

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

July 30, 2019

7:00 p.m.

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

Chairman: Alan Silverman

Commissioners Present: Bob Cronin
Will Hurd
Karl Kadar
Stacy McNatt
Bob Stozek
Tom Wampler

Commissioners Absent: None

Staff Present: Mary Ellen Gray, Planning and Development Director
Mike Fortner, Planner II
Paul Bilodeau, City Solicitor
Stephanie Petersen, Code Enforcement Manager
Angela Conrad, Administrative Assistant

Mr. Alan Silverman called the Planning Commission meeting to order at 7:02 p.m.

1. CHAIR'S REMARKS.

Mr. Silverman: The Chair would like to call to order the City of Newark, Delaware Planning Commission meeting for Tuesday, July 30, 2019. Item 1 on our agenda tonight, Chair's Remarks. We will be hearing two applicants tonight and then we'll take a very short recess and then the Commission will break into a work group with chairs and tables in the area where you are now sitting, and we will reassemble and continue with the Work Plan item on our agenda.

2. THE MINUTES OF THE JUNE 4, 2019 PLANNING COMMISSION MEETING.

Mr. Silverman: Moving on to approval of the minutes for June 4, 2019 Planning Commission meeting. There has been one correction submitted by the Planning Commission. The minutes has been posted online and to our knowledge we have not received any comments from the public. Therefore, if there are no objections, the minutes for June 4 stand approved.

THE MINUTES OF THE JUNE 4, 2019 PLANNING COMMISSION MEETING ARE APPROVED.

3. REVIEW AND CONSIDERATION OF A MINOR SUBDIVISION AT 18 NORTH STREET (PROJECT #18-06-03) TO DEMOLISH THE EXISTING 1-STORY APARTMENT BUILDING AT THE SITE AND CONSTRUCT FOUR 3-STORY TOWNHOUSE-STYLE APARTMENTS SIMILAR TO THE EXISTING UNITS AT THE REAR OF THE PROPERTY.

Mr. Silverman: Moving on to Item 3 on our agenda, Madam Director, would you like to introduce that?

Ms. Gray: Yes. Before we do that, do we want to introduce our new Planning Commissioner?

Mr. Silverman: Yes, thank you very much for reminding me. We have a new Planning Commissioner with us tonight. His name is Karl Kadar and he is representing Council District 6.

Mr. Karl Kadar: Good evening.

Ms. Stacy McNatt: Welcome, Karl.

Mr. Will Hurd: Welcome.

Mr. Silverman: Welcome.

Ms. Gray: Thank you for serving.

Mr. Kadar: I look forward to it.

Ms. Gray: Thank you. Speaking of introductions, I'd also like to introduce our sub for Michelle Vispi, our Administrative Assistant for Code Enforcement has graciously accepted the role of sitting in for Michelle Vispi, Angie Conrad. Thank you, Angie. And I'd like to also introduce, as I mentioned at our last meeting that we were successful in hiring a new Code Enforcement Manager, Stephanie Petersen, who is also with us this evening, as well. Stephanie is to Angie's left. So, thank you, Stephanie, and thank you for agreeing to come on board to be our Code Enforcement Manager. We are very lucky to have you.

Ms. Stephanie Peterson: Thank you.

Ms. Gray: Now, on to the agenda item for review and consideration of a minor subdivision for 18 North Street, Project #18-06-03.

[Secretary's Note: A link to the Planning and Development Department report on the minor subdivision at 18 North Street can be found at the end of this document.]

Ms. Gray: This is for a minor subdivision for a little over one acre of property located at 18 North Street. The applicant is requesting approval of a plan to demolish the existing four apartment units and replace them with four new townhouse apartment units. The property is zoned RM and, as I said, they are looking to replace what's there, so the density is not changing. The applicant previously acquired four variances for this project and those variances are described on page 3 of the staff report. Those variances are for, let's see, building setback lines from the street and from exterior lot lines from the rear yard, from side yard, and from the height of the building. And those were successfully gathered from the Board of Adjustment.

There is no change proposed in the Comprehensive Development Plan and staff, as I mentioned, this is for a minor subdivision, and staff recommends approval of this plan because this plan meets the Code, should not have a negative impact on adjacent and nearby properties, the proposal does not conflict with the development pattern in the nearby area and, as I said, it meets all of the Code requirements with the Subdivision Advisory Committee conditions as described in the Planning report. Mr. Chair?

Mr. Silverman: Thank you.

Ms. Gray: You're welcome.

Mr. Silverman: For the benefit of the people who are here tonight attending, our procedure will be to hear from the applicant, who will make statements that embellish and go beyond the initial reports that were available online and the Commissioners have, and then we will open up the floor to the Commissioners to ask questions of the applicant. We will then open the floor up to the public to ask questions. We have recently revised our Rules of Procedure and members of the public have five minutes per person to speak. We prefer that every individual

who wants to speak in the room speak once and then we will go back to people who want to speak again. There will be no dialog between the public and the applicant. Oftentimes these things get very complicated and we will ask the applicant to simply collect questions. We will hear from everybody, both the Commissioners and the public comments, and then the applicant can respond in a comprehensive manner. This reduces confusion and reduces times. So, with that being said, if the applicant for North Street would like to come forward and if you would, give your name so we have it for the record. If your name is unusual, please spell it for our administrative support person. And members of the public, if you'll do the same, please identify who you are and generally a geographic reference, so we have an idea of whether you're a resident of the City of Newark or not such as your councilmanic district or address. And again, if your name is unusual, please spell it for the public record. Sir, please begin.

Mr. Matt Brickley: My name is Matt Brickley and I'm with Bakhsh Land Survey. We represent what they're calling White Clay Vista. What they are doing is they are removing or demolishing the existing, and there are actually five units, apartments, and they're going to build a four-unit townhouse to match the back side of what White Clay Vista has. So, I do have some boards up here to show you. So, this is what we're proposing, if I can bring those up?

[Secretary's Note: During his presentation, the applicant's representative referred to project poster boards being displayed for the benefit of the Planning Commission and public.]

Mr. Brickley: Real quick . . .

Ms. Gray: You need to use the microphone, please, sir. Thank you.

Mr. Brickley: The very first poster I have here is what the existing building looks like. As you can see, it is very old and has been there for a while. It's seen many kids. What we're doing is to replace it with the following. This is the proposed building that we want to put in. It's the same thing that's in the back now so, like I said, we're going from five units to four and we're just making everything look pretty for the area.

Mr. Silverman: Sir, are those illustration in the packets that were submitted?

Ms. Gray: No. Could you please show the Planning Commission, as well? Thank you.

Mr. Brickley: So, this is the building that's there now that we want to take down and demolish. And, again, this is what's actually in the back of the same area now, so this property has these on it, so we're just going to match the existing that's there.

Mr. Silverman: If I can interrupt you for a second? For the benefit of the Commission and public, this is a subdivision by-right and therefore they do not have to submit any architectural on it.

Mr. Brickley: So, our company has submitted all the plans. We're up-to-date on all the remarks that have been submitted by the City and we're just trying to get final approval. If you have any questions, that's what I have. So, Al Schweizer here is the developer/co-owner of the property, so any questions he can answer for the building.

Mr. Silverman: We'll start with the Commissioners to my right. Mr. Stozek?

Mr. Bob Stozek: No questions at this time.

Mr. Silverman: Mr. Hurd?

Mr. Hurd: Since the packet didn't include your responses to the last round of SAC comments, I just wanted to make sure there's a couple that caught my eye and I want to be sure they've

been put to rest. Item 6, there are two parking spaces noted which don't meet the minimum size. Has that been adjusted?

Mr. Brickley: It has. All the remarks have been . . . I have not had a chance to supply the new changes, but we have made the remarks . . .

Mr. Hurd: So, you've updated the fire protection . . .

Mr. Brickley: So, all that's all building stuff, the fire protection and all that . . .

Mr. Hurd: Okay. That was it for me. Thank you.

Ms. McNatt: I've got a quick question. On the second page of the report under the Density paragraph, is the reference to RS zoning incorrect?

Ms. Gray: Yes.

Ms. McNatt: Thank you. My second question, Matt, are you, is the flood plain reference note to the actual date of the FEMA panel is correct? Isn't there a more current FEMA flood plain panel than 2015?

Mr. Brickley: I'd have to check that, honestly. But we are not in the flood plain, I can promise you that.

Ms. McNatt: Okay, so even if it was a current corrected map . . .

Mr. Brickley: I will get that on there.

Ms. McNatt: I think you should just double-check it. I think there's a more current panel number, but I think the current information is appropriate. I'd like to know what the back of the current building looks like and then what the backs . . . is it going to be the same? Because if this, hold on, this property backs up to an existing lot which could be further developed at some time in the future, I'm sure, so what does the back of the units look like? Are they plain?

Mr. Brickley: The back of the units almost look exactly the same as the front. It's in pretty bad shape, half stucco, half brick, half vinyl.

Ms. McNatt: Are there windows in the back of these units? The current units?

Mr. Al Schweizer: Yes, and doors.

Mr. McNatt: And doors?

Mr. Schweizer: There was a two-bedroom Cape Cod in the front . . .

Mr. Silverman: Sir, if you would come to the microphone and identify yourself.

Mr. Schweizer: Alan Schweizer, 1101 Millstone Drive.

Mr. Silverman: Thank you.

Mr. Schweizer: So, the current building in the front is a Cape Cod two-bedroom and attached to that are four one-bedroom apartments.

Ms. McNatt: The current ones but what about the proposed?

Mr. Schweizer: The proposed ones are all four-bedroom, four-bath apartments. The back, I believe, is all stucco. You're sitting probably 30 or 40 feet up from the Hall Trail there in the back.

Ms. McNatt: Are they the same?

Mr. Schweizer: I believe so.

Ms. McNatt: So, I'm just curious, is that what you're proposing . . .

Mr. Schweizer: Yes, to replicate these type units.

Ms. McNatt: Thank you. My last question, Matt, is you've said you've addressed it but as Mr. Hurd referenced, we didn't see a response to these, but there were some deficiencies associated with stormwater facilities and [inaudible] location that need to be addressed. Is all of that included?

Mr. Brickley: They have cleaned the stormwater management pond up. I have not been over to see what has been done but as of our last set of comments before the meeting, it was to be addressed. So, I have not been there to check on it.

Ms. McNatt: It looks like there was some definite maintenance and trash and . . .

Mr. Brickley: I know the trash was taken out and I know it was weeded. As far as remulching and the whole nine yards, I don't know.

Ms. McNatt: Just a question, Mary Ellen, it says these things have to be addressed before the construction phase. Do those things have to be demonstrated to be done prior to final approval?

Ms. Gray: Final at the construction phase. Final prior to approval of the construction plans.

Ms. McNatt: Prior to the approval of the construction plans they have to address these comments?

Mr. Silverman: That's part of the building phase.

Ms. Gray: Yes. Well, no, prior to approval of the construction plans.

Ms. McNatt: I think it's very important that stormwater needs to be maintained as it was designed. Make it function. And I believe that's all. Thank you.

Mr. Silverman: Commissioner Wampler?

Mr. Tom Wampler: Thank you. I just need some clarification on a couple of points that we've been provided. I've been looking at the drawings with regard to the variances and I'm not sure I see, specifically, on the drawings where those variances come into effect. I was looking at the numbers and some of the numbers look like they're to a line but not to the structure. On the information that we have on page 3, we have a little chart and it says for building setbacks there's 14 feet from the west, the variances are 14 feet from the west and 6 feet from the north, and could you show me exactly where that comes into play? From the north where there's a little angle . . .

Mr. Silverman: Commissioner, what sheet are you on?

Mr. Wampler: Oh, I'm sorry, this is Sheet 3 of 4. The land of Stephen Ross comes in like a point and from that point down, there's 19.6 feet and I'm assuming that that is the 6-foot variance from the north. But the 14-foot variance from the west, I'm having trouble seeing.

Mr. Brickley: So, I see that there's a 10-foot setback and I see the building is at 14.3, but I have to check the setbacks for the zoning on that one. But the 14.3 is the setback that we're requiring. So, the 14 foot would be our variance that was granted.

Mr. Wampler: Unless I'm looking at it wrong, I would expect if it's supposed to be 25 feet and there's a 6-foot variance from the west, there should be a line showing 19 feet from the property line on the west and I don't see where that comes into play.

Mr. Silverman: Commissioner Wampler, do you want this referenced on the plan? Do you want this illustrated on the plan?

Mr. Brickley: Can you give me a chance to . . . so, the existing backyard, rear yard setback is 25. We have the building set at 19, so we're asking for 6 feet.

Mr. Wampler: Oh, I understand that, but I'm saying where is that 19 feet?

Mr. Brickley: Can I come up and show you?

Mr. Wampler: Yeah. That one I'm okay with but what about the 14 feet from the west?

Mr. Brickley: [inaudible]

Mr. Wampler: But that's not a 14-foot variance. That's a 14 . . . if it should be 25 feet with a 14-foot variance, it's only 11 feet and I don't see that.

Mr. Brickley: [inaudible]

Ms. Gray: Matt, could you use the microphone? It's a hand-held. You can take it with you.

Mr. Silverman: That's a hand-held.

Mr. Brickley: Okay, so with that being the Section 32-11(c)(4), is that what you're, oh, that's the height.

Mr. Wampler: I'm talking about the . . .

Mr. Brickley: It's the 11(c)(7)g.

Mr. Wampler: Here, I'll show you. On our information we have building setback should be 25 feet and there's a 14-foot variance from the west. And that means that it seems to me that the building comes within 11 feet of the property line, if that's the case.

Mr. Brickley: No, it's 14 feet and we asked for 11.

Mr. Wampler: Okay, so it's not a 14-foot variance?

Mr. Brickley; It's an 11-foot variance to get us to 14 feet.

Mr. Wampler: Okay, the other question that I have on page 6 of our information, Item 7, if somebody could just . . . I don't understand what that means, and I'll read it. It says, submitted plans show a building height of 35 feet 6 inches. Buildings which exceed 35 feet in height are required to be protected by a type 13R system. I don't know what that is. And then it says, a tank and pump are not permitted to be used with a type 13R system. So that sounds like there's a problem there that I just want to make sure has been resolved.

Mr. Brickley: So, again, that's a building issue and that is a sprinkler that they're asking for, the building to be sprinklered since it's over 35 feet.

Mr. Silverman: 13R is a residential sprinkler system.

Mr. Wampler: Right.

Mr. Silverman: And I believe the reference to gallons-per-minute of pressure is a standard note.

Mr. Wampler: But a 13R system is a residential system. This sort of implies to me that that's what you're intending to use, and it says that it's not a permitted use. So, what is going to be used?

Mr. Schweizer: We'll certainly use whatever is required by the Building Department and the Fire Marshal. It will be the same system, I would think, that's in the existing units there, which are directly hooked up to the water supply. They're not tanks with a pump.

Mr. Wampler: Okay, I just want to make sure somebody has looked at that and can explain to me why that's a problem. And that's all I have. Thank you.

Mr. Silverman: Commissioner Kadar?

Mr. Kadar: I have no questions.

Mr. Silverman: Okay. Mr. Cronin?

Mr. Bob Cronin: No questions at this time.

Mr. Silverman: Okay. I have no questions either. We will open discussion up to the public.

Mr. Brickley: Thank you.

Mr. Silverman: And again, if you could ask all your questions and then the applicant can response comprehensively to the list of questions raised. We have a sign-in sheet. I will go through the sign-in sheet first and then ask if there are any people who would like to comment from the floor. And I'm going to butcher this, I know, Jane Trochimowicz.

Ms. Jane Trochimowicz: I'm for agenda item 4.

Ms. Gray: She's for agenda item 4. Those are all 4.

Mr. Silverman: Oh, I'm sorry. Going down the list here, okay, there is no one signed up for agenda item 1. Is there anyone who would like to speak from the floor? Ms. White?

Ms. Jean White: Jean White, District 1. I'm familiar with this area because quite a while back my husband and I used to live in that general area, and we walked on these streets quite a bit. I am noting the number of cars that will be increased. As mentioned, the units that are going to be taken down are a two-bedroom one and four one-bedrooms. Basically, six bedrooms which could equate to six cars. And now what will be put will be four three-story townhouses, each with four bedrooms, which now goes up to, you know, now potentially 16 cars. And between the five that are already there and the four three-story townhouses, there will be an equivalent of, if every student or person has a car, 36. And then are five extra parking places, so there will be 41 extra parking places which might or might not be used, the five extra might be used. And I realize that this is a by-rights plan. I would have liked to have seen the extra development that's proposed to be only two-story, but I realize it's a by-right plan. All these cars are going to be emptying onto North Street. Fortunately, they're not going to empty directly onto North Chapel eventually they'll either go to North Chapel or go around out by Wilbur. They'll probably go on North Chapel because there's a light there at Cleveland Avenue. So, I feel that

it's really making it quite dense in an area that already congested with the people across the way and everything like that.

Now, let me just see here, there are some very nice trees beyond the current fourth lower unit. I guess there's the first one and then there are four more. And there are some very nice trees. One, in particular, is a very tall oak tree of the black oak family, which greatly adds to the tree canopy in this area. There is no current site blueprint. There is one of the current site, but it doesn't have to do with the foliage there. There should be a current plan that shows the trees that are on this. So, I am asking the developer, will there be, by the time this comes to City Council, an existing foliage, I guess you could call it, site, not just the houses that are there already that are being taken down. And I would like very strongly to save the tall oak tree that I'm thinking about and any others that can be. I can't really get a complete picture of which tree is where and everything, but surely some of them are on this property.

The last thing I wanted to say is I see that the Police Department concern is, quote, Kristen's Way, and this is in the report that you have, Kristen's Way is a known party location. We regularly respond to large parties with noise violations and litter on the property. The concern is that this will add to that problem in the vicinity. So, what will the developer be doing to control the party behavior of his student renters? One page 1-8 in the packet, the developer responds that additional lighting will be added. To me, that's not sufficient. In fact, it might even help the problems, it might augment the problems that happen. So, the question is, how will the developer be controlling and mitigating and reducing the party behavior that is already there with just five three-story townhouses, and now we're adding four more? Thank you.

Mr. Silverman: Thank you very much, Ms. White. Would you like to respond?

Mr. Schweizer: Sure. We have an acre of ground there which permits 16 units an acre. When this project is finished, we're only going to have 9 units there. Parking, we have parking for every bedroom. One car for every bedroom and there's one person per bedroom, plus there's five additional extra spots on the property. The new construction is going to occupy the existing footprint of the building we're taking down. I don't think we're taking down any trees at all, as far as I know. In addition to increasing the lighting, we're going to be putting in a surveillance camera system on this property. I guess the police have been there sometimes, but my daughter lived there for the last 8 months, she just moved out this month, and I don't think it's as bad as they're saying. She was a single person there. Thank you.

Mr. Silverman: Thank you. Again, please identify yourself.

Mr. Brickley: Again, it's Matt Brickley with Bakhsh. The one lone mature tree is remaining and then we are also doing a full-blown landscape plan to accompany it. So, there will be more trees added than what is there now, after construction.

Mr. Silverman: Was a landscape plan required at this stage?

Mr. Brickley: No, but it will be coming in with the construction.

Mr. Silverman: Do the Commissioners have any additional questions? Are we ready to take a vote? Okay, the Chair will entertain a motion to concur with the recommendation of the Planning Department that is reflected on page 9 of the report to the Commissioners.

Mr. Hurd: I so move.

Mr. Silverman: Will, if you would cite the recommendation.

Mr. Hurd: Oh, sure. We recommend that City Council approve the 18 North Street minor subdivision plan as shown on the Minor Subdivision Plan dated August 21, 2017 and revised March 28, 2019 with the Subdivision Advisory Committee conditions.

Mr. Silverman: Okay, is there a second?

Ms. McNatt: Second.

Mr. Silverman: Ms. McNatt just seconded. Are there any questions? All those in favor of the application, please signify by saying Aye. All those opposed, signify by saying Nay. The motion passes. Thank you.

Mr. Schweizer: Thank you.

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

THAT CITY COUNCIL APPROVE THE 18 NORTH STREET MINOR SUBDIVISION PLAN AS SHOWN ON THE MINOR SUBDIVISION PLAN DATED AUGUST 21, 2017 AND REVISED MARCH 28, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 7-0

AYE: CRONIN, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER

NAY: NONE

ABSENT: NONE

MOTION PASSED

Ms. McNatt: Mary Ellen, can we move that now?

Ms. Gray: Oh, sorry.

Ms. McNatt: Thank you.

4. REVIEW AND CONSIDERATION OF A MINOR SUBDIVISION WITH SITE PLAN APPROVAL AT 511 VALLEY ROAD (PROJECT #18-09-01) TO DEMOLISH THE EXISTING SINGLE-FAMILY STRUCTURE AT THE SITE, DIVIDE THE EXISTING PARCEL INTO TWO PARCELS, AND CONSTRUCT A SEMI-DETACHED STRUCTURE CONSISTING OF TWO SINGLE-FAMILY HOMES THAT WILL REPLICATE THE ARCHITECTURE IN THE BRIARCREEK SUBDIVISION.

Mr. Silverman: Okay, let's move on to item 4 on our agenda. Madam Director, if you'll give us the description.

Ms. Gray: Thank you, Mr. Chair. This application is for a minor subdivision with site plan approval at 511 Valley Road, Project #18-09-01. This is to demolish the existing single-family structure at the site, divide the existing parcel into two parcels, and construct a semi-detached structure consisting of two single-family homes that will replicate the architecture in the Briarcreek subdivision.

[Secretary's Note: A link to the Planning and Development Department report on the minor subdivision with site plan approval for 511 Valley Road can be found at the end of this document.]

Mr. Silverman: Thank you.

Ms. Gray: I have a couple more things.

Mr. Silverman: Oh, there was a hesitation.

Ms. Gray: So, this application is asking for site plan under the site plan approval provision. The applicant is seeking site plan approval for relief for several area requirements. Specifically, the plan requests relief from the area requirements for a one-family semi-detached dwelling. The Code does not allow for a one-family semi-detached dwelling in this zoning district, which is RS. The applicant is also asking for a minimum lot width difference, for relief of a little over 6 feet, 6.23 feet to be exact, and a side yard variance. We have a minimum side yard variance of 10 feet and aggregate of 25, the minimum. He is asking for a zero, 100%, variance from that and an 11-foot variance from the 25-foot aggregate. The application does not need a Comprehensive Development Plan amendment and because the minor subdivision plan with site plan approval with the Subdivision Advisory . . . excuse me, before I get to the recommendation, this, an item of note, the current building was, there was a note in, there was a comment in a 2000, dated 2000, letter from the PLUS, from the state folks, indicating that, recommending that the current building be listed as a historic structure, and this building was never listed, and is not listed in the City of Newark Code as a historic structure. I just wanted to get that on the record.

So, our Planning staff, because, the recommendation, because the minor subdivision plan with site plan approval, with the Subdivision Advisory Committee recommended conditions, should not have a negative impact on adjacent and nearby properties and meets all the Code requirements, and because the proposed use does not conflict with the development pattern in the nearby area, the Planning and Development Department recommends approval of this proposed plan. Mr. Chair?

Mr. Silverman: Thank you very much. If the applicant is ready to proceed . . . there is a document being passed out. What does this represent?

Mr. Alan Hill: It's just a copy of the PowerPoint.

Mr. Silverman: Thank you very much.

[Secretary's Note: During their presentation, the applicants referred to a PowerPoint presentation being displayed for the benefit of the Commission and public. A copy of the applicant's presentation can be found at the end of this document.]

Mr. Dan Kandra: Good evening. I'm Dan Kandra and I'm going to be brief tonight and just summarize why I'm here and then Alan Hill from Hillcrest Associates, my engineer, will be up a little later on to present the proposed design and layout of the units.

As most of you are probably aware, I developed and built Briarcreek, which is the 55+ community located over on the west end of town on Valley Road. I finished that development back in 2008 and since that time I've continued to own Lot 21 and the farmhouse that sits on it. Not much to the chagrin of the residents that live there, I've been using the property to store my construction equipment and trucks. And although I know they've grown tired of looking at that equipment, they really never complained about it except when the big paving roller was there for a few months. So, a few of them are here tonight and I want to thank you for your patience. I always had planned to hold the property for a little while longer and use it as a staging area and a site office for Briarcreek North, which is another 55+ community I'm planning to do that received subdivision approval about three years ago and is still working its way through the Construction Improvement Plan approval process with the Public Works Department. Since that project is in the midst of a long-term approval odyssey, nearly three years and counting, and the fact that my wife is getting tired of me not having anything to do, and the fact that the residents of Briarcreek were ultimately concerned as to what was going to happen to the farmhouse, I decided to turn my attention to this property. I guess it was a little over a year ago I went before the Briarcreek Homeowners' Association and I proposed to them what I am presenting to you tonight, and that is to remove the farmhouse and to install two brand new attached units. These units would be in harmony with the administration and aesthetically go with the community. They would fall under all the same restrictions that are

there in place now. The owners would be individuals that would be at least 55 years of age. The owners would also be members of the homeowners' association, and units will be in line with the architecture and sizing of the middle units that we had built in that community. All the residents that were in attendance at the homeowner's association presentation were in favor of it. I see Jane Trochimowicz, the president of the Briarcreek Homeowners' Association, is here tonight and I'm sure she'll be up a little later on to give you their opinion, and I hope it hasn't changed or the big roller may return.

Mr. Silverman: You're telling us that you previewed this application with the homeowners' association?

Mr. Kandra: Most certainly. What I'm proposing I truly believe will be beneficial to the community. I experienced this same scenario 16 years ago in Paper Mill Falls, which is another 55 and older community that I had developed. In that community, just as in Briarcreek, we had a farmhouse. When I was done with the community, I tried to market the house to a 55+ buyer. It didn't take long to realize that potential customers were very concerned about the continual maintenance unit and a floor plan that, no matter what I did customizing it, wouldn't be fully conducive to a buyer of a senior age. If there was any interest by any potential buyers, and I was willing to customize whatever they wanted, unfortunately, the cost made it prohibitive. Now I won't lie to you, the residents over at Paper Mill Falls weren't thrilled but I had to eventually sell it to a young family with children. The residents over there were quite concerned about having children living in the community. Now my proposal tonight would do away with that concern. If I can build these two units, they would be subject to the 55+ restriction, so there would be no children living in the community. The units would be, again, as I stated, in harmony with everything else that is built in Briarcreek. And on top of that, you'll have an additional unit that would be paying into the homeowners' association fees annually. This project ultimately needs to be reviewed for what it really is. It's a continuation and final completion of Briarcreek. Now, Alan will present to you the proposed design and layout and, after he is done, we'll both be willing to address any of your concerns. Thank you. Alan?

Mr. Hill: Thanks, Dan. Alan Hill with Hillcrest Associates. So, this is a minor subdivision with site plan approval. So, I just want to point out where the site is for those that aren't familiar. Briarcreek is located here, off Valley Road. It's very close to the Maryland/Delaware state line and it's adjacent to all residential communities but the only over-55 part is Briarcreek. The original subdivision was recorded in 2002. Lot 21, as we call it, is actually a little less than a half-acre in size and it's located between Valley and Kayser. Let me just click onto the next one.

Mr. Silverman: You have about 10 minutes or so.

Mr. Hill: Yeah, I've got my timer running. Thank you. So, you can see on this slide we're actually showing where the existing house is located and it's right up hard against the road. As part of the site plan approval that was done on the original subdivision, which was site plan and also an annexation into the City of Newark, they granted a deviation from the front yard setback, which should have been 25 feet, down to a little over 8 feet from the right-of-way, which meant they were actually unable to dedicate additional right-of-way along Valley Road in that part of the subdivision. But that was all part of the documentation of the subdivision.

This is the subdivision as it is today. It's a very, very well-kept over 55 community and it's a credit to the homeowners that live there and look after it and take care of the stormwater management and all of those things. Just clicking through, this is what it looks like. It even has this absolutely terrific gazebo in the middle of that. If I just click back, you can see where that is down in here. Apparently, there's a lot of wine tasting and cheese and all these other things that I hear about but I'm not quite old enough to move in there and enjoy myself.

So, moving on to the existing farmhouse, it was built around 1820. As was mentioned before by the Planning Director, there was a suggestion of it being listed as a historic property. That

never took place and over time, actually, as you can tell, the house has been added on and changed. There's very little of the original historic building left in there right now. That's the front from the road. This is the back of it. Obviously, they didn't have the garages back in 1820 so we know it's been chopped around a little bit.

So, this is more of the important part of this plan and I have to excuse myself because I'm going to have to read some of this because it actually gets a little bit detailed. So, the lot width, as you know, is measured at the building setback line and in the RS district it requires a minimum of 75 feet. Lot 21A . . . we have 21A on the west side and 21B on the east side. Lot 21B complies with the 25 feet, the 75 feet, I'm sorry. Lot 21A requires a deviation from the 75 feet of a little over 6 feet. It's actually 6 feet 3 inches is what we're requiring on that. The RS zoning also requires, as the Planning Director previously stated, a side yard of 25-foot aggregate and 10-foot minimum. With a duplex unit, we automatically lose the 10-foot minimum on that side. So that becomes a matter of course with the semi-detached unit that we're using. So, on Lot 21A, down in here, we have a side yard of 17.8 feet and then on 21B down on that corner there, we have a side yard of 14 feet. So, we're asking for relief as part of the site plan approval from the side yard setbacks.

When we look at what was on the original subdivision that was approved, if I don't count Lot 21, there was 28 lots proposed. Twenty-four of those lots required a lot width deviation of up to 43 feet in width. So, there were some 32-foot wide lots that were approved as part of the original subdivision. And then all of the 28 lots that were approved had the zero because they're all attached units. There's a combination of 4-unit townhouses and two units of semi-detached houses in the original.

So, then as part of this application as well, we're actually going to dedicate that additional right-of-way along Valley Road to make that right-of-way continuous and correct it along Valley Road as part of this application, which was never done.

So, moving on, as part of the site plan approval, we are going to be LEED certified. I'm sure there will be questions on that coming up.

And then on to the architecture, which I know the same person won't like, but these match in with the architecture that was currently built at Briarcreek. Front elevation with garages, porches, it looks like three stories but it's only actually two. On the front, the windows up in the gable are just decorative windows. We have the stucco and the stone that matches the original Briarcreek. And then to the rear, which will be facing into the Briarcreek subdivision, we have taken many of those same architectural features with the walk-out basement and then a single-story on the main living on the back. So, it still only looks like two stories from the rear. Side elevation has stucco, lots of windows and gables, all in keeping with the photographs that I previously showed you for the original Briarcreek.

And that comes to the end of it. So, at that, if there are any questions from any of the Commissioners, we would be happy to try and answer them.

Mr. Silverman: Commissioner Stozek?

Mr. Stozek: Yes, I have a couple. First of all, I'd like to thank you and congratulate you for talking with the neighbors for this project. That's a pretty rare thing to happen in the Newark area to have those discussions. That's very welcomed.

A couple of minor things and I know the Planning Commission received a couple of letters from people I assume live in the area and I think the answers are pretty self-explanatory. But, since the entrance to these houses are off of Valley Road, I presume the driveway has this turnout so that cars can reverse direction and head out onto Valley Road rather than back out onto Valley Road. That was a concern of . . .

Mr. Hill: That is correct. We've incorporated a turnaround into the driveway separately for each unit so that they can turnaround and head forward out onto the street.

Mr. Stozek: Okay, that's what I assumed. I know this lot has a fairly big elevation change and I'm wondering is that the reason why you decided to orient the structure, rather than having the driveway go out on the cul-de-sac like all the other houses, have the driveway go out onto Valley Road?

Mr. Hill: That's correct. So, with them being over 55, the main living area is with the garage level so you wouldn't enter underneath and then have to go upstairs to the main living area. So, that's why we did that.

Mr. Stozek: And then the other question that came from the public had to do with a large oak tree that looks like it's up on Valley Road adjacent to the house. Is that tree staying or coming down?

Mr. Hill: I believe that tree will have to come down, which will have a couple of effects. It will, actually, aid with the site distance on the road, but we will have to do planting to mitigate that tree removal. So, we'll have trees planted in better locations.

Mr. Stozek: Okay, that's all I have right now. Thank you.

Mr. Silverman: Commissioner Hurd?

Mr. Hurd: Thank you. So, yes, the primary question I had, we already talked about that, so let's talk about the LEED checklist.

Mr. Hill: Absolutely. I know nothing about it.

Mr. Hurd: I didn't know if the Planning Director had relayed my initial comments to you back when we first thought this was going to be reviewed in July.

Mr. Hill: I don't believe so, but I might be mis-speaking.

Mr. Hurd: Alright, and this is just a general sort of . . .

Ms. Gray: I don't know . . .

Mr. Hurd: I thought I had mentioned it to you.

Ms. Gray: What were your comments? That was about 1,000 emails ago.

Mr. Hurd: There were a couple, it's sort of a consistent issue that I'm seeing. One is that the LEED for Homes checklist, before you start, there's an adjustment to the points threshold based on size of house and number of bedrooms. I don't see that that was done on this, which I believe, based on the size that I'm seeing, would adjust the threshold up by about 8 points if you're going for a LEED certification. And to my mind, whether or not you actually get certified for LEED or not, you're going to have to follow the rules and get the points that would be required.

The other one was that you were trying to take 10 points for being a LEED neighborhood. I don't believe that Briarcreek is certified as a LEED neighborhood.

Mr. Hill: I think you're correct there. I don't think Briarcreek, I think we may have taken it as being these two lots being . . .

Mr. Hurd: So, yeah, how is that being built to a LEED standard and a LEED neighborhood?

Mr. Hill: No, that's correct.

Mr. Hurd: And then page 2, at this point I think for your indoor air environmental quality, you haven't met the minimum of 6 points in that category. You have 5 listed.

Mr. Hill: Okay.

Mr. Hurd: So, I would care more probably if you were asking for more variances but I think you're going to build homes very similar to what you've built before, which I'm sure are good quality construction, so this is more of a general comment about when I get a LEED checklist, I want to see if actually work out, you know . . .

Mr. Hill: For once. Just for once, you'd like us to get it right.

Mr. Hurd: Surprising, isn't it?

Mr. Hill: At this level, unfortunately, there's a lot of things we don't know. When we get to the end, we know we have to go through it.

Mr. Hurd: Sure, you could start with some of the initial . . .

Mr. Hill: Yeah, we should do it . . . I will concede we should do a better job of the initial LEED application, but they will be LEED certified when it comes to building permit time.

Mr. Hurd: Otherwise, I understand the argument about the historic house and the addition to the fabric because I can see that center piece is probably the 1820 and then there's the other stuff. So, I understand that it's maybe not a true historic or valuable in that sense and it is right on the corner, which makes it an awkward thing. So, I appreciate that you tried to do something with it up until now. I do appreciate that. In the report it kind of sounded like we're taking it down and we're putting something up, not that you had been trying, it wasn't working, so this makes a lot of sense. That's all I've got. Thank you.

Mr. Silverman: Commissioner McNatt:

Ms. McNatt: To clarify, Lot 21, was it originally part of the plan and also zoned as 55 and older originally? Or, is this lot by itself separate but will then become 55 and older?

Mr. Hill: So, it was excluded from, it was part of the subdivision, but it wasn't included in the 55 and older restrictions so that it could be sold as a family home at the time of the original subdivision. So, now we're going to put it into the 55 and over HOA of the original Briarcreek.

Ms. McNatt: Okay, I just want to clarify because the reference, I think I got it confused with the reference to the different subdivisions and what happened with the farmhouse.

Mr. Hill: That was Paper Mill Falls, which we did in conjunction with Dan Kandra prior to this one, that had a similar situation where we had an existing farmhouse within the subdivision that was not part of the 55 and over and the residents, when they realized that it was being sold to a family with children, weren't as happy about the situation at that point.

Ms. McNatt: Have you approached DeIDOT on the two entrances or two driveways in this location on this curve at this time and, if you have, what was that conversation?

Mr. Hill: We have submitted to DeIDOT for a Letter of No Objection to record because we have to as part of the subdivision, and we have comments that are all minor in nature to address to get that Letter of No Objection. And then when it comes to the actual driveways, even though they're part of the No Objection, as I think you're aware, they're just driveway permits. They're not entrance permits in any way.

Ms. McNatt: And has anybody in that section reviewed this yet?

Mr. Hill: Not in the driveway section, no. Not in Public Works.

Ms. McNatt: I don't, I will just say this, if you want to keep with the character of the neighborhood and you want this to feel like the character of the neighborhood, and you want this to be part of the neighborhood, then I believe, as well as for safety reasons and for driveway reasons, then I believe this house should be oriented the opposite way and have maybe a shared single driveway that then branches off to two homes. And I believe the reason you want it to face this way is because you want to walk out of the back. And this house, in my opinion, doesn't have to have a walk-out basement, and you can have the front facing and have a real basement but not a walk-out basement. So, I don't agree that this is, that what you're doing is in the character of the neighborhood. I think if you were, it would be facing and be joining the community like the rest of the homes.

Mr. Hill: So, we did have discussions about having it facing the other way with the driveways coming in. However we graded it for the units, we would have ended up with the garages underneath the main living floor and when we have the over 55 with the first floor living master suite, it meant it would have functioned more like a single-family home for non-55 and over, as opposed to the over 55 where we try to make sure that the living area and the bedroom area and the garage area are all on the same floor. So, the walk-out isn't important. That's like a bonus area for the residents. But, as far as being able to grade the driveways into the garages and make the space livable and functional as an over 55 home, we need to come in on the higher side of the property to make that all work.

Ms. McNatt: But these lots were already higher than the road so I don't understand how you couldn't have a driveway and a first floor all on the same level since the property is higher than the houses around it.

Mr. Hill: Say that again for me.

Ms. McNatt: The property, this parcel, is higher than the adjacent lot to the left. So, I don't understand why you wouldn't be able to have a driveway that just flows up the natural slope of this property into the first floor and keep . . . I'm just not understanding.

Mr. Hill: So, the houses are actually pushed further forward on the lots that are coming off Kayser Court, which allows us to grade the bank back up to the existing grade level. With these lots being I'll say pie-shaped toward the narrow end on Kayser Court, we have to push those houses back and we can't get a driveway to run that far up and be, with the grade, to have the house up that high.

Ms. McNatt: So, it's the slope of the driveway that's the problem?

Mr. Hill: The slope of the driveway we would have to, if we were to put the house that far back and then we'd have to life the driveway up because we wouldn't be able to have the grading go back to Valley Road in an aesthetic or functional manner for the residents. It forces us to come in off the high side to make the living space functional.

Ms. McNatt: Okay, I'm not going to disagree with you but it's still, in my opinion, it isn't a true character of the community. You're putting two duplexes on a lot that will be 55 and older and facing the road and their backyard . . . I don't see that as the community character.

But, my other question is, just for clarification, so the City, I understand it's not a historic home, but if the City did, I guess, follow the recommendations of the state back in 2001 by making sure the historic structure stayed at that time, was there any discussion on making this home part of the registry at that point, at any point in time back then and it just didn't happen? Or what was the gist of that scenario back then?

Mr. Hill: I can't answer for what the exact scenario back then, but it was actually a suggestion by the state, not the City, to make it into . . .

Ms. Gray: Correct.

Mr. Hill: A historic home and the City never required that of the developer at that time to follow through on that aspect of it.

Ms. McNatt: I'm trying to understand if Mary Ellen has that history. Did anybody review the minutes or the tapes from those meetings to find out what the direction of the City . . . is that something that should have been done as part of the conversation? Or was that part of, it just never, it wasn't . . . did anybody go back and check?

Ms. Gray: It was not a condition of approval. It was not part of the subdivision agreement. It was not a requirement, therefore it was not a requirement of the development. So, the City took no action. It was merely a recommendation of the state. So, no, as a result, the City took no action.

Ms. McNatt: Thank you, that's all I have at this time.

Mr. Silverman: Commissioner Wampler?

Mr. Wampler: Thank you. I just had a quick question for the Director.

Ms. Gray: Sure.

Mr. Wampler: Am I right in seeing that all of this Briarcreek, all of the properties are on lots that are zoned RS? And so, all of the attached buildings are non-compliant? Is that right?

Ms. Gray: They are part of a subdivision that was approved via site plan approval and they were zoned RS.

Mr. Wampler: Yeah, so my question is if attached buildings like the ones that are there are not an approved use in RS, why weren't they zoned RD or something?

Ms. Gray: Under the site plan approval, similar to what is being asked for tonight, the use of semi-detached buildings was asked for under the site plan approval provision when Briarcreek was proposed and approved as part of the site plan approval process.

Mr. Wampler: Okay . . .

Mr. Paul Bilodeau: As part of the site plan approval process, they don't call them variances but the . . .

Mr. Wampler: I'm just wondering, there's a zoning that permits this type of building. I was just wondering why, when this whole thing was proposed, why the zoning wasn't changed to that so that everything wouldn't have to be a non-compliant use?

Ms. Gray: Well, it's not a non-compliant use. It is a compliant use. It is compliant with the plan that was approved.

Mr. Wampler: Good enough. Thanks.

Mr. Silverman: Commissioner Kadar?

Mr. Kadar: I have a rather mundane question and it doesn't have anything to do with the site plan or anything. As I look at the building, I have a question and maybe you can answer it. As I look at it, there's a single chimney coming out of the middle of the building.

Mr. Hill: Yes.

Mr. Kadar: Now, it's my understanding that there's a fire break in there in between the two structures.

Mr. Hill: Yes.

Mr. Kadar: How is a single chimney permitted on a fire break wall?

Mr. Hill: That is absolutely, that's a fantastic question for a new member. I really appreciate it. It's completely fake. There is no fireplace, it's just a purely architectural feature that our esteemed Commission member second from the far end absolutely despises.

Mr. Kadar: I just thought that's a great place to burn the building down.

Mr. Hill: No, you are absolutely correct.

Mr. Kadar: I'm good, thank you.

Mr. Hill: No problem.

Mr. Silverman: Commissioner Cronin?

Mr. Cronin: Yes, I'd like to add to Commissioner McNatt's comments. Would it not be possible to keep the structures as you have them, fronting on Valley Road, yet have access off of Kayser Court, a road that would come up and loop around and go back down in some fashion? Therefore, you could park as you arrive by the front door but you're not going to spill out onto Valley Road, and you have extra space for cars. It would seem to me that would also make these owners feel more like a real part of the community. If they wanted to go for walks, I mean, they could walk down Kayser Court and meet the neighbors and walk the dog and stuff like that. And you wouldn't have any concerns about the hazards on Valley Road and of course you're directly across from Leahy Drive, where you're going to have Briarcreek North coming in, which is going to compound the traffic on that bend and down the road. So, my concept would be to have a loop around and shared access with the other property owners and I curious why that couldn't be done.

Mr. Kandra: Bob, Dan Kandra again. As I mentioned earlier, I went to seek approval from the homeowners' association at Briarcreek and this is one topic that we discussed at that homeowners' meeting. And I believe everyone except for maybe one resident was opposed to having driveways placed in the rear of the units as you're proposing. And I'm sure Jane will touch upon that when she speaks.

Mr. Cronin: Well, I'd like to hear some rationale as to why because it has nothing to do with the main living of it. The structure of the building on the front, the front is still facing Valley Road.

Mr. Kandra: You're saying bring a driveway off the cul-de-sac and go up around the outside of the units?

Mr. Cronin: Go around by the side of the property line on both sides. On one side loop around by the front toward Valley Road and then come back down the other side . . .

Mr. Kandra: I'm going to defer to Jane when she gets up here.

Mr. Cronin: I just wondered if you had some reasons . . .

Mr. Kandra: Oh, I have some. I don't like that plan. I mean it's all blacktop. I mean it great because you don't have to plan any grass. But for the residents, all they're going is looking out

on the hot blacktop coming from the cul-de-sac and up around the outside. Right now, what you have out there is a nice open area with grass and trees. We have those magnolia trees which we're not going to touch. And now you're going to tear all that down to put in more blacktop. That's my feeling.

Mr. Hill: Alan Hill, again. I just want to tack onto that. That extra impervious would require additional stormwater management to be found a location for and we would probably have the whole area taken up with driveways the way we would be putting in the stormwater management. So, we kind of wanted to, as I mentioned, respect the wishes of the neighbors, the existing neighbors, that are in there. But I do understand what you're asking us to consider.

Mr. Cronin: Here's another thought, a lollipop driveway. You know, one lane that can go up toward the dwellings 20 or 30 feet and then a circle around the buildings [inaudible].

Mr. Hill: It's something that we could look at if the residents that we've met with previously are interested in doing and also the Planning Commission and Planning Department members really want us to look at that as a concern. I'm not really sure what to answer on that.

Mr. Cronin: [inaudible] but I do appreciate the [inaudible]. That makes a lot of sense.

Mr. Hill: Right.

Mr. Stozek: May I ask a follow-up? If you did what was suggested, how wide would that road have to be?

Mr. Hill: Because it's a shared drive, I don't believe the City has a requirement, but our own standards would put the driveway about 16-feet wide to be able make sure people can pass on there.

Mr. Stozek: You really don't have the room to do that unless you move the whole building back.

Mr. Hill: It would give us a lot of engineering issues.

Ms. McNatt: I have another question. Right now, there's only a single driveway entrance. What happens if the driveway section of DelDOT states you can only get the same single entrance?

Mr. Hill: We would have to modify it, so we'd just have a shared driveway at the front.

Ms. McNatt: And then you would come across the front and have . . .

Mr. Hill: We would probably connect the driveways at the property line and just have them split off as they leave. So, it would be wide at the entrance but then it would narrow as it goes off to each lot.

Ms. McNatt: Like a Y?

Mr. Hill: Like a Y. Just like a traditional shared driveway that we do. And I believe there are other houses in Briarcreek that have that.

Ms. McNatt: A shared driveway?

Mr. Hill: A shared driveway.

Mr. Silverman: Please hold your comments.

Ms. McNatt: Good luck.

Mr. Silverman: I have some comments. When we heard the proposal for Briarcreek II for the, I believe it's north if I have my orientation correct, there's was an issue raised with respect to the width of Valley Road and any improvements on Valley Road. I believe the movement, or removal of the existing structure and the movement of the proposed structures back away from Valley Road and the dedication of the additional 10 feet goes toward addressing that problem if and when Valley Road is upgraded to a more standard road. So, I think that more than offsets the site plan development variance of about 6 feet in lot width. And the positive sure outweighs the negative there.

With respect to the issue of semi-detached dwellings and that being included in the site plan development, there is a quirk in the Newark Code, if you'll remember, where duplexes are not permitted, period. So, this is, and I believe Council chose in 2002, to deal with this particular Code deficiency. So, I think that justifies the site plan approval process.

With respect to the entrance/exit off of Valley Road, I believe the community character, with respect to the position of the buildings, the open space around buildings, the architecture – good, bad, or indifferent – and taking entrances off of Valley Road, I don't think that interferes with the applicant's desire to make these particular structures gel with what's already there.

I share the issues with respect to taking [inaudible], stormwater management issues, grading issues, and just plain impervious surface asphalt coverage, and it sounds like you're going to have that particular discussion with the homeowners' association, so those are my thoughts on this plan. Any other questions from the Commissioners? Okay, I would like to open the floor up for discussion. Hold a minute, please.

Unidentified Speaker: Oh, I'm sorry.

Mr. Silverman: We have Rules of Procedure that we try to follow so we're consistent and we're fair. I have brand new bifocals. They're very hard to get used to and I'm going to call on Jane . . .

Ms. Jane Trochimowicz: I'm here.

Mr. Silverman: Jane, you've signed up to speak. Please take the microphone and if you would, please identify yourself.

Ms. Trochimowicz: I will. My name is Jane Trochimowicz, T-R-O-C-H-I-M-O-W-I-C-Z, and in my teaching career, I was Mrs. T.

Mr. Silverman: Thank you, Mrs. T.

Ms. Trochimowicz: Okay. I'm the current president of the Homeowners' Association of Briarcreek and I have in front of me all signatures in the community of the homeowners with the exception of two people. One person is very ill and the other homeowner has just moved in and has no idea who Dan Kandra is, so I didn't think it was appropriate to ask them to sign their support.

Mr. Silverman: Would you like to submit that to the Commission?

Ms. Trochimowicz: Yes.

Mr. Silverman: Thank you.

Ms. Trochimowicz: I think it is a rare occurrence that 99% of any community would back their builder. We've been, a lot of us, and as you can see right here if you'll hold up your hand please, we are all members of that community.

Mr. Silverman: If you'll please address the Commissioners and not the citizens.

Ms. Trochimowicz: Yes, sorry. Okay, so we are here to support the two new townhouses that Dan is proposing. And if I could make one comment to the young lady about the back of the townhouse, we would be seeing the back, but we have other houses in cul-de-sacs where some neighbors do see the back of other neighbors' porches or decks or whatever, and it has never affected us. I have the utmost support for Dan, for the community, for this townhouse. With the way it is situated, we don't want to look at more driveways, to have driveways in the back. I guess that's it.

Mr. Silverman: Thank you. And do you have a copy of that document?

Ms. Trochimowicz: I do. These are the signatures and this is the verification of the homeowners.

Mr. Silverman: Thank you very much.

Ms. Trochimowicz: You're welcome.

Mr. Silverman: Ms. McFarland?

Ms. Beverly McFarland: Yes. Hold on, please, this will just take me a minute. Good evening, I'm Beverly McFarland and I live in Briarcreek. As you can see, among all the people here, I don't think we really even need to talk about the excellence of Dan's work. You have many, many, many very satisfied homeowners here. So, I would like to confine my remarks to the fact that I will be directly adjacent to these two homes. My home is, at you're looking at it, to the left. I don't know north, south. It's to the left. My husband and I have no problem, absolutely none, with this development as it is, as they're proposing. We support it fully. It will be an improvement to our community and to Valley Road. It will be aesthetically nice and fit in with the community. It will be complementary to Briarcreek. And it will be well-built. And you can say, how can I say these things with such certainty? Because we have worked with Dan Kandra for 12 years. And he came not only to the homeowners' community, he came to us and talked to us about how this was going to affect us, my husband and I. So, what he says he's going to do, he's going to do. That's all there is to it. We've worked with him and what he says he will do . . . and I will just end by saying you can trust this guy and you can trust what's up here. And you can trust that it is a definite improvement to our community. Thank you.

Mr. Silverman: Thank you very much.

Ms. McFarland: Oh wait, I had one more thing. Can I still have the rest of my five minutes? Do I have a minute? Right there, if you put, I don't want any lollipop driveways or wide driveways or any of that stuff because if you put it in, there's nothing that's going to be a barrier between my house and these two. There's no place to put trees or bushes or, it's going to be all asphalt and I don't want it. Thank you.

Mr. Silverman: Terri Taylor?

Ms. Terri Taylor: Hi, Terry Taylor, 1 Kayser Court. I just wanted to address most of what Mr. Cronin said about the driveway. I think the lot is literally too steep to put a driveway. It's probably also not wide enough and there would be way too much impervious surface. And, as Bev said, we don't really want to see the driveways on that side of the house. I think it's really not that far. It won't feel excluded. I live at the bottom of Kayser Court and this will be at the top of Kayser Court, but I walk up to the top of that hill all the time and it won't be a problem when we do our wine-outs in the gazebo. They'll just be able to come down the sidewalk and be in the development. And one other thing that, I don't know if it's appropriate since you're the Planning Commission and not the town, but the tax improvement for the town has got to be great because now you're going to have two nice houses as opposed to an old, pretty yucky

house. So, I think there's some tax advantages to the town of having this really nice development. And we want it.

Mr. Silverman: Thank you very much. That concludes our list of people who signed up. Sir?

Mr. Lawrence Rose: Hi, my name is Lawrence Rose and we are the next to the youngest people who have stayed in Briarcreek. We've lived there under two years and I live on the bottom, there we are, right there, and I walk my dog around this community every day. Please note that when you're concerned about the positioning of this house facing Valley Road that these two duplexes that are across from me, I see their backs. That's four people's back yards. But I see a nice back yard and a raised deck. It is not at all, in fact, I maybe even prefer that to seeing a driveway to tell you the truth. So, over here, where you're going to have the new house and they're doing two houses in place of the single house, you're going to have a yard up here and then you'll see the two backs. And that's going to be the same kind of thing I see down here and that's quite suitable. Thank you.

Mr. Silverman: Thank you very much. Is there anyone else who would like to speak? Sir, if you could come up to the microphone and identify yourself.

Mr. Gary Carpenter: I'm Gary Carpenter and I live in Briarcreek, too, and I'd just like to say that this improvement is going to complete the development. It's going to, you know, make the aesthetics of our homeowners' association, our area, complete. Right now, it's kind of disjointed with the farmhouse. It doesn't fit in to the whole scheme of the development, but this will and it's going to really improve our living there. So, that's all I'd like to say. Thank you.

Mr. Silverman: Thank you. Anyone else?

Mr. Gene Bailey: Hi, my name is Gene Bailey and I live at 5 Kayser Court in Briarcreek. I didn't want to address what Dan has planned or anything. What I'm going to suggest is you couldn't get a better builder, a better person to work with. We've been here 15 years and I think the development has only improved. My concern is what happens if we don't do this? Dan is a businessman. He may take that lot and try to redefine what he wants to put in there and we would not have the same community. So, it's still part of our community, we want it part of our community, and I believe it's best that it remains part of our community with the requirement met by Dan and promised to be met by Dan for two new houses. That's all I have to say.

Mr. Silverman: Thank you. The applicant has an opportunity to respond if he feels it's necessary. Commissioners, are we ready to move to a vote?

Ms. McNatt: I have one question.

Mr. Silverman: Yes?

Ms. McNatt: Just to clarify, the back yards, is that a retaining wall that follows along all the back yards of the current homes that face Valley Road and then the other two that face . . .

Mr. Hill: That is a retaining wall.

Ms. McNatt: So, I was just thinking if that house, that lot was part of the original design, that retaining wall probably would have continued all the way around, if that house originally was included and built. Alright, just curious.

Mr. Silverman: Alright, the Chair will entertain a motion with respect to the recommendation on page 10 of the staff report.

Mr. Hurd: Sure. I recommend that City Council approve the Briarcreek Lot 21 minor subdivision and site plan approval as shown on the Minor Subdivision Plan and Site Plan

Approval Plan dated September 6, 2018 and revised February 25, 2019, with the Subdivision Advisory Committee conditions.

Mr. Silverman: Is there a second?

Mr. Wampler: Second.

Mr. Silverman: Okay, it's been moved and seconded. Are there any questions? Okay, hearing none, we'll move directly to the vote. All those in favor, signify by saying Aye. All those in opposition, Nay. Okay, before I bring down the gavel, I want to say for the record that the Commissioners received three emails from residents. Commissioner Stozek nicely summarized the issues and questions when he was speaking, and they will also become part of the record. The motion carries.

Mr. Hill: Thank you very much.

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

THAT CITY COUNCIL APPROVE THE BRIARCREEK LOT 21 MINOR SUBDIVISION AND SITE PLAN APPROVAL PLANS AS SHOWN ON THE MINOR SUBDIVISION PLAN AND SITE PLAN APPROVAL PLAN DATED SEPTEMBER 6, 2018 AND REVISED FEBRUARY 25, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 7-0

AYE: CRONIN, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER

NAY: NONE

ABSENT: NONE

MOTION PASSED

Mr. Silverman: As I stated in the Chair's opening remarks, we will now take a five-minute break while we reconfigure for the next agenda item.

Ms. Gray: I don't know if anybody heard that.

[Secretary's Note: Mr. Silverman called the meeting to recess at 8:27 p.m. and reconvened the meeting at 8:40 p.m.]

5. DISCUSSION OF PLANNING COMMISSION 2020 WORK PLAN.

Mr. Silverman: I'd like to reconvene the July 30 Planning Commission meeting. Commissioner Stozek?

Mr. Stozek: I just wanted to bring up something that came up in today's meeting and a couple of previous meetings. I've noticed in the time that I've been on the Commission, most of the time development projects have come to us and one of the principle things they're asking for are variances in setback and that has traditionally been something that we've talked about.

Mr. Silverman: They are not asking for variances of setbacks. They are asking to follow the track for the subdivision approval process. That's not a variance, that's part of the Zoning Code.

Mr. Stozek: Okay, well, they weren't asking us but for my own clarification, but this one project today, they got the variances approved by the Board of Adjustment. They requested them from the Board of Adjustment. Is that correct?

Mr. Silverman: Correct.

Mr. Stozek: So, what dictates whether they go to the Board of Adjustment or go to us?

Mr. Silverman: That, I think, is a question for staff.

Mr. Fortner: It is the choice of the developer. A developer has a choice of whether they want to go to the Board of Adjustment for a variances or if they want to go through the site plan approval process. The case can depend on, for example, what they were doing, they could do a by-right plan and they had some things like the way the lot was shaped, strange lot width that gives them a hardship, so they have a better case with the Board of Adjustment. Other things are they want to do something interesting with the design so that would probably make more sense to go through a site plan approval process. So, it's case by case.

Mr. Silverman: And you were referring to North Street, correct?

Mr. Fortner: Yeah, North Street had an odd-shaped lot and they were trying to build something in the original footprint, so it made sense for them to just go get some variances, I think.

Mr. Stozek: It just seemed to me, maybe in the last six months there were more cases where they were going to the Board of Adjustment to get these things approved rather than coming before the Commission and maybe it was the situation at the time, but the timing just seemed odd. And it almost seemed liked judge shopping.

Mr. Silverman: Well, keep in mind, the Board of Adjustment does not approve a land development process. All they do is approve variances if the applicant chooses to move forward with developing a property. So, we don't say yay or nay and they don't make recommendations on whether it's good, bad, or indifferent with respect to Council's action on the land development process.

Mr. Stozek: But we have objected to certain variances when they've come to us in the past. I don't know whether, it depends on the individual project whether we say yay or nay, but there have been discussions about how much of a variance individuals in this group have agreed with.

Mr. Silverman: On the paper this is going to read very interestingly. We don't approve variances. We approve the site plan development process that, as legal described, provides bonuses that track in a particular manner in the Code. So, there's the by-right by Code minimum and then there's the site plan process that, with a negotiation, there can be bonuses which yield the equivalent of going to the Board of Adjustment for a building variance.

Mr. Hurd: And I think, using tonight for an example, the Briarcreek, I don't think the Board of Adjustment couldn't give them a duplex in that zoning.

Mr. Silverman: No.

Mr. Hurd: That's for site plan. But I think, to your point, Bob, I think there have been projects that have come to us that have, basically they went to the Board of Adjustment first and got variances that, to us sitting up there and reviewing the totality of the project, felt were out of scope for what the project was. And we're like, but the challenge is that at the outset we're told these are approved variances. They are what they are and we have to kind of accept them as part of the record, as the changed lines and such. We can't reject it based on our feeling that the variance was too large.

Mr. Silverman: And if I remember some of our conversation, I think you were involved in this, Will, we asked to have shown on the plan where the variance had it's impact and I don't think that came through on this one particular plan where . . .

Mr. Hurd: On North Street it certainly wasn't clear . . .

Mr. Silverman: Yeah, where Tom had a question.

Mr. Hurd: Where the boundaries had been.

Mr. Silverman: And then you had a question.

Mr. Hurd: Yeah.

Mr. Silverman: So, maybe we can ask staff to make sure that that's pointed out in a note or in a drawing with an inset.

Mr. Hurd: And I'm taking notes because I still have on my task sheet a submission guidelines package kind of thing. We've been talking about that off and on.

Mr. Bilodeau: Mary Ellen, with the site review process, the average time for a property to go through that to get to the Planning Commission? Like, for instance, Briarcreek. How long do you work on those plans with the distinctiveness and everything else before it actually comes to Council or the Planning Commission?

Ms. Gray: If an applicant is utilizing the site plan approval provision in our Code?

Mr. Bilodeau: Yes.

Ms. Gray: Well, when I started, before we had 30+ projects in-house, the back and forth revisions, there were probably at least 2-3 revisions. Let's say, for example, the first three projects that we worked on, that I worked on when I was here, probably took at least 3-4 months of going back and forth with revisions because there were at least 2-3 revisions. So, on average, it's at least 2-3 revisions for those projects. So, now that timeframe is a little extended because we have so many other projects. Because keep in mind, and this is for the edification of the Planning Commission, our plan review not only includes our projects in the front of the line, we also have to review projects that have already been approved and are in the construction phase, we also have building permit review, we have plans that have been approved at the Planning Commission and are going to Council, so have a lot of balls in the air that's under planning review. So, we have to kind of juggle all those.

Mr. Bilodeau: And then with the Board of Adjustment variance, that's a lot quicker process?

Ms. Gray: Yes, sir. So, if an applicant comes in and they get a denial letter, so we would review a plan and that level of review is usually not as high because we're looking for a building setback or, so that's usually 2-3 weeks or a month at the latest to get that denial letter. And then the applicant will then go and apply to the . . . so that's probably about a two-month process from beginning to end to go through the BOA process.

Mr. Bilodeau: Thank you.

Mr. Fortner: I think what you were trying to get at is does it take longer one path than the other. What Mary Ellen was describing, that's just to get to the Board of Adjustment. You still have to go through the Planning Commission process, the subdivision process. So, that's in addition. I don't think site plan approval or a by-right plan necessarily takes any less or more time to go through the Planning Commission process. So, it's just, if you go through the Board of Adjustment, it's another couple of months probably to the planning review process.

Mr. Silverman: But at least when the Board of Adjustment makes a decision, you know it's a final decision. Coming before the Planning Commission with site plan approval, it's still an open book, so it's more definite on the part of the developer.

Ms. Gray: Can we get to our agenda item? Good discussion though and this goes to one of the main issues I wanted to cover regarding our Work Plan items and certainly want to try to get you guys out as close to 9:00 as possible. So, our third agenda item is our initial discussion of our 2020 Work Plan. I wanted to get this discussion, certainly we're not going to come to any conclusions this evening regarding our 2020 Work Plan. I just wanted to get folks thinking about what it is that they wanted to see, talk about what staff sees, what we're currently working on, and some of our thoughts moving forward.

So, what I included in the introductory memo, some of the projects that we started in 2019 that we see continuing into 2020 that impact our resources and then impacts resources that we can share with the Planning Commission in addition to our day-to-day work, is continuing to work on the Downtown Parking Strategy, the comprehensive parking solution, continuing to work on the Newark Area Transit Study project. That probably will not take as much time as it did this year. Certainly, continuing to work on the Transportation Improvement District subcommittee. That does take a chunk of our time. The Rental subcommittee, that is looking to wrap up at the end of this year with a set of recommendations. I can't predict what the outcome of that will be. I anticipate there will be some to-dos for that from Council, so I'm assuming we're going to be working on some of those to-dos. And then continuing to support the LEED subcommittee on that. So, those are kind of the big chunk of to-dos that we see in addition to our day-to-day work.

Mr. Hurd: Mary Ellen, may I interrupt just briefly?

Ms. Gray: Yes.

Mr. Hurd: I hadn't really looked at this before. I'd like to just amend that final sentence about the LEED thing because we are calling ourselves the Green Building Code Work Group, not the LEED subcommittee. And instead of saying the LEED provisions, I'd like it to say the amendments to the IECC.

Ms. Gray: Okay.

Mr. Hurd: Thank you.

Ms. Gray: You're welcome. Amendments to IECC. So, some of the things that I've been talking with Chairman Silverman about moving forward into 2020, because what's in the Code regarding our Work Plan, a component of it is to ask for a budget. And we are starting the budget, we've started our budget discussions for 2020. And so, what I've put in our budget discussions, we've had meetings about it already internally, for the Planning Commission is, one is to pay the Planning Commission for attending meetings. New Castle County and Kent County pay their Planning Commissioners \$100 a meeting and so that is what I'm putting in the budget for attendance to Planning Commissioners. Also, I would like to include in to have additional training be brought in to the Planning Commission and have that training start at 6:00 p.m. And since we're starting at 6:00 p.m., what the Council does, when the Council meets at 6:00, they bring in dinner. So, I would propose that we would do the same. Of course, it would be a public meeting so I would propose that we would bring in training. I've initiated discussions with the IPA, the Institute for Public Affairs. They have some trainings for Planning Commissioners. We also have a large catalog of other types of training, free training, Planning Commission related, certainly, some of the things if you'd like to see some particular trainings. I don't see us doing this every meeting, although if you want to do that every meeting, that'd be great, so think about some types of trainings that you would like to see if that is something that you're open to and can free up your schedule to have training sessions before the meetings, if that is something you would like to see.

So, with that, I open that up, Mr. Chair, for discussions from the Planning Commission.

Mr. Silverman: Questions? Comments?

Ms. McNatt: I don't see this, is this in addition to what we already have or are already working on that may not be resolved from the past working plan from 2019? And I also want to say that the date at the top says 2018, so I'm just making sure . . . it's supposed to say June 25, 2019. So, is this in addition to? So, for example, I don't see, I know we've been working a lot of time, and I don't know where it stands, is the Focus Groups. I know it went to PLUS and down . . .

Ms. Gray: This is the items that Planning staff is working on. So, this is not the Planning Commission's work items. This is just bringing to your attention the items that Planning staff anticipates working on. So, this does not include the list that the Planning Commission has. What we put together for 2019 was the Planning Commission list and then we included an addendum of what the Planning staff was working on. This list here is what I would anticipate as the Planning staff list.

Ms. McNatt: But does some of these items include like for example, the Green Code Building Work Group, doesn't that include Planning Commission members and aren't we part of the things you're working on?

Ms. Gray: Yes.

Ms. McNatt: Okay, but it's only, this is only new stuff?

Ms. Gray: This is, as I indicated in the memo, this is stuff that we are working on now that I anticipate continuing to work on into next year.

Ms. McNatt: Okay, so the Focus Group discussion that you were working on in the past, is that part of this list?

Ms. Gray: Yes, well, here again, it's, refer to the 2019 Work Plan, which is also part of the discussion. This is not an exclusive list.

Ms. McNatt: Okay, that's what I'm trying to understand. The 2019 Work Plan, that's this page. Hold on, I have two different, that's not attached, is this . . .

Ms. Gray: The 2019 Work Plan is attached . . .

Ms. McNatt: But didn't we get a new one today? This one just, why do I have two? I don't know why . . .

Mr. Silverman: I think part of the confusion may be this is a lead up to readopting our annual work program at, I believe, October's meeting.

Ms. Gray: Yes.

Mr. Silverman: Okay, this is information for the group. Stacy, we have not added or deleted . . .

Ms. McNatt: I have multiple documents and I'm just trying to understand what . . .

Ms. Gray: Okay, I apologize if I'm being confusing. Let me step you through the documents.

Mr. Silverman: I'm looking at something dated October 2, 2018.

Ms. Gray: Yes, October . . .

Ms. McNatt: Sorry, I was looking at a memo, which is what she was reading from and so I guess I should wait until we go over the report first before I have any . . . are we going over the report? There's a report, a separate report, is that correct? Dated October 2, 2018.

Ms. Gray: Yes.

Ms. McNatt: Okay, so I should wait until we go over that.

Ms. Gray: No, that's fine. I am done talking about the initial discussion. So, now we're up to, yes, the document on October 2, 2018, which has the 2019 Work Plan.

Mr. Hurd: Right, I think that's, so the document that say October 2, 2018 is the report on the 2018 year and then the proposed 2019 Work Plan. So, that's what we've been working against. So, that starts in the middle of that packet. That's the report. The quarterly update for April to June of the work being done on the 2019 Work Plan. So, it's not the Work Plan, it's the report from staff on the things that we've been doing regarding the Work Plan. And then, I don't think there's anything in here, I mean the 2020 is really just proposed in the things that we're talking about. But you'll note on the 2019 Planning Commission Work Plan, there's two pages for sort of the Planning Commission and then there's two pages which just talk about Planning and Development Land Use Staff Planning Work Plan, pages 3 and 4 at the end, which is just the staff portion of what they're doing to support the Planning Commission as well as other activities that have nothing to do with our Work Plan per se.

Mr. Silverman: I'm referring to the packet that is dated October 2, 2018, there are a number of elements within that which are not properly page numbered and I think that's leading to confusion. We have pages 1 through 9 and then the numbering sequence starts over with page 1 with no introduction title or intermediary pages, and then it ends with page 2, 3, 4, and then we have a table that's unnumbered and then an exhibit. So, we have all the pieces, they just aren't easy to track at this point. So, in the near future, before we readopt a 2020 plan, we probably will be reviewing the items that are shown after page 9, on now page 1 and it's headed 2019 Planning Commission Work Program.

And, Stacy, with respect to your question on the Focus Areas, the Council meeting, a recent Council meeting where the Focus Areas were to be one of the major topics of discussion, there was no conclusive point reached by Council as to whether we should even continue working on Focus Areas. So, we have no direction and I think that kind of speaks for itself that Council may not consider Focus Areas the priority that we did and maybe we simply move on to other items on our Work Program, or items that we wish to add.

Mr. Stozek: I understand what you're saying. I remember the meeting. I think, though, rather than, we all felt pretty strongly about the Focus Areas and I think rather than just move on, I think it needs to somehow go back to Council saying give us direction. Do you want us to work on this or not? Rather than us just saying we're going to drop it because we didn't get a vote of confidence from them earlier.

Mr. Silverman: Well, I think our position will be self-evident when we submit our new Work Program to them. They can hand it back to us and say please reconsider your program. Remember, they don't approve the Work Program. And then we'll find out from Council whether they're interested in continuing.

Mr. Stozek: I just wonder will they even notice.

Mr. Hurd: I felt, personally, at that meeting that I don't think they fully grasped how the Focus Areas had come about and sort of the work that we had been doing around them and what we were trying to get to without doing too much. You know, without overstepping and going, because I think there are a lot of people who talked about rezoning, rezoning, rezoning, and I think they missed the point that this was about sort of we would accept rezoning under conditions and I think some of the subtleties were lost, unfortunately. I'm not sure how to better explain it because it's a deeply complicated thing that we spent months pouring over. And so, to try to throw it at Council all of a sudden and go, here's the Focus Areas and they're kind of stunned. So, I don't know if it means we need to come back at it or work it over a little more, or what that means. But I don't think they fully grasped what we were trying to do. I think they thought if we don't talk about Focus Areas, we don't have to deal with student

developments and that wasn't the point. The point was there is, you know, there's development and rezonings and Comp Plan amendments going on in these areas and we would like to get ahead of it in a way that makes it sort of cohesive and has a little more control and a little more direction to it. And I don't think they were seeing that. I think they were seeing if we don't approve this, then there's not going to be any more developments and we don't have, because we don't know if we need any more developments because we haven't seen the Rental Housing thing. So, we're just pushing it off until we have better data, which I don't think is going to solve anything.

Mr. Silverman: And I would like to add to the presentation, talk about the presentation that was made before Council, that there was a very comprehensive staff report, staff memo, to Council detailing the two years-worth of work, the hundreds of staff hours, the many hours before the Planning Commission, and the one public open house we had where we tested public reaction to a single Focus Area. So, the information is there.

Mr. Fortner: I wasn't at that meeting but if they were trying to defer to this Rental Housing group that's meeting, I think that they're very, they seem to like this idea of the Focus Areas. Is that your impression? And if it is something that's going to go in their plans, saying hey, you ought to look at Focus Areas where you're going to focus growth. You don't think so? Okay. I thought it might be in the report. If they're going to defer to the Rental Housing group, maybe it comes back to them and the Rental Housing group goes back to Focus Areas.

Ms. Gray: There was a certain deferral to the Rental Housing group that some Council members did indicate they wanted to hear the recommendations from the Rental Housing group, yes.

Mr. Fortner: If those recommendations included a Focus Area, if they, then maybe it gets back on the table.

Mr. Silverman: I'm not sure whether it was the Focus Area or I got the impression they thought the Focus Areas were putting many carts before the horse with respect to [inaudible], the Focus Area, population growth, building height on Main Street. They felt that there were a lot of other issues out there that needed to be settled before they could move into the concept of the Focus Area. That was my impression.

Ms. Gray: Okay.

Mr. Silverman: Madam Director, do you have any additional information?

Mr. Hurd: I actually had a comment on your initial thing about proposed things in the future, which is why we're sitting here. I think if we're going to do training, I would say not more than quarterly. I don't think monthly is going to be as effective and it's going to be harder, I think, to pull that together. But I think quarterly could help, especially if we kind of in our Work Plan think about areas that we want to get more information or training on. You know, areas that we feel we'd do a better job if we all were sort of speaking the same language about . . .

Mr. Silverman: That training may also include information from other areas of the City. We hear about the subdivision agreement, I believe that's the proper term. I would be very happy to listen to a half-hour of the City Secretary explaining exactly what goes into it. I know Commissioner McNatt has had questions about who is following through and so have other Commissioners, and that would let us know that this becomes part of a, from my understanding, a subdivision agreement becomes part of a legal document. So, if a citizen or others have a question, what happened to the such and such that was approved at Council that was supposed to be billed and stalled, they can go back to the agreement. So, our education doesn't necessarily have to be podcasts, which are excellent for bringing in people from the Public Administration Institute. We can better understand how the City works.

Mr. Stozek: Going back, one of your items was the budget when you were proposing paying us. Are there any other commissions or committees in the City that get paid?

Ms. Gray: No.

Mr. Stozek: I mean, as much as I would like to have an extra \$100 in my pocket at any given time, I really don't think that's a good idea because of budget creep in the City. I know it's not a tremendous amount of money. Now, if we're going to have training sessions and we're going to come early and they want to give us a pizza or something, I don't know how that works and that's probably illegal, but I just have a problem with us being the only commission that gets paid. I kind of see this as a civic duty.

Ms. Gray: Well, I think there is a precedent for that in that other jurisdictions have done it and the Planning Commission meets regularly. Certainly, other boards do, but there is a, well look at your packet and the packet up there, the pile over there is your packet for next month, next week, and I'm still going to be emailing you something in the next day or two. So, it does include a lot of additional work. So, I think there is a rationale that there is a lot of work that is involved in being a Planning Commissioner.

Mr. Silverman: And we are one of the working groups within the City that's established in state law. You know, the City is required to have a Planning Commission. Our work has become much more complicated. I know, personally, my better half sometimes gets very unhappy with the number of hours that are involved in going through our packets, going out and visiting sites, and just the amount of time that it occupies in my household. And I'm not saying \$100 is huge compensation one way or the other, but to be slightly facetious, it would help with the amount of printer ink that I use.

Mr. Hurd: And I'll offer a different perspective. This actually came up in a conversation online with a friend who is looking at jurisdictions out west. But the challenge with most city governments and boards and thins is that they meet in the evening at times that are inconvenient for young professionals, for families, for single parents, for people with kids. So, there is a whole, there is a large demographic that is essentially excluded from the public process of city government because of when they meet. If \$100 means that, if \$100 means that a parent could come because they could get child care and they're able to come and participate on the Planning Commission, on the Board of Adjustment, on the Conservation Advisory Commission, I'm thinking that this needs to go across all the boards so that all the boards could have full citizen participation. Because, again, you can't come out here at 7:00, from 7:00 to 9:00, unless you've got something covering it at home. So, that, if \$100 means that we can actually get that group in the middle that's not here, because it's easy to get a single young professional who doesn't have anything else going on and older retired people or self-employed people or people who can sort of control their schedule or have other things going on, that chunk in the middle is what's missing. And if \$100 means they're participating, then we can get a stronger City government out of it.

Ms. Gray: That conversation was had at budget last year and it just never got, for all the commissions and all the boards, and it just never was followed through upon. So, I tend to do this, I tend to be the outlier and lead the charge, so perhaps it will end up doing that. And in the totality of the budget, it's really a minimal cost and certainly, Commissioner Stozek, I see your point on that. But in the scheme of things, it's a pretty minimal cost. And that is one of my concerns, not concern, but one of my things that I'm looking at. I would like to see diversity on this board, on all our boards, and that is one of the things, you know, you're talking with planners throughout the country, throughout the state, and we're all wrestling with trying to get people to volunteer. I volunteer. I'm a planning commissioner down in the Town of Camden, and we're struggling to get people on our board. And I've taken my kids to some of the meetings when they were young and didn't have a sitter. But anyway. So, I think it's part of a broader plan in my mind to try to increase participation.

Mr. Silverman: Any additional comments? If there are no additional comments, I would like to conclude this agenda item.

6. NEW BUSINESS.

Mr. Silverman: Okay, moving on to agenda item 6, new business. Is there any discussion or any recommendations for topics to be explored or to be included in future agendas? Okay, hearing no discussion, we will move on to item 7.

7. INFORMATIONAL ITEMS.

- a. PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS**
- b. PLANNING AND DEVELOPMENT DEPARTMENT LAND USE PROJECT TRACKING MATRIX**
- c. PLANNING COMMISSION 2019 WORK PLAN QUARTERLY REPORT**

Mr. Silverman: Item 7 on our agenda, informational items.

Ms. McNatt: Oh wait.

Mr. Silverman: We will back up.

Ms. McNatt: Sorry, are we discussing additional items to be discussed, #5, for our Work Plan or for what the City wants to work on? I thought we were on 5. Weren't we on 5 last?

Mr. Hurd: The Work Plan comes from us. Council does not . . .

Ms. McNatt: What number are we on?

Mr. Silverman: 7.

Ms. McNatt: Was that the packet that was provided at our desks? Oh my God, I'm just giving up tonight. There was a packet provided at our seats that had like additional information. Is that what this one is?

Mr. Silverman: So, informational items, that was the additional information that was provided at our places, I believe.

Ms. Gray: All of these agenda items were part of the packet that was provided as part of the July 30 packets. So, it was all part of the packet that was delivered to you all last month.

Mr. Silverman: Referring to revised June 25 Current Projects, the tracking 11x14 tracking . . .

Ms. McNatt: Informational items. Isn't this what we were discussing? Maybe we should just sit at our desks then I could keep it all straight. Okay, so that's not this, informational items? If you're on #7, informational items, that's this. Okay, I'm back. I'm back.

Mr. Silverman: Do any of the Commissioners have any questions on the information contained in the packets? The tracking matrix? The listing of current projects dated revised June 25, 2019?

Mr. Hurd: Is there some place on this tracking list that we could see the results of the City Council meeting and whether its ultimately been approved, or is that what the dark band means? Because it just says City Council scheduled and then it's not as clear what's happening unless the dark band means that it's in construction.

Ms. Gray: I was talking with Mr. Fruehstorfer about that the other day. We are going to add a column for City Council approval and construction plan in process and construction plan approval. We just haven't gotten to that.

Mr. Hurd: Or is that in that description column, is that where things get updated? Or is that something different?

Ms. Gray: I'm sorry, what was that, Will?

Mr. Hurd: The description column talks about, but maybe that's just the description of what it is, what's the project. Okay. That's not the same thing? Okay.

Ms. Gray: Yeah, we're constantly adding, Tom updated this about two weeks ago and we were, as I said, discussing adding more columns on it.

Mr. Hurd: Actually, if we're going to do that, one thing, your column Planning Commission Schedule is missing an N, so it's Planing Commission. Can we add a column at that point to say what was the result of the Planning Commission vote on that project? Like approved 4-3 or approved 4-2 or something? Just a way to kind of look back and go, was that one that we all agree on? Was that one that was kind of split? Or is that starting to be too much information?

Mr. Silverman: Having been on that side of the table, that would be very informative for an applicant who is coming to the City for maybe the first time to get the lay of the land and then go back in and read the records on those that were approved or defeated 4-3, 3-4, and find out what the issues were when they were formulating their presentations. And with respect to your observation, I believe the shaded line is approved by Council. It doesn't say that, there are no footnotes down at the bottom explaining what the shaded area means.

Ms. Gray: Do you have something, Bob? Before I forget, your packets for next month are on the table, up there, and I do have, there will be one other additional agenda item that I will be emailing you in the next day or two, and that's the industrial, the proposed zoning changes for industrial zoning districts. And that will be short. It will only be a couple of pages.

Mr. Silverman: Any other discussion on the formatting of the paperwork that's been submitted to us? Commissioner Stozek?

Mr. Stozek: I can't remember anymore; did we ever have a discussion about the map that you guys produced that showed tax exempt properties in the City? I don't believe we discussed it here?

Ms. Gray: Did we have a discussion here? No.

Mr. Stozek: Okay.

Ms. Gray: We had an email discussion, just amongst one person or two people. It wasn't among the whole Planning Commission. Because there were some questions that you had. So, there was no FOIA violation. On the record, no FOIA violation. You had a question and you wanted to know . . .

Mr. Stozek: Right.

Ms. Gray: And I have since forgotten what it is that you were asking. We produced a map . . .

Mr. Stozek: I was interested in how much of the property in the City was tax exempt.

Ms. Gray: Right, and we produced a map and sent it to you.

Mr. Stozek: Right, and I don't know if you're aware of it but at one of the subsequent City Council meetings I got up to make a proposal about alternate pilot plans of payment on taxes in which I referenced tax exempt properties. And that was three months ago, and I have yet to hear a word back from anybody on Council.

Ms. Gray: Oh.

Mr. Stozek: So, I'm going to go to Council, probably at the next meeting, and ask the question again.

Ms. Gray: So, perhaps as an informational item, would you like us to include that or maybe just email that out to everybody.

Mr. Hurd: I do recall that email because I think I got it as Vice Chair, there was a question about what the legend meant. Because he was, I think Jay was just pulling it straight out of the database. But there's some county level tax exemptions that are recorded and so it wasn't clear what that means, you know, senior 55 or something. There were a bunch of ones that it would be nice to know a fuller text description of what it is. Is it just the county portion that's released or, you know . . .?

Mr. Stozek: I think some were full exemptions and others were graduated exemptions based on age and income.

Mr. Silverman: That's my recollection. That at a certain age, again state legislation, there's a reduction in taxes, in property taxes, and I think that was different from your question of truly exempt from 100% of all property taxation.

Mr. Hurd: I think if we're going to distribute this as a talking point, I think that that legend needs to get expanded to sort of say this means reduced, this means a full exemption, this means partial, you know whatever it is.

Ms. Gray: I kind of lost that thread.

Mr. Hurd: The map that Jay sent, he had color-coded and pulled from the database a very short description as to what the exemption was. What I think people will need if we distribute this larger is a fuller expansion in text describing what that means. If it says, I think there was one like senior 55 county or something like that. Is that a county tax that's exempt at a level but the City is still . . . what does it mean? What's that designation mean in terms of dollars?

Ms. Gray: Okay, it's been a while since . . .

Mr. Hurd: I'll dig it up.

Ms. Gray: Thank you.

Mr. Stozek: The problem was I think it was all color-coded blue and you could see the commercial properties and the University or whatever and then there were houses all over the place that had little blue dots that had to be equal to 60 years old or whatever that are getting some reduction in their taxes, but they weren't exempt from taxes.

Ms. Gray: Okay, yeah, that will be helpful, Will, if you could please dig that back up and articulate what it is you want and send it to Jay and copy me. That would be helpful. Thank you.

Mr. Kadar: I knew there were exemptions with the school district, but I wasn't aware that there was any in the City of Newark. It's a long story.

Mr. Silverman: There is a plethora of property tax reductions both at the county and state level.

Mr. Kadar: I wasn't aware of the state level, but I was aware of the county.

Mr. Silverman: Because the state legislature, in its gracefulness, there was a \$500, I believe, exemption that they reduced to \$400 and then took back to \$500. That's where the excess money in the state budget came from.

Mr. Kadar: I'll have to look into it because I'm old.

Mr. Silverman: Okay moving on, boy, time does fly when you're having fun and we've violated our own policy here. Any additional comments on item 7?

8. GENERAL PUBLIC COMMENT.

Mr. Silverman: Hearing none, are there any general comments from the public, item 8? Okay, there has been no request to be heard by the public. If there is no business to come before this body, the Chair entertains a motion to adjourn.

Mr. Hurd: I so move.

Mr. Silverman: It's been moved. Is there a second?

Mr. Wampler: Second.

Mr. Silverman: Okay, all in favor, signify by saying Aye. Against? Motion carries.

MOTION BY HURD, SECONDED BY WAMPLER THAT THE JULY 30, 2019 PLANNING COMMISSION MEETING BE ADJOURNED.

VOTE: 7-0

AYE: CRONIN, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER

NAY: NONE

ABSENT: NONE

MOTION PASSED

There being no further business, the July 30, 2019 Planning Commission meeting adjourned at 9:28 p.m.

Respectfully submitted,
Tom Wampler
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

Exhibit A: [Planning and Development Department report \(18 North Street\)](#)

Exhibit B: [Planning and Development Department report \(511 Valley Road\)](#)

Exhibit C: [Applicant presentation \(511 Valley Road\)](#)

Exhibit D: [Briarcreek Homeowners' Association handout \(511 Valley Road\)](#)

Exhibit E: [Written Public Comment \(511 Valley Road\)](#)