, is that retention pond going to work? Especially since I think there was a comment from the City that they questioned whether the retention pond would be adequate.

Mr. Tracey: I'm going to have our engineer, who has the appropriate initials after his name, to address that question. Thank you.

Mr. Roger Brickley: We did get the comments . . .

Mr. Firestone: Excuse me. Could you identify yourself for the record?

Mr. Brickley: Yes. Roger Brickley. We did get the comments from the Public Works and that was a comment about sizing for the under-drains. We've submitted full construction plans for the stormwater management and with those computations we also submitted 50% clogged. So we did increase the size from that letter and that was submitted to the Department. And, again, full stormwater management plans have been submitted and the comments addressed.

Mr. Stozek: I guess a follow-up question to the City is, assuming this area continues to be developed similarly, is there going to be any issue with downstream stormwater handling if this whole block or two blocks are going to be developed this way? Have you looked at that?

Mr. Firestone: That was directed to you.

Ms. Gray: Okay, I didn't know whether you were, who you were asking. Any plans submitted would have to meet the drainage code, and that's certainly under the purview of Public Works. And I know that they do look at downstream issues regarding any project.

Mr. Stozek: Okay, well, again, that's dealing with this project. Have you looked at what's going to happen as you have more projects in this area come along? Can you foresee a problem down the road?

Ms. Gray: Since drainage is the purview of Public Works, I have not been privy to those particular discussions, but when we've talked about projects, in general, we've always talked . . . it's always been an issue and a discussion point to look at downstream issues and how the area is affected by the projects.

Mr. Stozek: Okay.

Mr. Firestone: Just as a follow-up to the developer, not an issue of drainage so much, but on the issue of developing this area, essentially what seems to be happening is we have one developer comes forward and there was a project approved, and now we have a second developer. Presumably, there's going to be a third developer. We do have a Comprehensive Plan and a way for the City and the citizens, as a whole, to change designations of certain areas, and the question is, is this really the best way to go forward? Where, effectively, a series of developers are moving us forward to a certain end-point, rather than having a larger community discussion, and how do you answer that?

Mr. Tracey: Well I guess I would answer it from the starting point of kind of borrowing from the idea that a Comprehensive Plan is a living, breathing document. It's not something that is rigidly held in place without an ability to make changes in the intervening periods between each update, the ten-year required update, with a potential five-year update in the middle. I think sometimes what you see as a development pattern, you see a change in the development pattern because certain desired goals are being accomplished – keeping University students, for instance, closer to the University, as opposed to spreading out into areas where, perhaps, the City and others don't want them. The opportunity to refurbish old, tired properties with newer, nicer properties that have the side benefit of curing some of the other ills that are occurring. And you don't want to have to necessarily wait five or ten years in order to implement those things. In fact, what I would argue is that if you see a few projects come forward that the Commission and the Council is adopting or approving as something they would like to see in an area, that, in fact, would be the catalyst for moving in that direction. Whereas, conversely, if you saw things happening in a certain area where the Commission and Council were reluctant, you likely would not necessarily see that area put up for a more, a broader change than what's being considered.

Mr. Silverman: Mr. Chairman, on that topic, this area was identified in the Comp Plan update as an area that needed more intensive review than was the goal of doing the larger community update. So it is, I believe, on our work program as one of the four or five areas identified to look at from, as Mr. Stozek described, the perspective of this is an evolving area. A very rapidly evolving area. So, it is on our work program to do, essentially, a mini Comp Plan for the area.

Mr. Tracey: Probably something motivated because you've seen a desire to have projects come into that area. Those projects, while also grander in scale and also having the positive effect of updating the streetscape, as well as adding some of the other benefits such as landscaping and, like this project, stormwater management, which I know 36 Benny was not doing directly, but they had a property next door that the same developer had done that they were tying into that.

Mr. Stozek: Well I would just comment that there are quite a few projects that come before us that we're constantly giving variances to for all kinds of things. So I know we have a Comprehensive Plan, but it is changing all the time, property-by-property. And that's my big concern. It has always been my concern, is the incrementalism of, you know, we approve one thing, looking at that specific property, whether it's traffic or whatever, and, I mean, we want to look at this as a larger area because that's how we get into problems. We just look at one property at a time and we don't deal with the overall holistic problem. So . . .

Mr. Firestone: Other comments?

Mr. Hurd: Yes, a couple of comments and a question. I guess I'll start with a sort of general question first. Can you talk a little bit about why the six units on the Benny property, which is smaller than the Chapel property, which only has five units, and sort of what led to pushing that so close to Benny Street? Whereas Chapel was holding the 30 foot setback.

Mr. Tracey: I think trying to match the setbacks on both streets from these larger buildings was what was really the motivating factor. Obviously, we wanted to utilize the center of the property, as well, for purposes of creating the stormwater management feature. So I think all of that was combined in the design element. Again, just looking at 36 Benny as a comparison, it is one less unit on the Benny Street side than that. And, again, part of that, I think, was both matching setbacks, as well as creating the opportunity for stormwater management.

Mr. Hurd: Okay. In terms of comments on the project and presentation, I'm a little concerned that the building, that two sides have such disparity. You have the sort of flat face and the parking looks really nice and is varied, and the side facing the other building is kind of bland. I do feel that those should have similar treatments because they're the visible sides that you're going to see going up and down the street. To that point, I think the renderings that you provided were really inadequate for understanding the project and its context. They weren't

labeled so I had no idea what I was looking at, and they didn't show the streets, they didn't show the adjacent buildings, they didn't show the cross-sections of the street, all of which things are required for submitting to the Downtown Newark Partnership Design Committee. So, I'm not clear whether you provided them with more detailed drawings or whether they didn't have that detail.

Mr. Tracey: I think I'm going to look at Chris Baldini. They have the same drawings that are here. Yeah, the four sets of the architectural, as well as the floor plans. And, again, the side that you see, that's, for lack of a better word, had less treatments to it, had some different colors but was largely uniform along the rear, that is up against the rear of the building that was approved for 36 Benny, so that's where actually the narrowest gap between the buildings are.

Mr. Hurd: I understand.

Mr. Tracey: What you would see are the garage sides and the treatment sides that you see on the buildings.

Mr. Hurd: I just wanted to sort of put out that we often get renderings and views that don't really provide context for the project with the adjacent buildings. I mean there are no adjacent houses shown. There is nothing across the street. There is no sense of how close that building that is to the curb and what it's doing to the streetscape.

I wanted to talk a little bit about your LEED points that you're proposing. Doing a quick . . . well, first, I have a concern that you're going for exactly 40, because if you don't get them for materials and you don't get those points, you're not certified anymore. And so that's a really tight margin you're working to. I will also note that many of the LEED points required by the City were not addressed or incorporated in that LEED set-up, so you may gain some but you're also short in a couple of spots.

Mr. Tracey: And, again, I guess what I would say is we certainly recognize that there is a threshold established and if we don't meet that threshold, that causes us problems. I think, as we've said, we're going to be a minimum of 40 and, hopefully, intending to be over that.

Mr. Hurd: Right. My concern is that part of your site plan approval is contingent on getting certified LEED. And if you're going at it with 40 points, that's really tight.

Mr. Tracey: And what I believe is if we don't meet 40 or above, then our site plan approval isn't going to be worth the paper it's printed on, if we get it.

Mr. Hurd: But some of those points come after construction. So that's my point is that we're already, it's already built, and then it fails, as it were, because you're not getting approved by the LEED organization, if it fails, it's failed but you already have the building. So, I would like to see more effort put into more points. And especially more points in the energy and the materials section, and less in the site, because the site ones are almost 'gimmies' for projects like this.

Mr. Tracey: Okay.

Mr. Firestone: Just to follow-up on that point, I'd like to know what analysis you did regarding solar panels, for example?

Mr. Tracey: We looked at solar panels. The buildings are constructed to accommodate solar panels, and they can be utilized. At this point, it hasn't appeared to be cost effective. And, of course, with all the commentary going on [inaudible] unrelated to the City of Newark, but more nationally with regard to solar panels and tariffs, there are some concerns there. But the building is designed to be constructed to accommodate solar panels. But, at this point, from our initial examination, the cost benefit analysis isn't working. But we can incorporate them if

that switches. [inaudible] administration was imposing tariffs on a lot of overseas solar equipment, which was driving up the cost.

Mr. Firestone: Yes, although the analysis said that's really not going to have much effect, because the tariff was considerably less than people thought they might be. Your analysis was not shared with us and so we don't know whether your cost benefit analysis is properly done or not. And this is really sort of part of a developer pattern. I think following up on Commissioner Hurd, there is very little done on the energy side and people mostly sort of cherry-pick on the design side. Whereas LEED is not just a design certification. It's an energy certification and we would hope that developers who are seeking changes to their zoning and the Comprehensive Plan, presumably because they think there's economic benefits from getting those changes, would be more forward-looking on the energy front.

Mr. Hurd: My last question is, partly, to Mary Ellen. What's not clear in the cascading . . . the continuing sort of, the additional subdivision report is whether, when it says no further issues, does that mean all the previous comments still remain? Or does that mean all the previous comment have been addressed?

Ms. Gray: All the previous comments have been addressed.

Mr. Hurd: Okay. Thank you.

Ms. Gray: You're welcome.

Mr. Firestone: Any other comments?

Ms. McNatt: Yes. I have several comments and then a few questions. To follow-up with what Commissioner Hurd just said, in the August 25, 2016, it says, for example, the recommendation for this property is the opportunity for occupancy, the Department strongly recommends a voluntary deed restriction to limit the property to one tenant per bedroom. Has that been agreed upon?

Mr. Tracey: We would agree to it. It was not on any of the follow-up comments but we have no problem with that limitation. That was always our intention.

Ms. McNatt: Okay because if that is true, I would assumed it was addressed since future letters say . . . it was just confusing because it doesn't really talk about that specifically in any other . . . there's nowhere in this report or any documentation to us that says, okay, here are the deed restrictions we're agreeing to, and list them all. I don't see that anywhere.

Mr. Tracey: And that, I don't know why it wasn't carried forward. It wasn't from us necessarily saying we're going to do it, so it's not in. I don't know what the change was. Maybe it happened when the Department was going through some of the change with the departure of the prior planning director to the new one. But on the record, certainly we would have no objection to it being conditioned upon, or be a deed restriction to no more than one person per bedroom.

Ms. McNatt: Perfect. And that leads into my parking rationale. And from a person who lives in a community that it was sold and identified and approved upon a two-parking space per garage, I believe this plan is also not providing that. For example, if you look at the plan . . . whatever sheet you want. Let's look at sheets . . . in our package it would be sheet 4 of 5. And I'm only using this sheet as a reference to the actual unit numbers or letters. They're actually designated with letters. So, for example, this plan represents two parking spaces in the garage and two parking spaces on the lot itself. So a total of 44 spaces, I believe.

Mr. Tracey: Correct.

Ms. McNatt: If you look at the Unit E of the structure that only has access to South Chapel Street, there is no physical way that two cars could get into Unit E because there's only one driving space that allows access, because the stoop is in front of the other space. And the area to the end of the unit itself is actually going to be grassed. So that, to me, is an example of there's no physical way that two cars, unless they're Mini Coopers or . . . what's even smaller? A Ford . . .

Mr. Hurd: A Smart Car.

Ms. McNatt: A Fit or some very tiny, itty-bitty car, I don't believe that that is true. And that's an example of one location. My other examples here . . . I've measure them . . . is that the garage door, itself, based upon the area which the garage door will be on, is approximately 14.9 inches in width . . .

Mr. Silverman: Feet?

Ms. McNatt: And to get two cars that, if I look around the University campus at the cars that students are driving – your Jeep Wranglers or your Dodge Challengers – you're not going to get two of any of those types of cars in your . . . you know, your Jeep Cherokees. So unless they're all driving Mini Coopers and Ford Focuses and Honda Fits, which I doubt we're going to regulate that through deed restrictions, I don't have a positive sense, through my analysis, that you will get two parked cars in the garage at all. And so I believe the rationale that should be used is maybe 1 ½ in the garage and then the 22 spaces in the front. That leads into the fact that you would still probably equal the 33 spaces that's required by the plan. I just don't think it's appropriate to count for purposes of trying to get credit for additional spaces that physically are not going to be there. So, I would like it to be either in the subdivision agreement and/or, and the deed restrictions, or some documentation that gets recorded and then gets added to the record plan that this information is proposed correctly, not incorrectly.

Mr. Tracey: Well, it will be because the engineer will have to put his certification on . . . or her, depending on who it was . . . their certification on the plan. Nick was telling me that the garage door width that you're seeing is standard. That the engineer's plan shows it as sufficient for two cars . . .

Ms. McNatt: Fourteen feet . . . I'm sorry, did I say . . . it's 14 feet 9 inches is the width that I've measured . . .

Mr. Tracey: Yes.

Ms. McNatt: Based upon the plan. Because I don't think a garage door can get wider than the stoops that are shown. And if you measure just the space from wall-to-wall, which is not the garage . . . from wall-to-wall would be 14 feet 9 inches. But if you measure . . . which takes a little bit in. So I would . . .

Mr. Tracey: I think what you also have is a marriage between architecture and engineering. At the end of the day . . .

Ms. McNatt: Right.

Mr. Tracey: It would be corrected.

Ms. Gray: Right.

Mr. Tracey: The engineer drawings are sufficient and the architectural will match what's on the engineer drawings. So if the architecture is showing a bleed in of a stoop or something like that, that would be adjusted such that it will work. But we are confident that we have two spaces in each garage and two spaces in front of each garage.

Ms. McNatt: Well, then I would like that specifically to put in a subdivision agreement that gets recorded and a microfilm number gets placed on the record plan. Because I believe that's important to be enforced. Specifically, that there's a one human per bedroom, which is 66 potential residents, with only 44 spaces.

Mr. Tracey: Which is, of course, as you know, is eleven more than . . .

Ms. McNatt: I live in a community that that exactly happened, and the road itself is prohibited because it's a fire lane. So I'm aware, clearly, of how double parking happens internal to the parking lot. It happens in front of my driveway. And I'm supposed to have two parking spaces in my driveway, as well, so I will say that this is a very sensitive issue and I think it needs to be corrected. That's one issue. One topic.

Mr. Firestone: Well, let's hope there's no divorce.

Ms. McNatt: So my second issue is specific to the drainage concerns that were mentioned. The note says all roof gutters to be directed to the stormwater area. But if you look at the drainage and grading plan, or the plan that's the grading plan on 4 of 5, which I'm also looking at, the high point for the structure facing South Chapel Street, which is structure B, there's a high point that directs that drainage not to the stormwater facility, that allows the runoff from the parking lot and potentially the roof gutters to the street of South Chapel. So, I'd like to understand how that's going to happen if it's going to [inaudible] drainage and grading to get it to the stormwater facility specifically.

Mr. Tracey: I'm going to have Roger come up and address that one, as well.

Mr. Brickley: Stacy, you're correct. There are high points on each entrance on the pavements and some of that does drain out to the street. We couldn't get the entire pavement to that way. All of the roof drains in the back of the units are directed to the basin. Everything in front of those units, maybe it shouldn't be all, it should say the majority of them. But that does not change the stormwater management that was designed for this site.

Ms. McNatt: Well, that's good to know. That's a positive thought. Yes, I think that needs to be corrected.

Mr. Brickley: Right.

Ms. McNatt: And I think that the information that is correct needs to be incorporated correctly into the plan. That, then, leads into my further concern is about drainage. Stormwater and drainage are sisters, as we all, well, as some of us know. And stormwater management, as designed on this project, I believe, is probably mostly correct, as you suggested. But drainage, as Commissioner Stozek points out, is that if you have downstream issues that inhibit the capacity and there's already infrastructure problems that are identified, the lack of managing the runoff in the front of those units and allowing it to go into the drainage conveyance system and not adequately sizing or addressing those issues can cause future infrastructure problems. So, I think it's very important that the Public Works Department does, hopefully . . . they're not here . . . I'm not sure why someone from Public Works is not here . . . but they would look into and require the drainage code and information be supported to verify. Because I see that you're proposing a new storm sewer system on Benny Street, tying into an existing structure.

Mr. Brickley: It's the emergency outlet . . .

Ms. McNatt: So I would think it's important that the drainage conveyance, as an infrastructure itself, not just stormwater management on the parcel, is also adequately addressed. And I know it wasn't presented here and it wasn't identified as a specific issue, but I think following up with other comments, it might be in the future, and not too distant future, if we continue on the path at which these parcels seems to be getting developed. So I think it's important that

we start to plan for futuristic infrastructure and/or identify if there are any failures of flooding or drainage problems in the current infrastructure.

Mr. Brickley: That's the overall planning and that's what this Commission is going to do and the City is going to do.

Ms. McNatt: That's why I'm pointing it out as part of our future ideas that need to happen.

Mr. Brickley: But as far as the individual plan is concerned, I mean we've been [inaudible] this thing was 50% blocked.

Ms. McNatt: On your site or all the way downstream?

Mr. Brickley: Well, the whole, from here on our site. So we're taking care of our site. And then that pipe is so oversized because of the . . . there's not a lot of drainage coming off of here on the, we'll say, the 100-year event or the Fv event. So we ran the pipes that were oversized . . . the one we're putting in is oversized for the 50% block for the 100-year storm on this facility.

Ms. McNatt: Is that because there's a downstream problem?

Mr. Brickley: No, that's because . . .

Ms. McNatt: That would only make me think there is.

Mr. Brickley: Of our safety factor onsite.

Ms. McNatt: But I just . . . I would like to know if that is the case.

Mr. Brickley: Did I . . .

Ms. McNatt: Was there a downstream problem that made it require that to occur?

Mr. Brickley: When we first started this project, we met with Ethan [Robinson] and this is how we, you know, he gave us the information on where we could outlet it and things like this. And we weren't aware of any, the City didn't let us know of any downstream, downstream issues. So, as per Code, this plan is designed per Code. And we went a little bit beyond that with the oversizing of the outlet pipe for the Fv event.

Mr. Firestone: Thank you. Unless there's a burning issue from any Commissioner, we'll come back to the Commission, but I'd like to hear from the public.

Mr. Silverman: I have one very quick one.

Mr. Firestone: Okay, go ahead, please.

Mr. Silverman: We received a communication from the Director with respect to an adjoining property owner and the solid fencing between the properties. This is from Mr. Prettyman. I don't know if he's here or any representatives are here. There was a question with respect to a solid fence. Mr. Prettyman is asking for a commercial/industrial chain-link fence. From a land use point of view, given the residential quality of the area, I would want to give preference to a solid structure fence that would be compatible with residential uses. There was also some mention about vandalism and the fate of the solid fences that are there, and I think you may be addressing them by helping change the character of the area. If you could comment.

Mr. Tracey: We had chosen . . . I'll let Mr. Baldini answer. I think the answer is going to be whatever folks deem to be the most appropriate. We're perfectly fine doing either one. We designed it as a solid fence, I think, because that was something that would look more appropriate for that particular area. If there was a desire, if the Commission, and we certainly

could work with Mr. Prettyman, but if the Commission and Council ultimately wanted to see a chain-link type fence, we could certainly do that.

Mr. Silverman: Well, if you would give the site considerations further attention. Also, your drawings show the fence extending beyond the front of the building into the front yard. I believe in residential areas . . .

Mr. Tracey: It matches the front of the building.

Mr. Silverman: Fencing needs to come back to the building . . .

Mr. Tracey: Yeah. And it will. It will. We are not seeking any variances or relief to go beyond what the Code otherwise allows.

Mr. Firestone: Thank you. We have one person who signed up for this agenda item. Roger Brickley.

Mr. Tracey: That's our engineer.

Mr. Brickley: My bad. Sorry.

Mr. Firestone: Okay.

Mr. Tracey: He's very diligent.

Mr. Firestone: Then why don't we . . . we had Ms. White wanted to speak on this issue, and then if anyone else, they can come up after her. Just a reminder, you're limited to three minutes.

Ms. Jean White: Jean White, District 1. I continue to be concerned about the continued use of spot changing the Comprehensive Plan and spot rezoning, as was already done at 36 Benny, and now is being done here. This is bad policy and is actually a concern and danger to residents in other areas of the City. The whole street, one side, on the east side, or perhaps both sides, should be considered at one time, and this is a piecemeal way of doing things.

The number of occupants, one per bedroom, has already been dealt with by a member of the Planning Commission.

As far as these two parcels that are joined together, I would have preferred that they had been done as two separate projects with a fence across them. It does make it come closer to the area requirements which is, for RM zoning for the Benny Street, it should be one acre, as well as the other. And if you had two separate properties, each one would be 0.44 acres and 0.41 acres. By combining them, it's 0.85 acres and it still doesn't meet the area requirements. But my concern, in particular, is the conduit between the one property and the other property. And although maybe the developer doesn't care, it seems to me that occupant renters, which presumably are students, are going to be moving back and forth. On the one we have 6 x 6, 36 students, I'll say, on the Benny Street one. And we have 5 x 6 is 30 on the other. So we basically have 66 students that can be moving back and forth, as well as their friends from Chapel Street in either direction. I don't think that's really a good idea, and I think I have heard a different developer saying that they would like something different. Then there's this bland appearance on the back side of the building. This is the Benny Street one that I think could be improved, rather than looking so bland. And, likewise, for the South Chapel one.

How many minutes do I have? Another minute or two?

Mr. Firestone: Thirty-five seconds.

Ms. White: Thirty-five seconds. Okay. I just want to say that it actually isn't really true that this is basically already an RM-zoned property. You have 19 properties on this street. Nine conform to RD, eight are grandfathered, and they are two duplexes or five-unit duplex boarding houses. I'll finish my sentence. Okay, we already have 6 x 7, we have 42 students moving in at the 36 Benny and now we're having on the 30 Benny, 36 more. So we're already having 78 students moving in here. This is a huge number that's really flooding more than what is on the street already. Thank you.

Mr. Firestone: Thank you very much. Is there anyone else that would like to be heard on this issue? Does any other Commissioner have any questions? Yes, Commissioner Stozek?

Mr. Stozek: Yeah, I have questions or comments. Since it was brought up earlier in the meeting about Comprehensive Plan and codes, I guess I have one question is, one of the things you're requesting here are variances on setback. Setback from the street, setback from the lot lines, and from the side yards. And what your plan is showing is the setbacks are half of what's required by Code. I guess my question is, did you at all look at putting together a project that could be built within the codes and not have to ask for variances?

Mr. Tracey: I'll confer with the engineer for just a second before I answer that question. The design layout was chosen, as I said previously, for a couple of reasons. One was to match what we saw, from a setback perspective, so there would be consistency with what was being approved next to us. So we held the street setback that was approved for Benny Street. We held the street setback, which doesn't need a variance, on Chapel Street. With regard to the side yards, again, the idea was to have the two buildings – the one on 36 Benny, which is not ours, and 30 Benny – closer together, leaving more area to create both the fire access lane, as well as the parking. As you heard at the last meeting, that design also eliminates areas that have, in the past, been used for congregation for purposes that folks didn't want to see. So, as you heard previously, by adding the paving, by adding the parking, the drive aisles, people can't park in, as well, the spaces in the front, pushing the buildings to the outside gives us the ability to design that to not only meet the parking requirements, but also to avoid those areas where you can have more congregation than, perhaps, people would like to see either occurring now or in the future.

Mr. Stozek: Well, personally, I really don't accept the reason of granting more variances just because the property next door got variances.

Mr. Tracey: Well that's actually why we're asking for fewer variances than what they have.

Mr. Stozek: Well, but you're getting variances in setback. So the buildings are going to be closer together. And, as I think somebody mentioned, on Benny Street there is, and it's difficult to count on this map, but probably 15-20 other properties that are very similar to this one, that if similar structures are built, you know, the impervious surface is going to go from roughly 20% to 90%, if the same sort of thing . . . because there's a lot of grass out there now . . . and I'm still concerned about, you know, has the City done due diligence to look at what are the potential problems down the road. And, you know, I understand you're just one project, but I think we have to look at what's the potential for the whole City and for this whole section of town.

Mr. Tracey: And just in response to that, actually, I was looking at my engineer while you were giving some of the numbers. It's actually 40% green on the property. Now that obviously includes the stormwater facility that's in the middle. We're trying to do what we can do, as you heard Mr. Brickley talk about, not only are we addressing the stormwater on our property, but we've oversized the outflow pipe to assist in that regard. So we're trying to help be a part of the solution, as opposed to adding to a problem by just addressing what we have and assisting in terms of getting that to someplace else.

Mr. Stozek: And I appreciate that. I think you're trying to do a good job. But, I think, again, my concern is what's going to be the end result 10 years from now, you know, when whoever

builds on the rest of these 15 or 20 properties? And what is it going to cost the City to deal with it, if anything? And we just don't know that answer right now. So, thanks.

Mr. Firestone: We have three potential votes that we have to take, and the Chair would entertain a motion, at this point, related to the Comprehensive Development Plan.

Mr. Tracey: And to clarify, the Comprehensive Development Plan and rezoning are just on the Benny Street side, and site plan and subdivision is on both sides.

Mr. Firestone: Correct. We're going in order as it's set out in the Department's memo. So anyway, as I said, the Chair would entertain a motion at this time.

Mr. Frank McIntosh: Mr. Chairman, I'm not sure I understand your motion that you are entertaining.

Mr. Firestone: I haven't put one forward. It would be either a motion to advance the Department's recommendation related to the Comprehensive Development Plan, or the amendment to it, or a motion to not advance the amendment to the Comprehensive Development Plan.

Ms. McNatt: That's A on this list, correct?

Mr. Firestone: That's A.

Ms. McNatt: Your only motion . . .

Mr. Firestone: We're only considering . . . we have to do them in order. They're separate votes.

Mr. Hurd: We can still comment and discuss the motion, correct?

Mr. Firestone: Yes.

Mr. Hurd: Okay.

Mr. Firestone: Once the motion is put out there.

Mr. Hurd: Then I will move that we recommend that the City Council revise the Comprehensive Development Plan V land use guidelines for 24 and 30 Benny Street from low density residential to high density residential as shown in the attached Exhibit E-1 dated December 22, 2017.

Mr. Firestone: Is there a second?

Mr. Silverman: Second.

Mr. Firestone: Okay, under our new procedures, one, we can have discussion, but we're also required to set forth individually our rationale for how we're going to vote.

Mr. Hurd: I guess I'll start, unless you want to go, Bob.

Mr. Stozek: Go ahead.

Mr. Hurd: I'm kind of on the fence about this area. I know that it keeps coming up in conversation about areas where more density can be developed to start pulling people, students, out of the residential areas. However, we are lacking, I think, a direction to do that. And so there's a part of me that goes there's already some density there. There's a lot of RM and such sort of poking its nose into that zone, and we could just keep rolling that. But I know for 36 Benny, I wasn't in favor of that amendment, at the time, for the reason of sort of we

don't have direction. I'm coming around to thinking that we could start moving that in, and so I'm kind of leaning, I guess. I can understand the reasons for doing it, but I hate to feel that we are usurping the process by saying, you know, moving ahead. That said, I think the challenge of the Comp Plan has always been that it can't say we want this to be a high-density space because then you have to upgrade the zoning for all those properties. But you can simply say this is what is currently there, because you have low density and high density mixed, and then in the text someplace kind of say, but we could see that this could be potentially a developed area and kind of have to get the Comp Plan to catch up with, sort of, what was intended.

Mr. Firestone: I think what some jurisdictions do is consider a moratorium on changes while they're considered more broadly for an area. That, certainly, is something that could be considered here rather than thinking about this on a parcel-by-parcel basis. We are intending to look at it this year. It's in our work plan, so it wouldn't be something that would cause a major delay, but it's something that could be considered, as well.

Mr. Stozek: Okay, I'm not against developing this area into higher density housing, with the idea of reducing the draw on student housing in other areas. My main concern, though, is this project being a precedent for the camel's nose under the tent. You know, we've already got two large-scale, high-density projects approved, and I think the Comp Plan needs to be looked at, and I would hope the developer could re-look at this project and possibly reducing the density somewhat.

Ms. McNatt: I'll go next. Some of the same sentiments the past Commissioners to my right have said, as well, that, in general, I see this area going to the high density for the purposes of this being the location which is highly desired for student housing to support the campus. I know that we have been told from our counsel that it's not considered spot zoning, however, it really feels like spot zoning, at this point. But knowing that it's in our work plan and that's mostly probably where we're going to be going and working and dealing with this, I'm not against it. However, I have other concerns, as Commissioner Stozek said, that we need to be future planning about what this impact has into the area.

Mr. McIntosh: Are we just going down the row or are we going to switch it up?

Mr. Firestone: No, you've been quiet. We want to hear from you, Frank.

Mr. McIntosh: I don't want to be quiet. Reserved. I can understand what has been said thus far about the incremental changes that are taking place. Comp plans are a living document, I guess. But it was a living document that was set in stone, so to speak. Gravel, probably, more to the point, at a given point in time. And then things happen, which then change . . . that's why you change the Comp Plan over time. We've talked here before about market forces driving the Comp Plan and what happens in the City. There are those that do not want anything to happen to this City. They want it to stay the way it was. And then there are those who want to push it along and see it become what it can be. Central to that are the development community that has a profit motive for doing it. But that's the world we live in, so there's nothing wrong with that. But they're looking at this and they're saying that this is something that we think we can sink our equity into for a return on that investment. And it accomplishes some things for us. It takes students closer to campus and relieves some other things that are pushing against us. So I don't at all mind telling the folks that oversee the Comp Plan that you're a little behind the schedule here, and the market forces are telling us that this is the time and the place to begin to change this. So I don't have a problem with that, at all. But I do have a problem with if there's LEED points to be had, instead of going for 40, why aren't you going for 50? Right? Why aren't you going for 60? Why don't you be a leader? You're a leader. You're saying you're a leader, we're going to do things a little differently here. You want us to help you change those things to be a little different but, yet, when it comes down to it, you say, well I'm going to go for the bare minimum here. And that's probably not a good idea. As a matter of fact, I'm sure it's not a good idea. And one of the ways that you could get, I think, more LEED points is through solar panels. Am I correct at that?

Mr. Firestone: You are.

Mr. McIntosh: I love it when I'm correct. Because it's not often. But, at any rate . . . nobody comes in here . . . I don't think nobody is right, but it's pretty close. Nobody comes in here and says we're putting solar panels on. We're committed to managing this and that, and we're going to be a leader there. I don't hear that. I'm not sure I ever heard it. It might have happened in a meeting I was absent from. So, you know, it would be very refreshing to hear you say, you know, I know the cost benefit analysis doesn't work here as well as we'd like it to, but you've got to have some wiggle room in your margins, it seems to me. And that's a point that would get you more LEED points, it seems. So, it might be something worth thinking about. At any rate, I'm generally in favor of this proposal.

Mr. Silverman: Stacy, do you . . .

Ms. McNatt: I'm good.

Mr. Silverman: I'm going to vote in favor of the Comprehensive Plan change. The change that's proposed conforms to the use identified in the Comprehensive Plan, which is a residential use. The Comprehensive Plan also identifies that this is a problem area across a number of issues. We heard in previous hearings that surface drainage problems exist throughout – ponding area, flooding. Here is an opportunity to deal with at least that piece of that. I know it's on a piecemeal basis. The applicant will be required to recharge 30% of the runoff from the property, even though it covers more area, into the ground. One of the things they've done that I think is very creative and, again, supports the comprehensive planning process outdoor livable community space concept, is by using the detention/retention area, locating it between two uses, and developing it as an improved, landscaped quasi-public open space. Even the City Planning group, in their recommendations, recognizes a place to put a park bench.

It's not used in the City of Newark, but there's a whole planning rationale with respect to policing and public safety. And one of the things they identify is creating private spaces as this developer has, as opposed to the big open circus ground we heard from other applicants in this area that is kind of used by students. This creates that private space. The interconnection from the Chapel Street side to the Benny Street side creates a community in the sense that the applicant proposes solid fencing on either side, so it's going to break up that large open circus ground.

Again, the Comp Plan calls for maintaining quality housing in our community. We heard testimony that these were marginal housing units, overcrowded housing units, quote/unquote. If you go back in the public record, you'll see there are numerous police complaints on these particular properties. Here, the City police identified the standard that more students equal more problems. The design of this property, I think, mitigates against the large congregations that were originally identified with this area. The density of the property, even though it's higher than some of the immediate non-confirming properties, if we look at this as the University community, it comes nowhere near the kind of density and intensity the University has constructed on an area that I used to know as Harrington Beach, with the new dormitories.

The stormwater retention and detention facilities offer something that this property does not have right now, and that's to address water quality issues. Right now, automobiles can be parked on the grass, on the gravel. The pollutants and drippings from those automobiles now go into the ground. Here, they'll be collected and processed in the City supervised retention basin. The property now, as you can see from the photographs, is designed for ease of maintenance for an income property. There is grass. The applicant is proposing streetscape. The applicant is proposing additional shrubbery and design on the property.

The property, right now existing, I researched the tax records. The one on Benny Street, I recall, is assessed at \$142 a year, both County and City taxes. The City gets a fraction of that. That doesn't even pay for the trash pick-up on that site. Here, the applicant is proposing to put a

high value use on that parcel, which I would have to guess is going to bring in thousands of tax dollars directly to the City just on property taxes alone, let alone an electric meter and water meter for each of those units.

According to the rental survey that was done for the City of Newark, additional student housing is needed to accommodate future student population, and that was before the last release over the last several months of the University's latest five-year plan that shows an additional 1,000 undergraduate students and possibly 2,500 additional graduate students. And then, according to a recent newspaper article, another 500 staff and faculty, in addition to what was taken into account in the rental survey. And, based on previous testimony on other projects, we find that the faculty that's coming in, I hate to use the term, but they're itinerate workers. They're here for 1-year and 2-year contracts. They're looking for quality rental housing, often couples. So this is the kind of housing they would be looking for. I don't see it as being exclusively student housing, although the bedroom ratio would lend itself to that.

And one advertisement here, one of the things I'd like the staff to consider changing is this notion of a townhouse apartment. They are two distinct living units. That's like saying a high-rise ranch house. It just doesn't work, and apartments are one type of impact on a community, and a townhouse attached unit is another kind of impact. So, I support the Comprehensive Plan amendment.

Mr. Firestone: Thank you. Commissioner Cronin?

Mr. Bob Cronin: Well, I hope to be brief compared to some of my colleagues. They said a lot of good points and I, myself, being in favor of this, I like the remarks that Commissioner McIntosh made at the first part – the economic forces in relation to, you know, some changes to the Comp Plan. It's a plan. It's not a locked-in document. It's guidance and the economy, if not dictates it, leads us to do what economies do as time unfolds. And I like the idea of the security cameras that are going to be here in addition to the other properties that the developer has. And I also like the solid slat chain-link fence component. But, primarily, the economic development, I think, was compelling. Thank you.

Mr. Stozek: I'd like to make one quick statement in rebuttal.

Mr. Firestone: Okay.

Mr. Stozek: I don't believe the Comprehensive Plan is cast in stone. In fact, if you read the Comprehensive Plan, it says it can be changed. You don't have to do it every five years or ten years, or whatever. But what the Comprehensive Plan also says is it shouldn't be changed arbitrarily. And I think we have a tendency, too often, to change the plan property-by-property through variances. We're not changing the Plan. We're giving a variance to the Plan for this project or whatever project comes before us. That's my objection. And if we're going to talk about changing the Comprehensive Plan for this area, we need to change the Plan, not give variances constantly.

Mr. McIntosh: May I rebut the rebuttal?

Mr. Firestone: Sure.

Mr. McIntosh: I'll be brief, if I can. I understand what you're saying, Bob, but it just strikes me that, then, we'll have a whole new Comprehensive Plan to start varying again. And that's what we'll do because that's what happens. Because creative people will come to us and say, I understand what you're saying, but how about this? And that is just going to happen. It is the way this world works.

Mr. Firestone: I guess I share some of the concerns of Commissioner Stozek and I'm going to sort of reluctantly support this, but I would like us to consider in our next meeting a brief

moratorium until we consider, and I think it's on the April 3 agenda, just so that no one else rushes forward with another development proposal in this area, and that we give the wider community an opportunity to think about what kind of neighborhood they want.

Mr. Hurd: Well, point of order on that, can . . . do we have the authority to impose a moratorium, or is that a Council . . .

Mr. Firestone: It would be a recommendation to City Council.

Mr. Hurd: Okay.

Mr. Silverman: As a separate motion.

Mr. Hurd: A separate motion. I like the idea.

Mr. McIntosh: I like it, too.

Mr. Firestone: Anyway, we've got a motion right now. Is there any further discussion? All those in favor of amending the Comprehensive Plan, signify by saying Aye. Opposed, say Nay. It passes 5-2.

MOTION BY HURD, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL REVISE THE COMPREHENSIVE DEVELOPMENT PLAN V LAND USE GUIDELINES FOR 24 AND 30 BENNY STREET FROM "LOW DENSITY (RESIDENTIAL)" TO "HIGH DENSITY (RESIDENTIAL)" AS SHOWN ON PLANNING AND DEVELOPMENT EXHIBIT E-1 DATED DECEMBER 22, 2017.

VOTE: 5-2

AYE: CRONIN, FIRESTONE, MCINTOSH, MCNATT, SILVERMAN

NAY: HURD, STOZEK

MOTION PASSED

Mr. Firestone: That moves us, then, to B. I don't believe we can consider a moratorium as it wasn't on the agenda. But it could go onto the next meeting.

Mr. Paul Bilodeau: I would agree. I don't think you can consider it tonight.

Mr. Firestone: Thank you. Okay. So that gets us, then, to Item B, which is related to the rezoning at 24 and 30 Benny Street. The Chair would entertain a motion.

Mr. Hurd: I'll take it. What the heck. It's just reading. I move that we recommend that City Council approve the rezoning of 0.44 acres at 24 and 30 Benny Street from the current RD (one-family semidetached residential) zoning to RM (residential multi-family/garden apartment) zoning as shown on the Planning and Development Department Exhibit H dated December 21, 2017.

Mr. Firestone: Is there a second?

Mr. McIntosh: Second.

Mr. Firestone: Is there any discussion?

Mr. Hurd: Sure. So, having settled the question about the Comp Plan, my . . . with the Comp Plan amendment changes in density, I'm okay with this being RM zoned. That is the zoning that is sort of filtering in around the edges on this. And it does bring it into compliance with the adjacent property that they're hoping to join together. However, I will say that I feel that when, and this goes more to the site plan approval motion than to the zoning, but I just want to kind of get it out there, I feel that if someone comes to me for a rezoning, or comes to us, I should say, for a rezoning for density or units, that they should be seeking to, they should be striving to meet the requirements of that zoning. They shouldn't be pushing the edges, specifically, for me, the front setbacks which intrude, I think, on the street, which is already a lower density sort of streetscape. And to have the larger buildings pushing toward the street because they're getting the density feels wrong to me. It's, like, if you want an RM zone, respect the 30-foot setbacks. Respect the coverage. Do what you can for it within that.

Mr. Firestone: I think that's really Item C.

Mr. Hurd: It is but it was in . . . to me, it's part of the, if you come for the zoning, you have to own the other half. Otherwise, I have no concern with the RM zoning, as it stands.

Mr. Firestone: Any other discussion? All those in favor of rezoning the 24 and 30 Benny Street parcels, signify by saying Aye. Opposed, say Nay. Motion carries 7-0.

MOTION BY HURD, SECONDED BY MCINTOSH THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE REZONING OF 0.44 ACRES AT 24 AND 30 BENNY STREET FROM THE CURRENT RD (ONE-FAMILY SEMIDETACHED RESIDENTIAL) ZONING TO RM (RESIDENTIAL MULTI-FAMILY/GARDEN APARTMENT) ZONING AS SHOWN ON THE PLANNING AND DEVELOPMENT EXHIBIT H DATED DECEMBER 21, 2017.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

Mr. Firestone: That, then, gets us to the last one, which is the major subdivision and site plan approval. Chair would entertain a motion.

Ms. McNatt: I can read this one. I recommend that City Council approve the 30 Benny Street and 155 South Chapel Street major subdivision and site plan approval plan as shown on the major subdivision site plan approval plan dated January 25, 2017, and revised November 21, 2017, with the Subdivision Advisory Committee conditions.

Mr. Firestone: Is there a second?

Mr. Hurd: Second.

Mr. Firestone: Any discussion?

Ms. McNatt: Yes. I am not supportive, at this point, without certain additional information being provided to support the site plan approval and, specifically, certain topics that we've brought up, which are the parking issues and marrying the architectural with the engineering standards or design concept of this plan. I think that's important, as well as, I believe that, you know, why achieve the minimum? If you get to a point when you build the building and you haven't, you're at the minimum LEED standard and you fail, then you have a building . . . so I

think it's important that some of these, this information that we identify as concerns be addressed prior to my support.

Mr. Hurd: I'm also not in favor of the site plan approval of this particular project. I do not feel that it really is meeting the intention of the site plan approval process. I don't feel that it's architecturally distinct. I will note the Design Committee review finds that it meets the guidelines. It, in no way, ever exceeds the guidelines, and in some places it falls short. Specifically, in like the sustainability, it falls short of energy issues. My concerns about the LEED credits is there, and I think that is, it's like you've got sort of some architecture and you've got some energy conservation, but you're not really pushing either of those in any way that makes a significant move forward. I still have concerns about six units on the Benny Street property as opposed to the five on the Chapel. I really think there should be five and five, and keep that streetscape and respect the setback. I feel like you're asking for like a 50% reduction in some of the setbacks and things, and that's a huge piece. That's not a couple of feet over because you need the space. And, to my eye, looking at the property, that building could move toward the center and gain some of that front setback. It intrudes on your stormwater and such, but I think the building, itself, could move or do something to really create a unique and special building. But right now, I think it's neither.

Mr. Stozek: I agree with everything that's been said before, and I think there are several open questions that were brought up in this discussion that have yet to be answered.

Mr. Firestone: The Chair would concur. Does anyone want to express an alternative viewpoint?

Mr. Silverman: Mr. Chairman, do we want to amend or append to the Department's recommendation an enumerated list of these concerns?

Mr. Firestone: I mean you could seek to amend the motion that's on the table. But there is a motion that's on the table.

Mr. Hurd: I would say that the concerns are well documented in the minutes, certainly, so I think the full amount, at this point, might be kind of challenging.

Mr. Silverman: And I . . . go ahead.

Ms. McNatt: I was going to say, should we amend the motion to continue so that the concerns potentially could be addressed and brought back to the next meeting?

Mr. Firestone: You might want to withdraw the motion and then put a new motion, since it was a motion for approval, a motion that they develop and go back to the drawing board to address the concerns that have been expressed. It might be a more efficient way of handling it, if that's your desire.

Ms. McNatt: I'd like to hear the discussion. Do we have to nullify the motion before we hear the discussion?

Mr. Silverman: We're still in discussion.

Mr. Firestone: I mean, I think it's not an unreasonable way to proceed, but it's up to you. Otherwise, we can take it to a vote.

Mr. Silverman: I'm not in favor of, essentially, tabling this until we get the answers, in quotation marks, to our questions. I'm in favor of moving this forward with a caveat that it should not be approved by the Department to be forwarded to Council unless those questions are answered.

Mr. Hurd: I think I would tend to disagree. I think . . .

Mr. Firestone: Excuse me.

Mr. Hurd: Sorry.

Mr. Firestone: Counsel, the Department's role, at this point, if we approve it, is purely ministerial . . .

Mr. Silverman: Yes.

Mr. Firestone: And that it would go directly to City Council?

Mr. Bilodeau: Right. And if you deny it, it would still go to City Council.

Mr. Firestone: City Council. They have the option of taking it to City Council or going back to the drawing board.

Mr. Bilodeau: Right, and they would have the minutes, and they could ascertain for themselves the issues that need to be addressed.

Mr. Hurd: If I'm right, a continuation would allow it to remain, as it were, under our purview. So, if there are issues that the Commissioners need to be addressed, to me, a continuation is a way to get those addressed by us and allow us to review and then give our approval or disapproval of that adjusted, and then move it on. There's no guarantee that if we say, here's a list of things that we're concerned about, we're still done with it once it leaves this table.

Mr. Silverman: I'm not willing to support to a round-robin, a circular we ask them, they come back to us, we don't approve, they come back to us. We could be here forever. It's on record what our concerns are and it's up to the next approval level to make sure that those concerns are addressed if Council agrees with those concerns. We're just an advisory body, remember.

Mr. Firestone: But we do have the authority to continue.

Mr. McIntosh: I'm interested in knowing what hazard this has for the developer if this is not approved.

Mr. Firestone: The developer just goes to City Council with an unapproved . . .

Mr. McIntosh: Well they got two in.

Mr. Firestone: They got two out of three.

Mr. McIntosh: Well, two out of three are pretty good in baseball.

Mr. Firestone: It's only so-so in basketball, but they're still free to the City Council. They're free to go back and make some amendments to their site approval plan and come back to this Commission. It's up to the developer.

Mr. McIntosh: Well, it just seems to me that the discussion that we had on the first two points were largely positive towards the proposal and so there are some points in this third issue that we'd like to see done. And we've said that before, in the past, and people have agreed to it, and so on, and said, yeah, I'll do that, I'll do that, and I won't do that. And then we made an acceptance or a denial, at that point. So, I'm wondering, is it appropriate that we ask the developer, who are here, are these things amenable to you, here and now? I heard that they're ready for one person per bedroom, and so on, and maybe they're ready for some other things, too. Or, maybe they'd said we'd like the next month to think about it and we'll come back with this to you. I'd like to hear what they have to say about that.

Mr. Firestone: Sure, go ahead if you're prepared.

Mr. McIntosh: I know it's sort of unfair, but not terribly. If [the microphone] comes up green, you're okay.

Mr. Nick Baldini: There you go. Hi, I'm Nick Baldini. I don't know if I introduced myself or not. All these units right here, to address the . . . it is one student per bedroom. And the way our design is, we have a private bath per each bedroom. So there's going to be 6 ½ baths. Four of them will have their own private baths. Two of them, the kids have to leave the bedroom and just walk outside in the hallway because they couldn't attach it. But, basically, every unit is 6 ½ bathrooms and six full bedrooms.

As far as the parking goes, I know that plan that was drawn up was a little bit, you know, not quite as clear, but it is a standard two-car garage door on the garages. So two cars will definitely fit. I didn't bring the plans with me tonight. They're about 90% completed, but it does show a full two cars can fit in the garage, and two cars will fit outside. So, there's definitely going to be four parking spots per unit. I can guarantee that.

As far as the LEED goes, our LEED, I guess, is at 40. We'll definitely go back and re-look at everything and see if we can build it back up and make it higher. I think that's a very fair question, and I think it's not unreasonable, even a little bit. So, I give you my word. You know, when we go to Mayor and Council, I'll have the architect, tomorrow . . . actually, I'm supposed to meet him at 10:00 a.m., and I can work on the LEED to bring that up.

But you definitely are going to have four parking spots per townhouse. That's a fact. And I can give you my word on that. I can give it to you in writing.

Mr. McIntosh: So are these Mini Coopers, or what are they?

Mr. Baldini: No, they're regular cars. They're regular cars.

Mr. Stozek: Suburbans.

Mr. Baldini: I wish I brought . . . I didn't bring my truck tonight because my blueprints, actually, are in there. I came down with my wife's car. So, if I didn't do that, I could have just whipped them out and shown you. So . . .

Mr. McIntosh: That'll teach you.

Mr. Firestone: Thank you very much. Is there any other discussion on the motion?

Mr. Bilodeau: And this is the motion Stacy made on #3?

Mr. Firestone: Correct.

Mr. Bilodeau: There was no amendment to that?

Mr. Firestone: This is just on site approval plan.

Mr. McIntosh: Could I amend the motion?

Mr. Firestone: Yes, you . . .

Mr. McIntosh: I could?

Mr. Firestone: You can make a . . .

Mr. McIntosh: I can make a motion to amend the motion that other people are motioning on? Hearing what I just heard, and believing that what was said will be done, I would like to amend the motion that says something to the effect of . . . I'm not quite sure how this works, maybe our attorney can figure it out . . . that's subject to what Mr. Baldini had said he would do, that he will do, but this motion is subject to him coming through on that.

Mr. Firestone: Is there a second?

Mr. Cronin: I don't think that's very clear, Frank.

Mr. McIntosh: I know it's not clear, but all I'm trying to do is say if he does what he says he just a moment ago said he would do – there's one human per bedroom . . . I'd like to see him enforce that . . . and then there is sufficient parking for average cars, and that he will address the LEED points and do what's only right for yourself, personally, and increase the LEED points – those were the things that struck me as where we were concerned. And, so, all I'm saying is, in order to move this along, that we incorporate that. If he does it, then yes is a yes. And if he doesn't do it, the yes becomes a no.

Ms. McNatt: What does that mean? That's a continuance. How about this? I have a suggestion. Am I allowed to modify my motion? Or I could withdraw my motion? Start there, and then we'll go and make it clear.

Mr. Bilodeau: Yes, go ahead and withdraw your motion and let's . . .

Ms. McNatt: Thanks.

Mr. Bilodeau: Please.

Ms. McNatt: So I'm going to withdraw my recommendation for approval of what I read the first time of this Item C, and I'm going to propose a new motion to continue this . . . to continue the approval of the 30 Benny Street and 155 South Chapel Street major subdivision and site plan approval as shown on the major subdivision plan with site plan approval dated January 25, 2017, and revised November 21, 2017, with Subdivision Advisory Committee conditions, following Mr. Baldini providing the information that he claims he will provide.

Mr. Firestone: So you want to continue it until the . . .

Ms. McNatt: The information is provided.

Mr. Firestone: March meeting. Yes.

Ms. McNatt: Correct.

Mr. Firestone: Is there a second?

Mr. Hurd: Second.

Mr. Cronin: Discussion, if I may.

Mr. Firestone: Yes.

Mr. Cronin: I really think we owe it to the applicant to go up or down or something more definitive than just a continuance tonight. I'd rather either see us vote it down or, better, to say we'll approve the recommendation subject to cited conditions or changes, and let it go forward as a recommendation to Council, and let them make the final decision. But it's time, and time is money, and the applicant has been kicking this around for a long time, as you can see with the back and forth with the City and various aspects of the Planning Department and

staff, and so forth, and I think we have an obligation to act definitively and not have a continuance.

Mr. Firestone: Any other discussion?

Mr. Hurd: I will say that the applicant's comfort is not of my concern. Of my concern is making sure that . . . I think this is exactly what a continuation is for. There were significant concerns raised about the documents and the plan submitted to us, and I feel that we are owed tangible answers to those concerns so that we can feel that we are voting on something that we're seeing in front of us, and not voting to approve something with a condition that is yet to be developed.

Mr. Firestone: Is there any other discussion? Okay, all those in favor of a continuance related to Item C, major subdivision and site plan approval, signify by saying Aye. Opposed, say Nay. It's continued.

Ms. Gray: Mr. Chair, point of order, I'm not clear as staff as to what particular issues the Planning Commission wants to see in the revisions. It would be helpful to articulate those.

Mr. Firestone: I think the ones that were discussed would include issues of the six and five versus five and five, the parking issue, the LEED certification . . .

Mr. Stozek: Setback.

Mr. Hurd: It was the setback.

Mr. Firestone: The setback, the one person per bedroom, and there were some . . .

Ms. McNatt: And the roof gutters not being correctly labeled of where the water is going to go.

Mr. Hurd: Architectural design is a concern of mine.

Mr. Firestone: Yeah, and architectural design on the back side.

Ms. Vispi: Mr. Chair, could I ask for a show of hands for . . . I didn't catch all of the votes on the motion.

Mr. Firestone: Okay. If you could, please raise your hand if you voted yes on the motion to continue. [Secretary's note: Commissioners Firestone, Hurd, McIntosh, McNatt, and Stozek raised their hand.] If you voted no, can you please raise your hand. [Secretary's note: Commissioners Cronin and Silverman raised their hand.] And if you abstained, can you please raise your hand.

Mr. Silverman: You can't abstain.

Mr. McIntosh: I can if I want to.

Mr. Silverman: You can't abstain. By Code, we have to vote yes or no.

MOTION BY MCNATT, SECONDED BY HURD THAT THE PLANNING COMMISSION CONTINUE THE APPROVAL OF THE 30 BENNY STREET AND 155 SOUTH CHAPEL STREET MAJOR SUBDIVISION AND SITE PLAN APPROVAL PLAN AS SHOWN ON THE MAJOR SUBDIVISION, SITE PLAN APPROVAL PLAN DATED JANUARY 25, 2017 AND REVISED NOVEMBER 21, 2017, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS, TO ALLOW THE APPLICANT TO PROVIDE ADDITIONAL DOCUMENTATION ON CONCERNS RAISED DURING THE FEBRUARY 6, 2018 PLANNING COMMISSION MEETING.

VOTE: 5-2

AYE: FIRESTONE, HURD, MCINTOSH, MCNATT, STOZEK
NAY: CRONIN, SILVERMAN

MOTION PASSED

Mr. Firestone: Excuse me, we have a must-consider item on our agenda related to the wireless ordinance, and so the Chair would entertain motion, at this time, to adjust the agenda.

Mr. Silverman: I'll move to suspend the order of business to move directly to Item 5.

Mr. Firestone: Is there a second?

Mr. Hurd: Second.

Ms. McNatt: Second.

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries. We're going to consider the wireless ordinance.

MOTION BY SILVERMAN, SECONDED BY HURD THAT THE PLANNING COMMISSION SUSPEND THE ORDER OF BUSINESS AND MOVE DIRECTLY TO AGENDA ITEM 5, REVIEW AND CONSIDERATION OF THE WIRELESS ORDINANCE.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK
NAY: NONE

MOTION PASSED

5. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE RELATING TO REGULATIONS FOR WIRELESS FACILITIES IN THE RIGHT OF WAY AND OUTSIDE THE RIGHT OF WAY.

Mr. Firestone: We've debated this many, many times and so what I would like to do is first take public comment and then entertain a motion. And if there's any discussion or any small changes, then we'll move to that. But I want to move through this as efficiently as possible. Is there anyone from the public that would like to be heard on the wireless ordinance? Mrs. White. Please come forward. Like the last time, you have three minutes.

Ms. White: Okay, Jean White, District 1. At the bottom of page 14 where it's Item 6, which is talking about the landscaping around the base of the tower, at the bottom it says Council may exempt any tower applicant from these landscaping requirements. I would like to add for good cause.

Mr. Firestone: Can you say again where you're referring to?

Ms. White: Okay. This is page 14 on the current draft, and this is #6. And at the bottom of the page, the very last sentence says Council may exempt any tower applicant from these landscaping requirements, which were described in the whole thing. I'd to add for good cause.

Mr. Firestone: Thank you.

Ms. White: Okay. Another thing, on page 13, this was in the previous draft, of which there have been many drafts, and it used to say that any principal part of the tower shall be set back

from the nearest property lines of a church, library, school, nursing home, hospital or residential lot zoned RH, RT, RS, RD, RM, RR or AC, not less than 1 ½ times or 150 feet, whichever is more. That was changed from three times or 200 feet. It was three times the height. And I think there are two issues here. One is the tower could fall, which is a safety thing, but the other is an aesthetic or sight thing. And if you look at this, I made a chart which you don't want to talk about, but if the height of the tower is 40, 50, 60, 70, 80, 90, at 100, 1 ½ times 100 is 150, and that's the 150 that you have in there. Okay. And if it's the two times, it's not . . . in other words, if a tower is 100 feet, then three times that would be 300. And it seems to me a 100-foot tower is one you want to have more than 150 feet away from you. It's not a problem with it, really, in height, but for a tower that's 100 feet and, likewise, 150 feet, you still only have your fallback to be 150 feet. So, I'd like to either have it two parts or change that part, because I think a 100-foot tower or a 150-foot tower is quite a problematic near to these uses that are there. I don't know if I made that clear. Do you have any questions? Okay.

Mr. Firestone: Okay, thank you. Would anyone else like to be heard? Please state your name for the record.

Mr. Tracey: John Tracey from Young, Conaway, Stargatt and Taylor, speaking on behalf of Verizon Wireless. Just a couple of comments following up on the most recent revision to the draft ordinance, and building on the comments I offered last time, just from what I've seen in other jurisdictions. I guess maybe you know, but there's a lot of talk about stealth technology. I would suggest that you want to have some flexibility in that language to allow for, perhaps, what I would say, no stealth, if the situation warrants it. Otherwise, you have the potential to end up in situations where you stealth something and end up drawing more attention to it. If you look at some of the fake trees that you see around New Castle County, I think they probably draw more attention to cellular towers than the opposite. Again, with regard to collocation, I think the current ordinance talks about the maximum amount allowable. I think I would recommend going with what most jurisdictions say, which is a minimum of two collocators to keep it simple, and then go forward from there. On the setbacks, I had raised commentary the last time that most jurisdictions seemed to be going to smaller setbacks due to the anti-collapsing technology and the collapse-upon-itself technology. So I think there should be some flexibility, which may be in there but perhaps made more clearer that those setbacks can be reduced where appropriate, and with appropriate demonstration that the fall zone can be satisfied. Lastly, on the notice, we still are objecting to the varied notice classifications, different than what you would do for any other special use permit. You know, have standard notice classification, regardless of what it is. So those are the comments we'd offer for the record.

Mr. Firestone: Thank you. Any other comments? Chair would entertain a motion at this time.

Mr. Hurd: Motion and then conversation?

Mr. Firestone: And then we'll have discussion, and there could be amendments, too, at that point.

Mr. Hurd: Okay. How the heck will we motion this? I move that we accept the ordinance amending Chapter 32 Zoning Code of the City of Newark, Delaware, by creating regulations for wireless facilities in the right of way and updating regulations for wireless facilities outside the right of way to conform to federal regulations.

Mr. Firestone: Is there a second?

Mr. Silverman: Second.

Mr. Firestone: Any discussion?

Mr. Hurd: Yes. So, I have a couple of editorial ones still, I'm sorry to say, and then I think we can get to a few of the content things. Page 2, paragraph (b)2., there is some duplicate language in that last sentence. It says the City may deny an application to construct a new tower if the applicant to construct a new tower if the applicant has not, so we need to kill that. It should just read, may deny an application to construct a new tower if the applicant has not made a good faith effort to mount an antenna on an existing structure.

Mr. Firestone: Good catch.

Mr. Hurd: On page 3, the newly numbered paragraph 5 duplicates the new paragraph 3 in terms of contacting people by certified mail for buildings to locate their antennas.

Mr. Firestone: So we would delete paragraph 5?

Mr. Hurd: Yes, because the intention of my comment on that was that in amendment 2, paragraph 3 was the one that dealt with notification.

Mr. Firestone: Yes.

Mr. Hurd: And so it would be good to have them in the same order.

Mr. Firestone: Okay.

Mr. Hurd: That concludes my editorial comments. Content-wise, I think on page 6, paragraph (d)3., the, I think the intent, I thought, had always been for the language about collocation, the industry seemed to be saying it's the primary antenna group and two others. So I think we could, if that's our intention to support, easily amend that sentence to just say, towers shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and two additional comparable antennas, period. Because up to the maximum capacity for the size of the proposed tower is kind of a circular thing. It's like you have to hold as much as I said you're going to hold and it's kind of a circular thing, I think.

Mr. Firestone: Just a second. Is there any objection to that change by any Commissioner?

Mr. Hurd: Good point.

Mr. Firestone: Go ahead.

Mr. Hurd: Page 13, under (c) design regulations, I'm a little confused, I think, about the intention of the setbacks as being described here. Because it seems like we're saying it's always 150 feet until your tower gets, basically, over 100 feet, and then it becomes more. And that seems to be restrictive if you have small towers. It feels like a smaller tower should be allowed to be closer to the property line. So I'm not sure if it just should say 1 ½ times, period. You know, provided it's not in the setback or so . . . sorry . . .

Mr. Firestone: I think that's reasonable, and while we're on this one, I think we should delete of a church, da da da da, residential, and it should just say, any principal part of the tower, excluding guy cables, shall be set back from the nearest . . .

Mr. Hurd: The nearest property line . . .

Mr. Firestone: Property line not less than 1 ½ times the height of the tower, period. Because if I'm a commercial property owner at, we'll say, 275 South Main Street, and Sunoco wants to come and put a 175-foot tower, I don't necessarily want them to be able to put it right next to my building that I just sort of upgraded and all that. I want some setback so it didn't fall on my building and my customers.

Mr. Hurd: Yeah, I think that's the intention I was trying to get to, is it's always set back 1 ½ times its height. Period. And being a structure, it has to . . . it can't go into the natural building setbacks anyway.

Mr. Firestone: Okay, so is there any objection to, first, deleting or 150 feet? Okay.

Ms. McNatt: Or 150 feet?

Mr. Firestone: The or 150 feet. And is there any objection to deleting of a church, da da da da, RR and AC, close parentheses? So that it would, then, just say, any principal part of the tower, excluding guy cables, shall be set back from the nearest property line not less than 1 ½ times the height of the tower measured from the center of the tower, period.

Mr. Hurd: Yeah.

Mr. Firestone: Okay.

Mr. Hurd: I think for the sake of language consistency and such, on page 14, Ms. White had a good point where the Council can exempt the landscaping requirements. We can say, I think, I would propose we add for good cause upon request of the applicant. That keeps it in line with the previous language about asking for relief from various requirements.

Mr. Firestone: So the change would be at the end of 14 and it would just extend and say, for good cause upon the request of the applicant.

Mr. Hurd: Right. It would say, Council may exempt any tower applicant from these landscaping requirements for good cause upon request of the applicant.

Mr. Firestone: Is there any objection to that change? Okay. Are there any other changes that anyone would like to see on the Commission?

Mr. Hurd: That's it for me. I'm done.

Ms. McNatt: I do have a question.

Mr. Firestone: Yes?

Ms. McNatt: The self-collapsing technology item that was in on page 13 that was removed, item (c)1., was that placed anywhere else? In any other design or safety consideration?

Mr. Firestone: I don't think it was because the top part used to be three times and higher, so this was an exception. And, so, since it's now at the limits of the lower portion of that sentence, it was no longer needed. If you wanted to have something that was allowed a lesser setback for self-collapsing, you could have a sentence. But that sentence, I'd say, is [inaudible]. Any other discussion?

Mr. Bilodeau: I just wanted to ask our special counsel about those amendments. Are they okay with the federal regulation?

Mr. Mike Roberts: Yes, do you want me to . . .

Mr. Firestone: Yes. Step up and state who you are for the record, please.

Mr. Roberts: I'm Mike Roberts. I'm with the Cohen Law Group, based out of Pittsburgh, Pennsylvania. We are a telecommunications law group that's been assisting the City with the preparation of these amendments. As far as the amendments so far that have been proposed by the Commission, I think they're all absolutely acceptable. I think a few of them that have been raised are largely ministerial, cleaning things up, addressing, I think, things that have been

latent holdovers from changes that have been made throughout the consideration process. Particularly with regard to setback, because I think that's the major change that's been proposed by the Commission tonight, that's an understandable change to these amendments, absolutely, and one that I think makes sense in the context of the amendments, as a whole. The idea that for towers that are smaller than, you know, 150 feet, that a setback of 150 feet isn't going to be applicable for, say, a 60-foot or 40-foot tower, I think that makes sense, definitely, in the context of the amendments.

Mr. Bilodeau: Thank you.

Mr. Firestone: Okay, thank you.

Mr. Roberts: Thank you.

Mr. Firestone: All those in favor of the proposed . . .

Mr. Bilodeau: Excuse me, the motion was to adopt the . . . I think you need to adopt with the amendments.

Mr. Firestone: Okay.

Mr. Hurd: Do I amend my motion?

Mr. Bilodeau: Or maybe you withdraw your original motion.

Mr. Firestone: Or you can make a friendly amendment to your motion.

Mr. Hurd: A friendly amendment. I propose . . . I move that we also adopt the corrections and changes as discussed at the table here.

Mr. Firestone: All those in favor of adopting the amendments to the wireless ordinance as presented to us, and as amended here and agreed to, signify by saying Aye. All opposed, say Nay. Motion carries.

MOTION BY HURD, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL AMEND CHAPTER 32 ZONING AS DETAILED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JANUARY 30, 2018 AND ASSOCIATED PROPOSED ORDINANCE, AND REVISED BY THE COMMISSION AT THEIR FEBRUARY 6, 2018 MEETING.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK
NAY: NONE

MOTION PASSED

Mr. Firestone: Commissioner Silverman?

Mr. Silverman: I move that we suspend the order of business and move directly to Item 6 and limit our discussion to no more than five minutes.

Mr. Firestone: Is there a second?

Ms. McNatt: Second.

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY SILVERMAN, SECONDED BY MCNATT THAT THE PLANNING COMMISSION SUSPEND THE ORDER OF BUSINESS AND MOVE DIRECTLY TO AGENDA ITEM 6, FEEDBACK FROM THE CITY COUNCIL REGARDING THE UPCOMING JOINT PLANNING COMMISSION/CITY COUNCIL MEETING, WITH THE DISCUSSION TO LAST NO MORE THAN FIVE MINUTES.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

6. DISCUSSION OF COUNCIL FEEDBACK FROM THE JANUARY 29, 2018 CITY COUNCIL MEETING REGARDING THE UPCOMING FEBRUARY 27, 2018 JOINT PLANNING COMMISSION/CITY COUNCIL MEETING.

Mr. Firestone: So we're going to briefly discuss the feedback from the City Council regarding the upcoming joint Planning Commission/City Council meeting on February 27, and I'll just tell you what transpired. So I attended the meeting, along with Mary Ellen, and testified in front of the City Council. The City Council spoke very warmly about not only the joint meeting, but had a lot of commendary things to say about this body. They agreed that a workshop format made sense, they agreed that a two-hour limit was workable, and they agreed on the three items on the agenda. They, in their motion . . . excuse me, in our motion, the Commission expressed its desire that I chair the meeting. The City Council is of the view that the Mayor should chair the meeting. I indicated I was agnostic. The City Council felt that given that we are nominated and approved to serve on this body by them, it would be appropriate to be chaired by the Mayor. And I will say that I concur and that, absent the Mayor specifically asking me to chair the meeting that would be jointly held between the Planning Commission and the City Council, I think it entirely appropriate that the Mayor chair that meeting, and I personally look forward to it.

Ms. McNatt: Did they agree upon the date?

Mr. Firestone: And they agreed upon the date. I believe there is one member of the City Council who is unable to make it, but they did agree upon the date that we chose. I'd be happy to take any other comments from . . .

Mr. Hurd: I will say I appreciate the summary because when I was watching it, it didn't seem that all of our, that the workshop and the topics and such, had been discussed and approved by the Council. So I think that that's good to hear. I'll just say I think my concern is if it's a Council meeting that we're attending, I'm not sure, then, what's the . . . how the format is going to work. Because I thought that Council was seeking our advice and wanting to discuss, sort of, these topics that we wrestle with on a daily basis. So, it felt more like Council coming to us for conversation. This feels more like Council requesting our presence. So it's just a different tone, in my eyes.

Mr. Firestone: Again, I don't think it really matters. The objective is to break bread, if you will, at a meeting, and have a conversation in an informal atmosphere of a workshop between City Council and the Planning Commission. And who chairs the meeting, you know, I don't, it's not something that matters to me, personally.

Mr. McIntosh: Does that mean they're feeding us? Breaking bread? I just wondered.

Mr. Firestone: It was figuratively.

Mr. McIntosh: Oh, figuratively.

Mr. Firestone: It wasn't literally. I don't know what the food plans are.

Mr. Cronin: You mentioned three items.

Mr. Firestone: Yes.

Mr. Cronin: Can you restate the three?

Mr. Firestone: One was the Comprehensive Development Plan, one was current development patterns, and one was future development patterns. And there's some overlap, obviously, between the three. And there will be an opportunity for the public to attend and to provide public comment at that workshop, as well.

It is now 9:00 p.m., the witching hour, and I'm going to use my Chair's prerogative to extend the meeting to 9:30 p.m., and then we'll have to take a further vote if we go longer. I'm going to suggest a two-minute recess and then we'll get started. But if the applicant wants to get up to the podium and get ready, that's fine, but we'll just stretch for a couple of minutes. We're adjourned.

Ms. McNatt: Temporary.

Mr. Silverman: Recessed.

Mr. Firestone: Recessed.

[Secretary's note: Mr. Firestone called the meeting to recess at 9:03 p.m. and reconvened the meeting at 9:11 p.m.]

Mr. Firestone: May the Commission come to order.

4. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT, REZONING, MAJOR SUBDIVISION, SPECIAL USE PERMIT AND PARKING WAIVER FOR THE 4.95 +/- ACRE PROPERTY AT 275 SOUTH MAIN STREET, ALSO KNOWN AS PARK N SHOP. THE PLAN PROPOSES A REZONING OF THE NORTHERN 1.13 +/- ACRE PORTION OF THE PROPERTY FROM BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT), THE DEMOLITION OF THE VACANT BUILDING ON THE NORTH END OF THE SITE AND CONSTRUCTION OF A 3-STORY MIXED USE BUILDING WITH 10,600 SQUARE FEET OF RETAIL SPACE ON THE FIRST FLOOR AND 12 APARTMENT UNITS ON THE FLOORS ABOVE. A SPECIAL USE PERMIT IS REQUIRED FOR CONSTRUCTION OF APARTMENTS IN THE BB ZONING DISTRICT, AND A 27-SPACE PARKING WAIVER IS ALSO REQUIRED TO ACCOMMODATE THE PROPOSED DEVELOPMENT.

Mr. Firestone: Okay, please proceed. You have 15 minutes.

[Secretary's note: During the course of his presentation, Mr. Hoffman referred to a PowerPoint presentation being displayed for the Commission, Planning Director, and public. A link to the applicant's presentation and the Planning and Development Department report on the Comprehensive Development Plan amendment, rezoning, major subdivision, special use permit, and parking waiver for 275 South Main Street, also known as Park N Shop, can be found at the end of this document.]

Mr. Michael Hoffman: Thank you, Mr. Chairman and members of the Planning Commission. I'm Michael Hoffman, here tonight on behalf of the owner/applicant of the Park N Shop property. I'd like to take a few minutes to introduce our team. With me here tonight is Robert

Wittig and Tripp Way, back there. They are the principals of the owner entity, the property owner. We also have Chris Duke of Becker Morgan Engineering. He is the project engineer. So we are here and ready to answer all of your questions.

Mr. Chairman, I will be brief in recognition of the Commission's time, and also recognizing that we have a number of folks here, as indicated earlier, who would like to speak on this. And, in addition, the Planning Commission does have a copy of the PowerPoint and the supplement, as well. So you have that to refer to.

This is the property located here. It is the Park N Shop property. We are in this building over here, as you all know, so it is literally across the street. It is a little under five acres in total, and it does include the Good Uncle piece down here. It actually dates back to when the property was purchased for the Park N Shop back in the late 50s. This whole property was purchased together and developed for that use.

This is an aerial shot that shows existing conditions, again. You see the sea of asphalt here. You see the Park N Shop property and Municipal Building here. This is South Main Street and you have Apple Road and West Park Place down here.

We want to take a quick moment to point out the zoning map. This is the City zoning map. Again, this is the property here. It is currently zoned general business. We are seeking a rezoning for just the portion over here to match, along South Main, the other central business district zones for the proposed use.

Just a quick look through some aerials. I'm always, frankly, fascinated to look at these and see the history and how a site develops. This is the aerial from 1937. This is our property up here. You can see that it is open land at the time. This is The Green and the University of Delaware over here. No residential uses. No commercial uses. Just open space at the time.

By 1954 you can see residential uses are expanding as part of that post-World War II residential expansion. It is well-documented history. And then you see our property right here.

By 1961, you see the Park N Shop building emerge. It was first constructed back in 1961 as a commercial in-line shopping center. And, again, at the time, you see the residential homes have not quite caught up, but it was an anchor, in-line retail center at the time.

By 1968, you see where the bank building was constructed and the center takes its shape. And you can see the residential homes filling in around.

By 1997, we have more of a modern look at this time. You don't have the mixed uses along South Main Street yet, but you do see the Park N Shop property there, and that continues in 2007.

In 2013, you see the emerging character of South Main Street, where there was a greater focus on walkability, crosswalks, sidewalks. You see the mixed-use buildings. It really starts to take that character that was called for, again, in the recent years.

This is a look down South Main Street. I mentioned the walkability, the sidewalks, the crosswalks. There was a lot of infrastructure investment on the part of the City to ensure that this became a walkable extension, extending the downtown with the renaming to South Main Street. You see the Park N Shop property here and, again, the open pavement. This is Louviers Bank, the Municipal Building over here and, again, it shows that view of the walkability and the crosswalks.

Here is another view of the Park N Shop property as it exists today. A little bit more history, when the current owner purchased the property back in June 2014, this is what it looked like. I'm sure you all remember that façade. At the time, and this is well-documented in the Newark

Post, the owner . . . again, they purchased it in June 2014 . . . by July 2014, they indicated their intentions for the property. We're going to renovate the center, dress it up, clean it up. Lots of options being considered. By January of 2015, those improvements had begun . . . had been put in place. They repainted the parking lot, fixed the storm drains, helping with stormwater management, sidewalks, light fixtures and the like. The façade improvements began in February 2016, and those have considered. One of the big things, going back to July 2014, what Tripp had mentioned, he said we have lots of options we're considering. Whatever makes the most sense for us, the community, and the tenants, we'll explore. From July 2014 to modern day, they have undergone that exploration, undergone a review of what this property can call for. What is something that can make it a true community amenity, and that is what we are coming forward with here today.

Again, these are the façade improvements that I had mentioned before. You can see this is the old bank building. The portions of the building that are staying have been improved, and this corner over here is our modern focus predominantly for this application. The proposal is to replace the existing bank building with a mixed-use structure, different articulation, differing materials, that really helps create this sense of place.

A little bit more . . . this is all in your materials, but I think it's important to emphasize. There's been a lot of literature on new urbanism and principles and the benefits of walkable communities, and Urban Land Institute is one of the preeminent organizations that addresses some of these new urbanist principles. And it goes to this point of just what we have here, which is, in the post-World War II there was this expansion in development but now, today, there is a focus and a desire for higher density living patterns and transportation options, including transit, walking, and biking.

More information that points out, again, the recession has brought that previous expansion to a halt, with the current trend being to retrofit, re-inhabit and re-green the rising numbers of dead malls, dying office parks and other declining suburban properties. Incremental shifts that recognize the shifts in demographics and provide the benefits with mixed use, new urbanist greyfield retrofits.

These are just some of the benefits that come with new urbanist retrofits, including reduced vehicle miles. If it is pedestrian and bike friendly, you have those benefits. If you are reducing land consumption, increasing local interconnectivity, and the like that you can see there.

We did reach out to the community as part of this process in trying to understand what would make the most sense to make this a community amenity, and we heard a number of positions and received much input. A lot of the input focused on what are the tenants that we can get there. And a lot of interest was focused on we want a Trader Joe's. We want a grocery store and the like. And I think one of the big things when you are rethinking these retrofits, trying to grow and embrace these new urbanist principles, is right here. It says market realities differ among communities and among locations within communities. There may also be a difference between what the community would like to have and what the market can support. Local government, citizens and the private sector all benefit when the particular market forces are acknowledged and the focus is on expectations that are achievable. Success requires market potential. At the end of the day, the goal here is to have a successful project that will bring tenant amenities that, again, will make this a true neighborhood sense of place.

That literature is important. That literature is, very likely, not new to this body, because that literature and those principals are precisely what the Comprehensive Development Plan has recognized. These are your land development core principles, as stated in the Comprehensive Development Plan. And, as far as the weaknesses, the City has identified half-filled, unattractive shopping centers as a weakness. This plan specifically addresses that. The City has identified threats as student rentals in single family neighborhoods. This development and this option provides a residential option that can address that threat.

As far as Newark's vision, again, bikeability, walkability, sustainable communities. All these benefits that are provided from a new urbanist type of development, precisely the type that we're proposing, is exactly what the Comp Plan calls for and what the City has identified as important.

As far as consistency with the Comp Plan, we are in Planning Section A. This property is located on South Main Street, where mixed urban is recommended for downtown along East Main Street, South Main Street, West Park Place, and Delaware Avenue.

The emerging development patterns of late. These are some of the examples along South Main Street of mixed use communities. Again, you have Rittenhouse Station. One note that I'll point out is that the proposed development here consists of 11 units per acre, and some of these surrounding developments, for example, Rittenhouse Station is 14.8 units per acre and retail 17,000. Our retail is 10,000. You have 136 South Main Street here, which is 18.9 units per acre, with a little bit over 10,000 in retail. This is another view of 136 South Main. And then you have Madeline Crossing at 16.8 units per acre and about 12,000 square feet of retail. So, we are under all of those density points for this particular use.

Again, we are proposing a mixed use. It is about 10,600 square feet of retail on the first floor. The upper two floors consist of 12 residential units. Here are some renderings, as you can see the proposed . . . this one is particularly telling. The point was made as to seeing architectural renderings that show the location and how it fits. This is the Louviers Bank building right here, so you can see how it fits in on the site.

Some other points when we had the community meetings, there was a lot of focus about, again, this being a sense of place. Wanted outdoor dining, outdoor space, living space. A place where people want to go and not just have to go. That is embraced through this concept.

I do want to take a few minutes to address the community meetings that we had. If you've been reading the paper, you know that the first iteration of this plan did call for a drive-thru. We were calling for a drive-thru with the window that would have been here. You can see the drive-thru lanes over here. We received tremendous feedback in opposition to the drive-thru. There was a lot of interest in what we're proposing, our goals and our vision for the site. But the view was that the drive-thru still has that focus on cars, and the focus on the vehicle aspects did not create that walkable, pedestrian-friendly atmosphere, so it has been removed.

I'll make a note that we had two community meetings – one in June and the other in October. There really were . . . the concerns that were raised really kind of fall into three main categories. I just mentioned the one on the drive-thru. The other relates to student housing. We are proposing residential units and, as this Planning Commission knows, we cannot prohibit students nor can we limit it to students. But we have been candid with the public and we're candid with this Commission that we do expect the interest to be among student users and student residents. So one of the concerns was about the student behavior, and behavior of student tenants. One important point here, we are not, by adding residential units here, we are not bringing student users into the character of the corridor. This is the existing corridor. The communities in green are predominantly student housing locations, and these are the unit numbers. At 12 units, that's a drop in the bucket in comparison, so this is hardly inserting that character into the corridor or changing or altering that character.

The other important point here is the concerns related to student behavior, really kind of focused on enforcement. And, to that point, we are not proposing balconies. We are not proposing backyards. What we do have is we have a center where the tenants are not going to want parties in here. So, again, it comes down to enforcement. You have a property owner here who has a reputation of success in this region. They have a reputation of success in this City. Their office is on South Chapel Street, and there is a mutual interest in ensuring that it is properly policed. I mention that just because, again, there were three primary issues – one, the drive-thru, two, the students, and the third issue is related to the students, and the third issue

was that this being the proverbial camel's nose. Thank you. And the concern on that point is that if this were approved, then it would open the door to more residential here. We have agreed to limit the zoning to just the portion here to address that third concern.

So, again, three concerns, and we've addressed two out of the three. The only reason we did not address the student housing is, again, because the residential benefits with the new urbanist principles outweigh those particular concerns. Particularly, in light of the enforcement.

I know my time is limited, so I just want to point out the community wanted us to tie into the bike [inaudible]. We have done that. Stormwater management – we are going above and beyond what is required by Code, by providing the stormwater management improvements. We can get more into that, as well. The materials do address the parking waiver. We are seeking a parking waiver for the 27 spaces. If we were to . . . because we're providing the landscaping islands and the additional stormwater management, we are actually adding more green space than we were otherwise required, which takes away from the parking. We believe there are benefits to having that and, therefore, we are proposing it. But, as the parking analysis provides, we are providing the Code required . . . or we're providing the spaces that are necessary for the property – 1.7 space per 1,000 for the residential, as the report provides. I do want to point one thing out on that. We are providing stickers for designated parking for the code-required number of residential spaces. So the Code requires 34 residential spaces, so each of those 34 spaces will be accounted for on the property. So, therefore, we are providing what is required on the residential. The waiver is really related to the commercial to meet that need.

Mr. Firestone: Can you finish up now?

Mr. Hoffman: Yes, sir, Mr. Chairman. The last thing I will point out is to the point on green technology and solar energy. And on that point, we are certainly open to the benefits of solar technology. We're certainly open to exploring that. We have not conducted that financial analysis but we're certainly open to doing so. We are also open and continuing a dialog with the City on electric charging stations. I understand it's something the City is looking into and something the City is putting resources to. Certainly, there are questions as to how that . . . is it going to be something from the City? Does the City want to provide them and the like, but the point is, we're open to the conversation.

I appreciate the opportunity to go a little bit over my time and, with that, I'm happy to answer any questions.

Mr. Firestone: Thank you. Any questions from any Commissioner?

Ms. McNatt: Starting down the line again?

Mr. Hurd: We always start down at this end. I have a couple of questions directed to the . . .

Mr. Firestone: Actually, let me just interrupt before that. By our procedures, we end at 9:30 unless there's a majority vote from the Commission to extend. So, Chair will entertain a motion to extend the time to complete this application.

Mr. Silverman: So moved.

Mr. Hurd: Second.

Mr. Firestone: Any discussion?

Mr. McIntosh: Is there a limit to that time? Because that sounds like it could go to midnight or 2:00 a.m.

Mr. Cronin: It does.

Mr. McIntosh: Which I would strenuously object to.

Mr. Firestone: Any other discussion on the motion?

Mr. Hurd: Can we take a second vote at 10:00 p.m.? So, a half-hour extension?

Mr. Firestone: I mean, there's a . . .

Mr. Hurd: A friendly amendment

Mr. Firestone: Motion on the table.

Mr. Hurd: So it would be a friendly amendment to cap it . . . a friendly amendment to extend a half-hour until 10:00 p.m., with the provision of a second extension.

Mr. Silverman: Second.

Mr. Firestone: Any discussion? All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY SILVERMAN, SECONDED BY HURD, THAT THE PLANNING COMMISSION MEETING BE EXTENDED BY 30 MINUTES, WITH A PROVISION FOR A SECOND EXTENSION AT 10:00 P.M.

VOTE: 6-1

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: MCINTOSH

MOTION PASSED

Mr. Firestone: You can proceed with your question.

Mr. Hurd: So, a design related question as I look at the site and the surrounding areas, can you discuss the decision to not have the building align with South Main Street, which is the primary corridor and, to me, and I'm sort of obviously leaning ON my feelings here, that's the area that should have the primary face and length of the building.

Mr. Hoffman: Certainly, and it's a great question, and one that the project team wrestled with, as well. One of the challenges when you have a greyfield such as this and not a greenfield, is that there are other competing factors. So if, on the one hand, you want to provide and pursue the benefits that this type of development can provide, on the other hand, you have existing tenants and existing leases and the like. To be completely candid with you, there are leases on this building that include a protected area that protects sight lines and the like. And so the location of the building is trying to provide these incremental benefits, balancing the pros and the cons, but recognizing that there are challenges when you have an existing in-line retail center.

Mr. Hurd: One concern that I've seen referred to is issues with the entrance onto Apple Road. Do you have plans in motion, or solutions proposed, for addressing the possibly increased traffic flow at that intersection?

Mr. Hoffman: Sure. So, there's a couple points to that, one of which is we are . . . I don't know if you can see it down here . . . we are proposing the demolition of this portion of the structure, which will help with site circulation. And so there is an entrance, ingress/egress, right here. And then you are correct, Commissioner, in terms of the Apple Road ingress/egress here. The other hope is, with this type of development, that, again, you're promoting pedestrian

walkability and bikeability, and you can reduce that onto the traffic pool. One of the big concerns on a drive-thru really was that. That how can you argue with traffic if you have a drive-thru, and we understand that. And, so, the rationale, as a whole, really does reduce vehicles, reduce dependency on vehicles, which helps to address these concerns.

Mr. Firestone: Just on the issue of bikeability, you've got one bike rack for the whole place and it's on the side of the building near the apartment entrance, but nothing on the front of the building where there's the commercial entrance. And while there is a sort of ancient bike rack in front of the Rite Aid, it's not mandated. And, so, while you are planning on putting a bike rack, it seems like you've primarily focused on servicing the residents but not the commercial development. And, so, it doesn't really seem to me like a bikeability plan.

Mr. Hoffman: And, Commissioner, it's a fair point. What I will say, at this level, when you're trying to kind of bring a vision together, sometimes a lot of the focus is on uses, is on architecture and whatnot. Whereas, some of these small details . . . small, but important, details . . . are not the focus. To be completely candid, we are open and amendable to putting additional bike racks. There was prior conversation, again, you want this to be a sense of place. We heard in some of the community meetings about public art, and being amenable to public art. Again, those are conversations that the property owner, who is a neighbor, wants to be a neighbor, is certainly amendable to.

Mr. Hurd: Was there any conversation, or would you be open to a conversation about making the exit onto Apple Road a right-turn only. Because I think the concern, partly, is that it's a very short distance to the light and when the traffic is flowing, it's very hard to make a left without blocking things up or it possibly being unsafe. But if you want to go, if you want to basically turn left and get onto South Main, there's the other entrance, the other exit you could go out on. The middle one, yeah.

Mr. Hoffman: Right there.

Mr. Hurd: So, if that were seen more as a way in and a way out as a continuation of Apple, as opposed to a true right-angle intersection, that might address some of the concerns, certainly, of the neighborhood about that, with the safety of that intersection.

Mr. Hoffman: And we haven't considered that. I'd certainly want to, you know, there are the site circulation flows and those questions, again, when you have the existing center and the impact to that. We just, candidly, have not had that conversation.

Mr. Hurd: Okay. I didn't see that you have a plan to go in front of the Design Review Committee for the Downtown Newark Partnership. Is that in the works or you're just not doing it?

Mr. Hoffman: No, and we had talked about that. The . . . we are not within the zone to go to the Downtown Newark Partnership with the design guidelines. What we did is, we had the Becker Morgan Group analyze . . . and I recognize we have not submitted those as part of the packet . . . but we wanted to make sure that we could be consistent with those internally. But, to answer your question, we have not . . .

Mr. Hurd: And I only say that because other properties on South Main have come to the Design Committee. I do want to say, positively, the response letter that you provided where you went through each item that the Subdivision Advisory . . . you know, the comments and then your responses to them, I liked that. I was going to but didn't have a chance to recommend that to the previous applicant, because I think they would have really benefited from the multiple reviews, to really feel that we were addressing all the issues. And I would sort of throw back to the Planning Department maybe asking the applicants to provide that as a follow-up, I think is a really useful thing, especially for us. Because otherwise we don't always know that comment really got anywhere. So, thank you.

Mr. Stozek: One quick follow-up question to Will's question about rotating the building. I know you talked about there's an agreement with existing tenants about sight lines. Did you have a discussion with the tenants about that possibility?

Mr. Hoffman: Robert, if you want to . . . this is Robert Wittig, for the record. He is one of the principals.

Mr. Robert Wittig: How are you? Thank you for hearing from us this evening. Yes, we've had conversations with the tenants whose lease strictly prohibits that and, unfortunately, we haven't had any real success. While they are in support of this plan, they are very adamant about remaining, leaving in place those restrictions.

Mr. McIntosh: Mr. Chairman?

Mr. Firestone: Yes?

Mr. McIntosh: With regards to the exit onto Apple, we had a situation similar to this with the hotel that is under construction, and I believe that they had entrances from across from the post office going in there and coming out, and so on, which was a little ludicrous, actually, which they finally agreed that they would not do that, and that wasn't part of the final plan. This kind of strikes me the same way. You've got a really small street and if you are as successful as your pictures show you will be, then you're going to have traffic. And that traffic isn't going to work very well in that section of road. So I would strongly agree that that should be limited to a right-hand turn.

Mr. Firestone: Well, I live at Beverly and Winslow. I go by that intersection quite often, and I would agree there are times when the traffic is already backed up from the light, so that it's difficult to make a right off of Winslow until the traffic has moved onto to Apple Road, because they're waiting at the light. So, and if you're successful in your endeavor, not just for tenants, but to create this innovative, new, unpredictable, exciting development in going beyond the Rite Aid, which I like, but I wouldn't necessarily call it innovative and exciting, but if you're able to do that and create a lot of excitement in this thing, you expect more for in-and-out traffic, and that could become a problem.

Mr. Silverman: With respect to the traffic, the amount of traffic generated on that site is tenant-dependent. And that also applies to the existing center. If the existing center were to be very successful with a very active turnover of customers, the existing entrances and exits would just have to do. They're there. Secondly, with respect to the some \$20 million that was put into redeveloping South Main Street, the highway department went through probably 1 ½ years of hearings, public meetings, engineering applications, and testing, and in their wisdom, there was a reason why they didn't permit an entrance at what's marked as Veterans Drive on Exhibit C, page 31. Having some experiencing with dealing with engineers, even though the intersection at Apple Road and South Main Street fails on occasion, I'm sorry, fails during certain times of the day, this was tested and designed for not only the existing center but, I'll bet you dollars to donuts, there was an engineering fudge to allow for the additional parking and changing parking within that existing parking lot. So, asking the tenant to use other than what highways has already designed is a burden they can't meet, and impairing their ability to use their center by changing the configuration that was approved by DelDOT not that many years ago is also, I believe, an unreasonable hardship.

Mr. Firestone: Let me just say, having experience with a prior development objective on that site to put in a Wawa, I can tell you, because I had conversations with people at DelDOT, that they had not considered on the traffic that people would be going down Winslow from South College, or that they would be turning left onto Beverly to avoid Apple Road and the light. And, as a result of my conversation with them, they said, aha, yes, you're right. They looked at the map and said those two things would, in fact, happen, and it would require some additional review. So, the fact that DelDOT blessed this thing at one time doesn't mean that they had

thought through, necessarily, all the permutations that might happen from a travel perspective. And, indeed, local residents, like myself, who understand the traffic flow and how to get around the neighborhood, can provide some expert, on-the-ground education to DelDOT. And DelDOT, then, said, oh yes, we need to revise our thinking. So, you know, ultimately we want to . . . you know, people in the neighborhood, of course, want to see this site redeveloped. And they want it, as well, to work for the neighborhood. And those are the constraints and all I'm doing is relaying what I observed and what I experienced, and what the neighbors experienced as far as the traffic flow there.

Mr. Silverman: And I suggest there's quite a difference between a 24-hour-a-day Wawa and the commercial that's proposed and the residential that's proposed on this site.

Mr. Firestone: We don't quite know what the commercial is going to be . . .

Mr. Silverman: Nor do we . . .

Mr. Firestone: Since we, conceivably, assume it's not going to be a Wawa. But we don't know precisely what it's going to be, at this time. It's going to be commercial space and we'll be hearing more about that, assuming this gets approved. I agree it's not going to be as busy as the Wawa, but all I'm saying is that DelDOT hadn't necessarily thought through all the permutations on how traffic might be affected by various individual developments.

Mr. McIntosh: And didn't DelDOT say that the parking at the . . . the egresses and entrances to the hotel were just fine, too?

Mr. Silverman: That's correct.

Mr. McIntosh: So that shows you what they know. Anyway . . .

Mr. Stozek: Exactly.

Mr. Hoffman: Mr. Chairman, if I may just, with your . . .

Mr. McIntosh: Excuse me.

Mr. Hoffman: Sure.

Mr. McIntosh: Are you going to get a Trader Joe's, because that will swamp any Wawa in terms of people.

Mr. Hoffman: I think if Robert and Tripp could get a Trader Joe's, they would certainly do so, and they would be happy. It's . . . and we respect it and we understand. But, to that point, and this is the point I wanted to make, in order to make this center a vibrant, true mixed-use community amenity, sometimes these changes are incremental. But if the new urbanist principles, if the community and the site works the way it is intended to work, those trips go down. It's walkable, it's bikeable. And, in fact, just as I said, going back to July 2014, when Tripp and Robert first started analyzing and studying this center, it became very clear at that time what the community didn't want. And what the community didn't want is a high traffic generator use. And so that's what they studied. And when we had our community meetings and it was made clear that the community didn't want a vehicle-centered use, again, we grew from that and have a better plan. This is a true new urbanist plan where, based on your trip generation, your ITE, your engineering models, we anticipate will have a vehicle reduction. But there will be proposed trips, but in terms of compared to those other uses, is my point.

Mr. Cronin: Mr. Chairman?

Mr. Firestone: Yes.

Mr. Cronin: I'd like to comment on this idea of right turn only there at the Winslow Road leaving. I'm in this shopping center for at least three different businesses multiple times during the month, given where I live, and two things – if you want to go south on South Main Street down toward Suburban Plaza, if you can't turn left at that and go up to the 7-11 and turn left at that light, you're turning right and going down to Park Place and going up to that light. And secondly, if you want to go across the Apple Road bridge, leaving at that exit, the alternative is to go out on South Main Street and you have to cross over more lanes of busy traffic to get into the left turn lane. And you may take risks you aren't comfortable taking. You'd rather wait for a back-up, peacefully, on a more quiet street, to go left and go across the light at South Main. So I would object to making it right turn only leaving the shopping center there, for those reasons.

Mr. Firestone: Point well taken. Other comments at this point?

Ms. McNatt: I do, Mr. Chairman. I have four topics and I'd like to address all of them or at least get them discussed. However, I know we have 15 minutes, so I can either talk really fast or we can just keep moving. We'll have to get a motion and stop me at some point.

Mr. Firestone: My suggestion is that we take public comment unless people are willing to extend the meeting. I would like to hear from the public tonight, even if we don't vote.

Ms. McNatt: What if my issues address potential, or may bring up issues the public needs to be aware of?

Mr. Firestone: Again, then I would say we should extend the meeting another half-hour. That's all I'm saying.

Ms. McNatt: Okay. I'd like to make a motion, then, so that my concerns get identified, at least, for at least a half-hour.

Mr. Firestone: Is there a second?

Mr. Hurd: Second.

Mr. Stozek: Second.

Mr. Firestone: Any discussion? All those in favor, signify by saying Aye. Opposed, say Nay. The motion carries.

MOTION BY MCNATT, SECONDED BY HURD, THAT THE PLANNING COMMISSION MEETING BE EXTENDED BY 30 MINUTES.

VOTE: 6-1

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK
NAY: MCINTOSH

MOTION PASSED

Mr. Firestone: Proceed.

Ms. McNatt: Okay. My first concern is the parking rationale, and I know one of them is a parking waiver request, the information on the plans, in the document, and the information you presented tonight are three different types of information, and they all are contradictory. So, the information on this slide is different than the information on the plans. So if you compute what's on the plans, it's different than the parking waiver rationale that's requested. So I think that that needs to be clarified and addressed.

Mr. Hoffman: Certainly. And this is my fault on this slide. I, being candid with you, ran a little bit tight on time, so I will mention what this bottom column is in a moment. Commissioner, this is the parking rationale for this site. And so there are 276 spaces that are required. There are 211 spaces that are provided. That leaves a deficit of 65 spaces. However, if you look at the current spaces provided versus the current required, there is an existing legal non-conforming deficit of 38 spaces, which means that the parking waiver is for 27 spaces. So that is the accurate parking analysis. Yes?

Ms. McNatt: Except, the information in the top box is the wrong information because you have two-bedroom units and four . . . hold on . . . two-bed apartment units and 10 four-bedroom apartment units . . .

Mr. Hoffman: Correct. And so what that is, is it says you need two spaces per apartment unit for units less than three bedrooms, and you need three spaces per apartment unit for greater than three bedrooms. So, we need three spaces for ten units, and we need two spaces for two of the units. That factors into, with your commercial uses here, to a total required of 276. The point . . . yes?

Ms. McNatt: But are you sure that the number of 60,000, is that the current square footage?

Mr. Hoffman: That is when we add the . . . so when we demolish the bank building, when we demolish that section of the structure and we add the 10,600 square feet of commercial retail for the first floor, in addition to the remaining, and that also includes the Good Uncle use, all of that together is 60,295 square feet.

Ms. McNatt: Because I come up with 228 parking provided currently, existing required, based upon the information that's on the plan.

Mr. Hoffman: The . . . what I can tell you, Commissioner, and this is also in our parking analysis report that was submitted with it, this is accurate. We have vetted this with Planning. We have double and triple checked these numbers. And I am confident, without seeing what numbers you're looking at, I understand, but the rationale is in the packet on the . . . and I can actually grab the plan . . .

Ms. McNatt: See, the bottom where it says 229. Either way, I think clarification is you're officially requesting 27 spaces . . .

Mr. Hoffman: Correct.

Ms. McNatt: Or are you requesting, now, the 9 in your second table?

Mr. Hoffman: And that was the point, and I apologize. I did run through that very quickly. The only point I'm making here is that the green areas in the plan, which we believe are integral and important for the project, you know, they help make the stormwater management just not meet Code, but better, and they also have landscaping that's provided. Those spaces can account for 18 spaces. Now, the question is, when you have an existing center, a greyfield, and you're transforming it and meeting landscape requirements. The only point that I was making is that if we were to make all spaces all impervious, you could get an additional 18. We're not doing that because of the benefits provided through a plan of this type. And just, Commissioner, just very briefly, the reason that matters is when you get to the math on the fee waiver, which I'm happy to address in a moment.

Mr. Firestone: Just a second. Mary Ellen, can you confirm whether the Department agrees with the calculation of 27 spaces that are required?

Ms. Gray: Yes, that is in our report, as well. Mr. Hoffman is correct. We met repeatedly and discussed this issue, and we are confident, as we indicated on page 6 of our staff report, the

numbers that we have in our staff report, comport with what Mr. Hoffman is representing this evening.

Mr. Firestone: You can proceed, Commissioner McNatt.

Ms. McNatt: Okay, along with this parking . . . the concern of reducing the parking spaces, which I understand walkable-friendly. I think it's a great idea. But I am concerned and I would like to address item 2 on the January 30, 2018 letter from the City that says are you willing to do a shared access agreement between the two parcels . . .

Mr. Hoffman: Yes.

Ms. McNatt: And put that, a note on the plan so that anyone in the parking lots can use any space and not be towed or subjected to restrictions. And the reason I say that is because, as a mom with two young children that will probably be in t-ball across the street, I would like to understand is there a potential that this parking lot could be used for people that want to walk in the area and not be subject to just the restrictions in this parking lot. Because, based upon your analysis, you have ample parking and it can be used at all times of day. So, I think it's important that that shared use is addressed and identified on the plan.

Mr. Hoffman: So, and obviously when we have the now two parcels but they are still an interconnected plan, absolutely we will have a shared use agreement, and it will be noted that there will be cross-easements for parking.

Ms. McNatt: Because, yes . . . it's a concern to me that over here somebody is going to put a I'm going to tow you if you park here, even though you want to go over here.

Mr. Hoffman: Correct.

Ms. McNatt: And I'm concerned about that. Okay, parking. So, the residential units are 44 total units in this structure for the residential?

Mr. Hoffman: There are 12 units with 44 bedrooms.

Ms. McNatt: Forty-four bedrooms.

Mr. Hoffman: Yes.

Ms. McNatt: In this case, are we limiting a bedroom per tenant, or are you, and I know you made the point that you're can't limit student housing but say I, for example, want to stay in District 3 and I want to rent from this location, because I want to enjoy the downtown area, are you attempting to do that, as others have suggested in other areas? Or, no?

Mr. Hoffman: So, the point is, is that if there are young families and young professionals that want to lease up every single unit, certainly we are open to that. We are not restricting to only students and we are not restricting it from students because we can't do either legally.

Ms. McNatt: Thank you. And flooding and drainage.

Mr. Hoffman: Yes?

Ms. McNatt: As you know, this area there's been a lot of discussion about drainage along this corridor and, specifically, I know that the letter dated June 30, 2018 brought those issues up, and it's actually #2 in the Public Works and Water Resources comments. Which, I'm also very concerned because the drainage, which there is potentially a referendum coming forward to address drainage concerns, and I believe that this letter has brought forth those concerns. And I don't believe, at this time, these drainage issues, not just stormwater management associated

with the stormwater facility on the parcel, which will address the stormwater concerns locally, but the downstream drainage problems and the flooding issues. So, I believe it's important that there's a discussion or some documentation that that will get addressed as part of this plan. Because we're enacting the stormwater utility, as well as potential referendums for future drainage problems.

Mr. Hoffman: Sure, and what we have done, and this has also been a conversation with the City and Planning, and our, as I mentioned, our plan meets the state's requirements for stormwater management, drainage management and whatnot. The City, however, was interested in us putting some piping improvements . . . Chris can speak to the specific ones . . . that are above and beyond what are required, and that is what we are doing, by virtue of this plan, to assist with some of those drainage impacts. So, that has been a conversation we've worked with the City to incorporate those improvements to provide that benefit. And, Chris, I don't know if you want to speak specifically to those.

Mr. Christopher Duke: Christopher Duke, Becker Morgan Group. So we met multiple time with Public Works to discuss drainage on the site. Our site does drain toward Apple Road and then down towards Sunset. The City has brought up the fact to us that there are some downstream capacity concerns. As far as stormwater management on our site, we will reduce runoff, we will reduce peak rates to that system. So, this project will make that concern better. The City has come to us and asked that if we were willing to perform a downstream analysis and provide some recommendations on the feasibility of improvements to further satisfy the concerns, that's something that, I think, we're open to, at least, in detailing what that study will be and take that discussion further, as we go.

Ms. McNatt: And if improvements are needed due the capacity problems and knowing flooding issues in this area, how will that . . . this is a question, I guess, to Mary Ellen . . . does that get enumerated in a subdivision agreement, if there are items that need to be addressed?

Ms. Gray: Those details such as this are worked out in the Construction Improvements Plan, and reviewed and approved. And that, the drainage issue, in particular, is reviewed and approved by Public Works. There also could be, if there is a specific item, that could be articulated on a subdivision agreement, as well.

Ms. McNatt: Okay. Well I believe it's important that any flooding concerns, specifically with the City having flooding issues in this area and going, potentially, to a referendum, I think any drainage concerns, when there's a capacity issue, just like any infrastructure, they need to be addressed. And I believe it's very important.

And the last item is working with the residential community, as there is residential houses to the right side. You didn't talk about, and I don't know if it was brought up about lighting or hours or some ways to, and maybe you did with the residents, if there was a concern with that, or not, and was that addressed?

Mr. Hoffman: No, that wasn't a specific discussion. Certainly, the modern technology you can have when it comes to lighting and light posts, you know, there are certainly things you can do to be cognizant. But, again, this is a property owner who wants to be a good neighbor and has made himself accessible and is open to continuing those conversations.

Ms. McNatt: Thank you.

Mr. Firestone: Okay, I'd like to now hear from members of the public, and I'm going to start with Rosie Zappo, who signed up.

Ms. Rosie Zappo: Yeah, hi.

Mr. Firestone: And, just to let you know, everyone who talks will have three minutes.

Ms. Zappo: Gotcha.

Mr. Firestone: Okay. And, if you could, for the record, please identify your name and your district.

Ms. Zappo: Rosie Zappo. My district is right behind the shopping center, so I'm more than familiar with my new neighbor, and I have nothing but nice things to say. I've lived there since I was 12 years old, on and off, and that place was a nightmare. We had rats. We had prostitutes. We had drug dealers. And I'm not Mrs. Kravitz saying, Abner. This was the reality of living in this house, right back there, for years. It was reported, nothing happened. The place had pot-holes and lights were never replaced for sometimes as long as 5-10 years. These guys moved in and we thought, oh boy, what's going to go on here. They came in and the back of this place looks fantastic. They've redone everything they could think of to do back there. It's safe. We no longer have any of those issues. It's well-lit. I mean, if they put in one camera, I don't know how many they put in. Plenty, I think. Thirteen? We have nothing but neighbors, now, who are respectful and responsible. Other people may have a different experience. I can only speak for my own. They're thoughtful. You call them, they pick up the phone and they answer you. You send them an email and say, hey can we do, you know, think about it. Sure, let's take a look at it.

It was about 30 years ago . . . that long . . . that this shopping center started heading south. There used to be an Acme in there and all kinds of stuff. Some of it was great and some of it I miss. But it's clean and it's safe, and I just wanted to make sure that folks who may have a different experience, this has been my reality and my experience for the last four years. So they do what they say they're going to do. They're open to suggestions. They're great neighbors, and probably far more amenable to being a good neighbor than any of the right next door folks that I have. So, thank you. And thank you guys very much.

Mr. Firestone: Thank you very much. Is there anyone else who would like to be heard? Please come up to the podium.

Ms. Georgia Wampler: Georgia Wampler, District 4. Just a quick point, and it kind of goes on the Benny Street thing. If you split this up and so you permit the residential and retail in the one section, I can see down the road where plans change or the property sells, that the next owner with the big part of the shopping center would say well if you let them build apartments, we're right next door and you're not really changing anything. It's the nose under the tent sort of thing. And I just hope you keep that in mind. They have come back with that proposal. That was brought up in one of the meetings that I went to, where they presented. And I can see that they're trying to do a compromise, but I'm concerned, is there a possibility of deed restricting the other part, the larger part, saying that it cannot go to apartments. And that way there is a compromise. I would prefer no apartments, but there would be a compromise, at least, that if you split it, then you can't come back and say, well you let them . . . if you allow apartments on that section, why not apartments here.

Mr. Firestone: Thank you. Would anyone else like to be heard?

Mr. Gene Lara: Gene Lara, District 4. I actually own the house at the corner of Winslow Road and Apple Road, so the proposed building is going to be what I'm facing, looking out my bedroom window as well as my living room window. So there will be some relative impact. But I appreciate what you had raised, Commissioner Firestone, about the traffic coming off of Winslow. I mean, there's no doubt that it backs up and any increase in the amount of traffic, and one might say the walkability or the bikeability, you know, there isn't going to be an increase in regards to that traffic, but it's a concern.

The Louviers has an exit onto Apple Road and it's illegal to make a left-hand turn out of the Louviers, and that's violated all the time. So, you know, people are only supposed to turn right out of the Louviers toward the bridge on Apple Road, so I don't even know what a forced right

turn, whether that would be adhered to or not. I would just also echo that I know there was talk about pivot, and you can't pivot the building, but it just seems to me, inherently, when you talk about changing, and I can't remember if it's BB or BC, but when you talk about changing the zoning so that that portion of the shopping center is more in line with the business district on South Main Street, it seems to me that it's only logical that the building would be parallel to the street and not perpendicular, as it is. And I, personally, would say that if there are existing tenants who are protected by leases for them to have a sight line, you know, I mean, everything changes. That's what you've talked about all night long, is comprehensive is one thing but things evolve, as well. And, personally, I just think that the existing tenants should welcome the additional business that would come in from the, you know, the additional commercial use property. So I think they ought to be approached about making a concession on having the building face the way it ought to, to have it be congruent with the look and feel of South Main Street. So I just, you know, really am concerned about the impact it's going to have to the neighborhood. And I appreciate the opportunity for everybody to share their ideas about it. But I also do appreciate that the owners or principals have made an effort to accommodate and respond to what the residents are asking for. But I still think that, you know, if it the property is on Apple Road, let's say it's on Apple Road. If the property is being zoned to be whatever it's supposed to be on South Main Street, let's call that what it is, too.

Mr. Firestone: Thank you. I just wanted to note for the record, too, that we did get a . . . I received from William Wersinger some written comments which were then shared with the Planning Department and then became part of the record and were shared with all the Commissioners.

Mr. Lara: Thank you.

Mr. Firestone: Would anyone else like to make a comment? Mrs. White?

Ms. White: Jean White, District 1. When I look at the building that is there now with all the shops, the Rite Aid and everything, some are lower and some are higher, but I think you would call it a two-story building. And I think for balance, the building that's going to be built where the bank building is now should be two stories, as well. In addition, I feel there should be no apartments in it. I feel very strongly about that, and you can put on the second story, if you want, offices. I can think of many different uses those offices can have. They're not going to bring in the rent you can get with \$500 per bedroom, or even \$700 per bedroom, I've heard, in other places in town. But that would be a better use. And furthermore, you wouldn't have to rezone it. Because a two-story building where the building is now that would be replaced, plus offices on the second floor, that can be done under BC, and you would not need a rezoning on that portion of it.

So, speaking of who are going to be in the buildings. There are 12 apartments and I think it would be good to limit the number of renters per apartment. And if one did that, there would be 44 students, if they're students, and presumably they will be, in 12 apartments. And, furthermore, these can have 33 parking spaces. It was referred to, I believe, by Mr. Hoffman that you're going to have stickers for cars. Did I hear that or did I not hear that? Okay. And I was wondering where those 33 cars are going to be parked. Whether there's a certain section of the lot they will be parked? Will be on that rezoned area or someplace else? And, furthermore, not along the new building, where there's going to be a café and other projects, because that, of course, would get in the way of customers that were coming. Furthermore, one has to remember that not only would there be, and I'm just going to say they're 44 students, because we're presuming that they would be all or mostly students, and they will have friends who come. And some of these friends will walk and many of them will also come with cars. If they come at night, after the shopping center is closed, that won't be much of an effect, but if they come during the day, those additional visitors, whether they're just picking somebody up or whether there are all sorts of reasons you can think of, will be impacting the customers that are coming to the stores. And I do not feel it's a good mix of putting students in

this relatively small, less than 5 acres of [inaudible]. We have lots of mixed use up and down South Main Street, and we don't need this.

Finally, something about Good Uncle. I saw on the plan that there was this part around the back, so on Sunday I walked around and realized that it was called Good Uncle. And nobody is going to use those parking places except the Good Uncle business. And so I feel they shouldn't be part of the, they're not part of the parking places that the customers in the stores can use. Thank you.

Mr. Firestone: Thank you. Is there anyone else who would like to be heard? Yes?

Mr. William Wersinger: William Wersinger, District 4. Commissioners, thank you very much for your time tonight, but I just wanted to point out something architectural from the drawings shown. On the Apple Road side, you will see that the developers want to put signage facing our house. We currently look out our living room window and look at a big liquor sign in red that's like four feet tall and 20 feet long, that shines into our house. But the point is, they want to put additional signage that's lighted facing our home. Who is going to see that coming down South Main Street? You have the Louviers building right on the corner there, and our house, the way it was built, was actually 11 feet away from the Louviers lot, because our house was actually commercial. Our property actually belonged to the Park N Shop. It was bought by Michael Douglas in 1973. Our house was originally located right where the Louviers building is at. It was picked up and it was moved. Our house was a beauty salon and, during that time, City Council said you can make it commercial, but once it's sold, it will be deemed residential. That's why you have, if you look at the other aerial view, the City of Newark planted all those white pine trees that run along the part all the way through our property to separate the business district from the residential district. But, as Mr. Lara had pointed out, they now want to put a building running down Apple Road. What's next? The BP station is going to be developed? Those apartments are going to be ripped down? They're just going to keep moving into Old Newark and, basically, we're losing our neighborhood.

Also, I have multiple videos of students who are almost hit by cars who are trying to walk from Winslow through the Park N Shop to get to the Rittenhouse apartments which, call me and I'll be happy to send them. I've already provided them to my councilman and also to Code Enforcement. So I just wanted to make you aware.

Mr. Firestone: Thank you. Can you please address the question of signage on Apple Road?

Mr. Hoffman: Certainly, and I was keeping a list, Commissioner. I'm happy to address the others, as well. Specifically, on the signage question, we'd be happy to work with the property owner in terms of the location of that signage.

Mr. Firestone: Can you address specifically what's in the plan versus that you'd be happy to work with him. What does it say right now?

Mr. Hoffman: Sure, so on the plan right now they have wall signs. The sign code allows wall signs and on the rendering . . . Commissioner, I can actually pull one of these. See if you can see a little bit of coffee right there. Those are wall signs, and then you can see in the background, some wall signs. But as far as size, backlighting and the specifics on those wall signs, we're happy to work with the community.

Mr. Firestone: Are you happy to put certain restrictions on your approval?

Mr. Hoffman: Robert, do you want to address that?

Mr. Wittig: I think without fully vetting the question and going through the different iterations that may arise from that conversation, in other words, different options, I'm hesitant to restrict anything now. But what I will tell you is we'll be very, very open to conversations with the

neighbors as it relates to the signs. There are certain ways we can uplight them, downlight them, backlight them. Maybe not even illuminate some of those signs. I think that's a conversation we're absolutely open to having. We have a lot of retail space throughout the entire region, so we can certainly be open to the concerns of that neighbor.

Mr. Stozek: I . . .

Mr. Firestone: Just a second. Is there anyone else from the public who would like to be heard? Commissioner Stozek?

Mr. Stozek: Okay, I'd like to go back to the parking for a minute. I'm unclear as to what's going to happen.

Mr. Hoffman: Sure.

Mr. Stozek: You talked about having parking stickers and some other ways of controlling people from parking that are not supposed to be there. And I understand probably at night it's not going to be most of the problem but, in any case, you know, I realize it's not the owners' problem to deal with this, but that lot, for a long time, has kind of been used as an overflow municipal lot. I mean, there are times that I've come to this meeting or to City Council meetings, especially in the summer when little league games are going on, there is no parking available in the municipal lot, and I've parked in the lot in front of the Rite Aid, close to South Main. If those kinds of situations happen, are you going to be towing cars?

Mr. Wittig: Commissioner, obviously we wouldn't. One of the luxuries we enjoy is that our office is only about seven minutes away from this location, and not only is it close, we have 24-hour staff, property management staff. Not only that, we have some very vigilant tenants who keep an eye on things. I'm quite sure that we can put in place the necessary measures to make sure that the students have the appropriate place to park and that we can manage the parking for our retail tenants. Again, we do this all across the east coast. We're very good at it. The last thing we want to do is inhibit business or distress the neighbors, who are our potential customers for our tenants. We'll see to it that we designate the appropriate parking spaces for the tenants and that we monitor the parking. The parking lot, as it relates to the City Hall and to the residents, is always open to their use, being handled in the appropriate manner.

Mr. Stozek: Okay.

Mr. Wittig: The point being, we often open it up. As long as have the right assurances, we allow people to use it, or make sure that people don't.

Mr. Stozek: And I realize that, you know, I'm still concerned about the deficit in the number of parking spaces. But I realize that, you know, that deficit isn't a 24-hour a day, 7-day a week issue. I'm not sure when it's an issue, but I think there are times. There was one page in your handout where you talked about other locations that people can park if your lot is filled up. At one point you referred to them as municipal locations. I'm not sure what . . . and in this map that you supplied, one of them is the lot behind the municipal parking lot, which, if your lot is filled up, I would be guessing, especially during the day, the municipal lot is going to be filled up. Other lots you've identified are other retail locations, like the 7-11 and behind Rittenhouse, and such. So I'm not sure what the purpose of this map was.

Mr. Hoffman: Certainly, Commissioner. And the purpose of that, really, was to show, so part of the parking waiver analysis is parking within 500 feet. You're absolutely right. At the end of the day, the question is, well is that available parking within 500 feet? The purpose of this map is to show the parking options within the 500-foot radius that the Code wants us to show. And that was, really, the point of the map.

Mr. Stozek: Okay, so you're not implying if your lot is filled, people can use those spots. Because those are private property, as well.

Mr. Hoffman: Correct. Our point here is that . . . and that's where the ratios matters . . . so on the commercial, the need for this site generates the need of 1.7 spaces per 1,000. We're providing 2.9 spaces per 1,000. So there's plenty of parking to address the need.

Mr. Hurd: I'll add that I think that the applicant maybe misunderstood the section on the parking waiver, because the language says the availability of nearby adjacent public parking facilities that may be shared by the applicant and an existing or proposed use. So, I don't think any of those fall into that category. And it was . . . so it was confusing to sort of say here's all this parking that has no bearing whatsoever on the project and, you know, doesn't have anything to do with available shared parking. Unless you're saying we're entering into agreements with Rittenhouse or something.

Mr. Hoffman: Commissioner, it's a point well taken. Thank you.

Mr. Silverman: I have a question with respect to parking also. And I'll address this to the Director as well as the applicant. You divided the parcel, the original parcel, into two parcels.

Mr. Hoffman: Yes, sir.

Mr. Silverman: With respect to the original shopping center, you show a parking lot design with landscaping that, I believe, in your discussion you said eliminated 18 existing, currently striped parking spaces, plus or minus. Were you required by the City to put in that landscaping, or by virtue of it being a non-conforming lot and you're not improving that lot, could you have simply left that lot painted and gained an additional 18 spaces, and only concentrated on the portion of the lot created with the new use?

Mr. Hoffman: Commissioner, you hit the nail on the head. And that is a gray area, candidly, within the Code. We have a non-conforming use, so a non-conforming situation is legal as-is. We can improve it, but we can't make it worse. What we also have is, we have a structure that's being proposed which is a new structure and there are landscaping requirements under the City's Code. So you're blending the two concepts to get to what does the Code require versus what does it not require? Where we land on that point is that we are adding landscape beyond what the Code requires. And so you are . . . in that 18-space, it does become relevant. The only reason that I had mentioned it here is I'm not making the point that, you know, we could provide 18 spaces and we're not because of landscaping, because you do get into this gray area. The point that I raised that I raised that for is simply on the fee calculation. The Code has a max fee waiver, or fee in lieu, calculation of \$100,000. If you took out those 18 spaces, you're at \$21,000. Our sole point is we know it's someplace in between, and so we are requesting a fee in lieu of \$40,000. So we're not saying it's down to the \$21,000, but we are seeking and requesting some relief for the additional stormwater management and that fact of impervious coverage.

Mr. Silverman: I'm puzzled why you even have to deal with your original parcel. From a City point of view and from a Planning point of view, and sitting here as a Commissioner, it's a separate fee-simple parcel. You're not required to do any of the things that you're proposing on that. You're losing 18 parking spaces. And the only question I would have had, had no action been required on your original non-conforming parcel, would be are you willing to do a cross-access agreement with the new site and the old site?

Mr. Hoffman: And, Commissioner, you are absolutely correct. This is the parcel that is being rezoned. This is the parcel that's being developed. However, here's the pivotal point, this applicant is sincere in terms of wanting to have a property and a project that embraces those new urbanist principles, so we are proposing those additional improvements to have the community amenity. And, so, if we just developed within the one lot that's proposed for

rezoning, then the rest of the center doesn't have those additional elements. So we are doing that as a holistic view to the development.

Mr. Silverman: So that should be rolled into our parking waiver thinking?

Mr. Hoffman: That's our request. Yes, sir.

Ms. McNatt: Can I . . . I'd like to understand what Ms. White brought up. Just the rationale and the studies that were done to do the two-story apartments above the commercial uses, and why not just stick with the current zoning and do the commercial with maybe offices above? I'd like to understand that.

Mr. Hoffman: Certainly, Commissioner, and it is a great question, and I'll point out a couple of things. First of all, as Ms. White mentioned, she had suggested office uses. But as this Commission well knows, an office use is going to have peak traffic. It's going to have additional traffic demands that this particular mixed-use and the new urbanist principles don't. And, so, at the end of the day, you're looking at a balance and you're trying to balance the issues. At the end of the day, mixed-use, one of the key . . . and the literature is out there, and this is why we had mentioned it . . . the residential aspect, having pedestrians and people onsite creates that energy, creates that excitement and provides those benefits that simply would not have the same impact on traffic as a pure office. On the size of the building, again, this Louviers Bank here, it fits in . . . it's a little bit difficult here to see . . . but it fits in, it's in to scale, I think the Louviers Bank is 35 feet, and this building is 35 feet. Rittenhouse Station is 35 feet. So it is in line with the buildings in the surrounding area.

Mr. Firestone: I've got a question about parking spots for the residents. If I'm a resident and I have three spots attached to my apartment, am I able to sublease those?

Mr. Hoffman: And so what the plan is, is to have stickers to meet the Code requirement. And the intent, again, is to make sure that we have the spaces for the residential uses on here. We have not gotten into the specifics, Commissioner, in terms of how that works. I suspect we can put something in the lease that addresses, you know, that it is for the tenant and the resident. But we have not had that specific conversation.

Mr. Firestone: Thank you.

Mr. Hoffman: Commissioner, my apology, just one thing to point out very briefly, to Mr. Stozek's point, there was a point made earlier, I used to represent municipalities. It's a pet peeve of mine the me-too argument. It is not a legal argument, and so I appreciate the point that was made in terms of the uses and is it the camel's nose. But the fact of the matter is, is you are going to come in for a rezoning and a special use permit, you have to make an independent case. And that is well settled under the law.

Mr. Firestone: Any other comments or questions from the Commissioners? The Chair would entertain a motion regarding . . . we've got five different things, so let's start with the Comprehensive Development Plan.

Mr. Hurd: Sure. I move that we recommend that City Council revise the Comprehensive Development Plan V land use guidelines for the new 1.13 acre BB zoned parcel . . . that's BC zoned parcel, right? Correct. So it's a BC zoned parcel at 275 South Main Street from commercial to mixed urban, as shown on the attached Exhibit E-1 dated January 30, 2018.

Mr. Silverman: Second.

Mr. Firestone: Any discussion?

Ms. McNatt: I do have a question because the letter dated January 30, 2018 questioned the acreages and making sure it was shown as 1.09, but it's 1.13. I just want to ask the Department, is it correctly 1.13 acres versus the 1.09?

Ms. Gray: It is 1.09 acres.

Mr. Hurd: Okay.

Ms. McNatt: Well then it's 1.09 acres? Is that what you just said? I'm sorry.

Ms. Gray: Yes.

Mr. Hurd: I will revise my motion to indicate 1.09 acres for the property.

Mr. Firestone: I really have just one comment is that this is, I think, a large improvement over the Wawa, and I want to thank the developer for working with the neighbors. As much as I would have maybe not minded a drive-thru for Starbucks or something else, a bunch of my other neighbors felt otherwise, and so I want to thank them for working with the neighbors. And I think, as well, the final plan of bifurcating the site and only getting the development approval on the smaller parcel. So I think all of those and, as well, the developer's commitment to trying to be innovative in working with the neighborhood, and some positive comments, as well, from the neighborhood, and hopefully will work with our neighbors across the street, and thank you, as well, for your openness to making this a sustainable site, and to seriously look at solar and a couple of electric vehicle charging stations, and really putting your imprint so that people talk about your center and it becomes a sort of model for the rest of the City. Thank you.

Mr. Silverman: With respect to the Comprehensive Plan, I think the applicant did an excellent job of pulling out the pertinent parts of the Comprehensive Plan as adopted, and showing how the proposed project meets virtually all those tenets.

Mr. Hurd: I concur.

Mr. McIntosh: I concur.

Ms. McNatt: I, as well.

Mr. Firestone: All in favor of recommending to City Council that they revise the Comprehensive Development Plan for the 1.09 acres, signify by saying Aye. Opposed, say Nay. Motion passes.

MOTION BY HURD, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL REVISE THE COMPREHENSIVE DEVELOPMENT PLAN V LAND USE GUIDELINES FOR THE NEW 1.09 ACRE BB ZONED PARCEL AT 275 SOUTH MAIN STREET FROM "COMMERCIAL" TO "MIXED URBAN" AS SHOWN ON PLANNING AND DEVELOPMENT EXHIBIT E-1 DATED JANUARY 30, 2018.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

Mr. Firestone: Chair would entertain a motion to extend for like ten minutes, ten more minutes while we get through this . . .

Mr. Hurd: I think ten minutes to get this done.

Mr. Stozek: So moved.

Ms. McNatt: I second that.

Mr. Firestone: All in favor, signify by saying Aye. All opposed, say Nay.

Mr. McIntosh: I have to be consistent.

Mr. Firestone: The motion passes.

MOTION BY STOZEK, SECONDED BY MCNATT, THAT THE PLANNING COMMISSION MEETING BE EXTENDED BY 10 MINUTES.

VOTE: 6-1

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: MCINTOSH

MOTION PASSED

Mr. Firestone: Go ahead.

Mr. Hurd: I move further that we support the revised Comprehensive Development Plan by recommending that City Council approve the rezoning of the new northern 1.09 acre parcel created at 275 South Main Street from BC to BB, as shown on the Becker Morgan plan dated January 15, 2018, with the Subdivision Advisory Committee conditions.

Mr. Firestone: Is there a second?

Mr. Cronin: Second.

Mr. Firestone: Any discussion?

Mr. Silverman: I believe the proposed rezoning is consistent with the new development that's occurring along South Main Street. The mass of the structure, the design of the structure, it complements the redevelopment of South Main Street.

Mr. Hurd: I concur.

Mr. Firestone: I concur.

Ms. McNatt: I concur.

Mr. Firestone: All those in favor of approving the rezoning, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY HURD, SECONDED BY CRONIN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE REZONING OF THE NEW NORTHERN 1.09 ACRE PARCEL CREATED AT 275 SOUTH MAIN STREET FROM BC TO BB, AS SHOWN ON THE BECKER MORGAN PLAN DATED JANUARY 15, 2018, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

Mr. Firestone: The next item is related to the major subdivision. Is there a motion?

Ms. McNatt: Yes. I'll make a motion to recommend that City Council approve the 275 South Main Street major subdivision as shown on the Becker Morgan plan dated September 15, 2017, revised and resubmitted to the Planning and Development Department on January 16, 2018, with the Subdivision Advisory Committee conditions.

Mr. Hurd: Second.

Mr. Cronin: Second.

Mr. Firestone: Any discussion?

Ms. McNatt: I do have discussion.

Mr. Firestone: Yes?

Ms. McNatt: I would like to know or make sure or understand, was the owner/applicant acceptable to addressing the downstream drainage concerns on the plan with the City? The flooding, and addressing those issues and putting them on the plan?

Mr. Hoffman: I'm sorry, Commissioner. Yes. I believe that the City comment is requesting that we work with them on the conversation and the study. I don't believe there was any obligation. Certainly, until, unless there's a study and we know what it means, we can't commit to specific improvements. But what we are committing to are the improvements that we have submitted that go above and beyond the Code to reduce the impact and that will improve the drainage situation.

Ms. McNatt: But you're committing to . . .

Mr. Firestone: What about further analyzing the downstream storm sewer and provide recommendations and feasibility of improvement?

Mr. Hoffman: Yes. So, as far as analyzing and providing recommendations, yes, sir.

Ms. McNatt: So you're committing to doing that?

Mr. Hoffman: Yes.

Ms. McNatt: And do you know when that study is going to be done? Or that analysis is going to be done? Do you have any timeline in your head?

Mr. Duke: We need to work out the details with Public Works on what the study entails, you know, [inaudible].

Mr. Hoffman: And that was Chris Duke, for the record.

Ms. McNatt: That was my only . . . that's my concern.

Mr. Hurd: I would like to propose an amendment to this motion to restrict the Apple Road entrance to a right-turn in and right-turn out only.

Mr. Firestone: Is there a second?

Mr. Hurd: Okay.

Mr. McIntosh: Bob [Cronin] made a good argument.

Mr. Firestone: Okay, any other discussion on the motion? All those in favor of approving the major subdivision, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY MCNATT, SECONDED BY HURD THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE 275 SOUTH MAIN STREET MAJOR SUBDIVISION AS SHOWN ON THE BECKER MORGAN PLAN DATED SEPTEMBER 15, 2017, REVISED AND RESUBMITTED TO THE PLANNING AND DEVELOPMENT DEPARTMENT ON JANUARY 16, 2018, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK

NAY: NONE

MOTION PASSED

Mr. Firestone: That gets us to D, which is for a special use permit for mixed use apartments, etc. The Chair would entertain a motion.

Ms. McNatt: Want me to read fast again? I recommend that City Council approve the 275 South Main Street special use permit for mixed use apartments at the density requested, as shown on the Becker Morgan plan dated September 15, 2017, revised and resubmitted to the Planning and Development Department on January 16, 2018, with the Subdivision Advisory Committee conditions.

Mr. Firestone: Is there a second?

Mr. Silverman: Second.

Mr. Hurd: Second.

Mr. McIntosh: Second.

Mr. Firestone: Any discussion?

Mr. Hurd: Do those recommendations follow sort of the trend of the limitation, the deed restrictions of one resident per bedroom? Is that part of this conversation? I know it's part of the conversation. I don't know if we had a solution. Because the Benny Street, that was part of the conditions, on part of the recommendation from the City. I didn't see that in this report.

Ms. Gray: That recommendation was not articulated in any of the SAC reports.

Mr. Hurd: Okay.

Mr. Firestone: But you could move to amend the motion.

Mr. Hurd: Sure, let's throw it out there. I move that we amend the motion to include the requirement to have one resident per bedroom. Or deed restriction of one resident per bedroom. Is that correct?

Mr. Firestone: How about for the four-bedroom apartments?

Mr. Hurd: Oh, for the four-bedroom apartments, yes. Okay.

Mr. Cronin: Mr. Chairman?

Mr. Firestone: Yes?

Mr. Cronin: Suppose a family were to rent one of these apartments and you want to put two brothers in the same apartment. Maybe one adult per bedroom, but let the family decide.

Mr. Hurd: Can we amend that to add unrelated tenants? Because that's usually what we run into, is four unrelated tenants maximum? How do we usually phrase this?

Mr. Cronin: Who is going to inspect that anyhow?

Ms. McNatt: They can't enforce it anyway.

Mr. Hurd: We've never gotten into that question.

Mr. Cronin: Well, then let's let it go.

Mr. McIntosh: And let's not get into it now.

Mr. Firestone: Is there anything that prohibits us from putting a limitation on the four-bedroom units to limit it to one person per bedroom that are not related?

Mr. Bilodeau: You're, basically, a couple, I mean, talking about a couple that's living together? They can't share a bedroom?

Mr. Silverman: Not related by blood or marriage.

Mr. McIntosh: Or common law.

Mr. Hurd: I withdraw it.

Mr. McIntosh: Thank you.

Mr. Firestone: All those in favor of the motion, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY MCNATT, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE 275 SOUTH MAIN STREET SPECIAL USE PERMIT FOR MIXED USED APARTMENTS AT THE DENSITY REQUESTED, AS SHOWN ON THE BECKER MORGAN PLAN DATED SEPTEMBER 15, 2017, REVISED AND RESUBMITTED TO THE PLANNING AND DEVELOPMENT DEPARTMENT ON JANUARY 16, 2018, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK
NAY: NONE

MOTION PASSED

Mr. Firestone: That gets us to the last item, which is the 27-space parking waiver. It's not quite just the way it's written. We have to recommend a dollar amount, if I'm correct. So the figure is somewhere between \$20,000 and \$100,000.

Mr. Hurd: I move that we approve the 27-space parking waiver for 275 South Main Street and the fee in lieu of payment as calculated by the City of \$100,329.

Mr. Silverman: Second.

Mr. Firestone: Any discussion?

Mr. McIntosh: Yes, and I hate to do this, but did you not say something about \$40,000. How did we get a \$60,000 difference here?

Mr. Hoffman: Commissioner, I'm happy to address that. Yes, our request is for a \$40,000 fee in lieu. The Code has a code maximum and there are different tiers based on the number of spaces that is calculated. In the City's letter, they go through the various tiers to get to that \$100,000. The Commission does have the ability, however, because it says up to a percentage, the Commission does have the legal ability to recommend a reduced fee in lieu. We are requesting a \$40,000 fee in lieu instead of the \$100,000 in recognition of the additional stormwater management improvements we're making, in recognition of the additional landscaping improvements we're making, and in recognition of the, at the end of the day, and the parking that we actually are providing onsite. In other words, the purpose of the fee in lieu is to go towards constructing additional spaces, and our analysis shows that there is more than ample parking onsite.

Mr. Firestone: Commissioner Hurd?

Mr. Silverman: Do you want to amend?

Mr. Hurd: No, I'm keeping it. I don't see where in your application you're requesting the \$40,000 fee in lieu.

Mr. Hoffman: And, Commissioner, the formal, to be candid, the impetus of the conversation, my understanding is that this body was to decide the numbers. And then the question going forward was what that fee is, when you're taking into account those other factors. It was brought to my attention that this is something this body is doing here tonight, which is why we're making a night-of request. Legally, it's still permissible, but that's the explanation, to be candid.

Mr. Hurd: Okay.

Mr. Silverman: We have never done that in the past.

Mr. McIntosh: Yeah.

Mr. Silverman: We've just said to-be-calculated.

Mr. McIntosh: I have never, you know, in 3+ years, seen us vote a dollar amount on a parking waiver, to my knowledge.

Ms. Gray: If I could. I talked with legal counsel, and I thought it would be helpful to have an articulation since there was a difference in that, in the past, it's my understanding, that the calculation has always been what the staff has recommended. The staff has a recommended amount. The applicant has another recommended amount. So I think it will be helpful to articulate what that amount is.

Mr. Firestone: What was the staff recommended amount?

Ms. Gray: \$100,329.

Mr. Silverman: Are we still on discussion?

Mr. Firestone: Yes.

Mr. Silverman: I'm going to join Mr. Cronin's camp. I think there's an issue of fairness here. The applicant could have simply ignored giving up 18 parking spaces, the waiver would have been nine, and whatever the dollar calculation is, would have been substantially less than the dollar amount suggested here. And I believe that the stormwater is iffy, but the additional landscaping, I believe, has value.

Mr. Firestone: I'm going to support the \$100,000, with my view that this is an issue that City Council can resolve.

Mr. Stozek: Yeah.

Mr. Firestone: It's that dollar amount. If they want to provide a waiver, they have to give appropriate [inaudible].

Mr. Silverman: And that is a recommendation from us, not the requirement, correct? No, no. We issue parking waivers. We're the legal authority for parking waivers.

Mr. Firestone: But they still have the ability to . . .

Mr. Silverman: Council.

Mr. Firestone: Countermand us.

Mr. Silverman: Do they?

Mr. Bilodeau: That's a good question. I would assume that they'd be having oversight over everything that you're recommending tonight, but I could stand corrected about parking waivers.

Mr. Silverman: This is a judicial action on our behalf. The one we do have.

Mr. Hoffman: Commissioner, I apologize, if I may, and with respect to Council. This is the body that determines the parking waiver and questions related to the parking waiver. If there is an objection, then that objection is heard at Council. However, this is a determination for this body.

Mr. Firestone: Right. Well, obviously, if Council objects and wants to do otherwise, then City Council . . .

Mr. Stozek: Yeah, I would just say there's been numerous discussions at Council about the in lieu of number over the years. And I think the general feeling was what had been charged in the past was way too low. I don't know, and I haven't been at every meeting, so I don't know if they've ever come up with a dollar number per space and how this \$100,000 came about but, again, I know that the number that's been charged typically in the past has been judged way too low.

Mr. Silverman: Okay, to move this forward, I will support the motion as it stands, but I believe there's ample discussion on the record for Council to continue as to the other value that has been added by the applicant which may impact this parking fee.

Mr. McIntosh: I have a real issue with all of this that's going on. One, that this is a surprise to me, that we are setting this dollar amount. But, beyond that, I don't know what your cost for landscaping is, or sewer or any of that stuff. The fact that you're doing it, I think is great. The

fact that you are trying to build something that so far, as far as I can see, South Main Street has not embraced, but you are trying to build something that will attract people. I mean the City of Wilmington has struggled with this in the riverfront. They went from that 10-screen movie theater debacle that Dr. J wanted to build there to something that's starting to approach something of value. And it has value because people are there, finally. So, you're doing what everybody is asking for them to do. People want trees and you're giving them trees. You don't want cars, we're going to give you cars. We're not going to give you cars, we'll take care of the cars. If this were 9:00 p.m., I'd speak easier. But my point is that you're doing things, or this proposal is doing things that we, as a community, have said is important to this community. And, so, I applaud what you're doing and I think we should be setting an example of how we feel about that. That we want more of this. And, I don't know, \$100,000 sounds like a lot of money to me for a few parking spaces. But, you know, maybe \$40,000. How about \$60,000, or something? I don't know, right, because I wasn't ready for this. I'm just really [inaudible] that we are discussing this at 10:40 p.m. when no one has ever brought this up before to us as a . . . not a good idea.

Mr. Stozek: I would say we're not trying . . . I don't think we're trying to come up with a number. Calculate a number. We're just saying yay or nay to the number that's in the document that has come to us from the Planning Department or from whoever it came from.

Mr. Silverman: Agreed.

Mr. Hurd: And I'll just add for sort of Council's consideration, I could see a negotiation saying this is the parking fee in lieu of, and it could be offset by landscaping improvements, by the work done for the bike lane, for stuff done to reduce the parking needs, could be a way to negotiate with Council, possibly, a lower fee. But I don't think we have the . . . we don't have the information here to make that determination. I think we can work within the framework as it is to say this is the current dollar amount for a parking in lieu of space, and this is how it's calculated.

Ms. McNatt: I support the \$100,000, as proposed. I understand the calculation that was provided in our package, and I support the City's recommendation.

Mr. Silverman: Call the question.

Mr. Firestone: All those in favor of approving the 27-space parking waiver for 275 South Main Street along with the approximately \$100,000 fee, signify by saying Aye. Opposed, say Nay.

Mr. McIntosh: Can I abstain?

Mr. Firestone: No.

Mr. Stozek: No.

Mr. Silverman: No.

Mr. Firestone: You have to vote yes or no.

Mr. McIntosh: No.

MOTION BY HURD, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL APPROVE THE 27-SPACE PARKING WAIVER FOR 275 SOUTH MAIN STREET, WITH THE PARKING WAIVER FEE IN LIEU OF SPACES PAYMENT IN THE AMOUNT OF \$100,329.

VOTE: 6-1

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK
NAY: MCINTOSH

MOTION PASSED

Mr. Firestone: Chair would entertain a motion to adjourn.

Mr. Hurd: Move to adjourn.

Ms. McNatt: Second.

Mr. Firestone: All those in favor of adjourning, please signify by saying Aye. Opposed, say Nay.
We stand adjourned.

MOTION BY HURD, SECONDED BY MCNATT THAT THE PLANNING COMMISSION MEETING BE
ADJOURNED.

VOTE: 7-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, MCNATT, SILVERMAN, STOZEK
NAY: NONE

MOTION PASSED

[Secretary's Note: The Planning Commission meeting adjourned prior to discussion of agenda
items 7, 8, 9, and 10, listed below.]

- 7. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE TO ALLOW
MINOR STRUCTURES AND GRADING IN THE SPECIAL FLOOD HAZARD AREA BE
APPROVED ADMINISTRATIVELY WITHOUT A SPECIAL USE PERMIT.**
- 8. QUARTERLY REPORT ON PLANNING COMMISSION 2018 WORK PLAN.**
- 9. PARKING SUBCOMMITTEE UPDATE.**
- 10. NEW BUSINESS AND INFORMATIONAL ITEMS.**

The Planning Commission meeting adjourned at 10:45 p.m.

Respectfully submitted,



Willard F. Hurd
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

- Exhibit A: [DNP Design Committee Project Review Report \(30 Benny Street\)](#)
Exhibit B: [Applicant Presentation \(30 Benny Street\)](#)
Exhibit C: [Planning and Development Department Report \(30 Benny Street\)](#)
Exhibit D: [Applicant Presentation \(275 South Main Street\)](#)
Exhibit E: [Planning and Development Department Report \(275 South Main Street\)](#)