

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

February 4, 2020

7:00 p.m.

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

Chairman: Will Hurd

Commissioners Present: Pete Drake
Karl Kadar
Alan Silverman
Tom Wampler

Commissioners Absent: Stacy McNatt
Bob Stozek

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

Mr. Will Hurd called the Planning Commission meeting to order at 7:00 p.m.

1. CHAIR’S REMARKS.

Mr. Hurd: Alright, good evening. The Tuesday, February 4, 2020 Planning Commission meeting is now in session. I just have a few brief Chair remarks. One, just so people are aware, because this did come up, a Council member had some concern yesterday, we are livestreaming this meeting from a camera over in that corner, but it just sits there with a big wide-angle focus, so it’s not zooming in on people, it’s not getting all up in your face. But just so you know.

For the Commissioners, please note that we have additional written comments on Agenda Item 5, I believe . . . five, yes . . . at your space at the dais.

[Secretary’s Note: A link to the written public comment for Agenda Item 5, review and consideration of a Comprehensive Development Plan amendment, annexation, rezoning, and major subdivision for 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road, can be found at the end of this document.]

A quick recap of how we’re going to run this meeting because we’re going to have to be a little, try to be efficient of time while still allowing for full conversation and discourse and exploration, because we have a pretty full agenda and we try not to run late, unlike Council. We’re going to have a brief overview of the agenda item from the Planning Director. The applicant will then give a 15-minute presentation. For tonight, I’m going to ask for the Commission to hold their questions, we’ll go right into public comment, and then the Commissioners will have an opportunity to respond to the public comment, ask questions of the applicant. I will ask the applicants to please take notes during the public comment period because we will often be looking for responses or reactions to the questions and issues raised during that. And then we’ll do the deliberation and motions and voting.

A quick overview of the public comment process. Everyone will get three minutes. I have a timer that I hope not to have to use too much. We ask that the comments be germane to the agenda

item and directed to the Planning Commission, not to the applicant or other members. We ask you only comment once per agenda item and we ask, if possible, to try to not to duplicate too many comments. So, if you're going to stand up and say, it's okay to stand up and say I fully agree with everything the person before me said. You know, that's wonderful. That tells us sort of a gauge, but if you want to, you know, try not to say the same things over and over if you can, just in the interest of time. If you have anything written you want to present, you can bring it up to me prior to your commenting. We do ask that all public comment be done at the microphone so that it becomes part of the record and that, if you need to, spell your name if it's an unusual spelling to make it easier for the person doing the minutes. That's everything, I think.

2. THE MINUTES OF THE DECEMBER 3, 2019 AND JANUARY 9, 2020 PLANNING COMMISSION MEETINGS.

Mr. Hurd: Alright, so we will begin with Item 2, the minutes of the December 3, 2019 and January 9, 2020 Planning Commission minutes of the meeting. Madam Secretary, do we have any further corrections or comments?

Ms. Michelle Vispi: We do not.

Mr. Hurd: Okay. Hearing that there are no changes, the minutes are approved by consensus.

THE MINUTES OF THE DECEMBER 3, 2019 PLANNING COMMISSION MEETING AND JANUARY 9, 2020 PLANNING COMMISSION MEETING ARE APPROVED.

3. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT AND MINOR SUBDIVISION WITH SITE PLAN APPROVAL FOR 118, 126, AND 130 NEW LONDON ROAD (PR#19-07-11). THE PLAN PROPOSED TO MODIFY THE THREE EXISTING SINGLE-FAMILY DWELLINGS, THEREBY CREATING A TOTAL OF FIVE TOWNHOME APARTMENTS. A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT IS REQUIRED TO CHANGE THE LAND-USE FROM LOW-DENSITY TO HIGH-DENSITY.

Mr. Hurd: We will move to Item 3. I will read it out, sorry. A review and consideration of a Comprehensive Development Plan amendment and minor subdivision with site plan approval for 118, 126, and 130 New London Road. The plan proposes to modify the three existing single-family dwellings on the site by adding two new townhome units between the existing dwellings, thereby creating a total of five townhome apartments. A Comprehensive Development Plan amendment is required to change the land-use from low-density to high-density.

[Secretary's Note: A link to the Planning and Development Department report regarding the Comprehensive Development Plan amendment and minor subdivision with site plan approval for 118, 126, and 130 New London Road can be found at the end of this document.]

Ms. Mary Ellen Gray: Thank you, Mr. Chair. This land-use application is a request for a minor subdivision by site plan approval for 0.475 acres of property located at 118, 126, and 130 New London Road. The plan requires a Comprehensive Plan amendment to change the land-use designation from residential low-density to residential high-density. The plan proposes connecting the three existing lots into one parcel and connecting the three existing detached homes with two new homes, resulting in five townhouse apartments.

The Planning Commission was provided the staff report dated January 6, 2020. The agenda for this meeting was posted on the website on January 28, 2020. The staff report was distributed to the Planning Commission and posted on the City website on the same date, with the following attachments: Exhibit A, the subdivision plans and elevations, the zoning requirements, the site maps, the site photos, the zoning map, development density data comparison table, excerpts from the Comprehensive Development Plan, as well as the Subdivision Advisory Committee comments. In addition, the Planning Commission was also provided a full set of plans.

The property currently includes three single-family homes currently used as rental homes and zoned RM, which is a multi-family dwelling garden apartments. The proposal is for the connection of the three existing structures with two new structures, resulting in five townhome-style garden apartments with five bedrooms each. This proposal includes the addition of six required parking spaces, for a total of 15 spaces for this development. The density for this project is 10.53, or 11 units per acre. The applicant is requesting site plan approval for relief, requesting this plan to be approved under the site plan approval provision of our Code, and is requesting relief from several area requirements. Specifically, the plan requests relief from the requirements for lot coverage, minimum lot size, building setback from the street, building setback from lot line, and the building side yard. The building setbacks are all due to keeping with the current building setbacks. The current, the three buildings that are currently there are not compliant with Code. They're grandfathered. So, it would be odd to have the additional buildings meet Code and then sit back from the road. So, the relief that the applicant is seeking is to make the buildings line up.

This plan does not conform to the Comprehensive Development Plan V. The Comprehensive Plan will need to be revised to change the land-use designation from residential low-density to residential high-density. At a density which rounds to 11 units per acre, the proposed development might be designated as low-density because it is on the borderline between low-density and high-density however the density definitions also include the housing type. Because this development is a multi-family townhouse-style garden apartment, which typically includes a high number of students, it more clearly meets the definition in the Comp Plan intended as high-density, which includes the multi-family residential dwelling unit definition.

This proposed development meets all requirements as detailed in the Municipal Code in the City of Newark in Chapter 27 Subdivisions with the Site Plan Approval provision. The Planning and Development Department staff recommends approval of the Comprehensive Development Plan amendment and minor subdivision with site plan approval for this land-use project because this plan is compliant with the City of Newark Code with the Subdivision Advisory Committee recommended conditions, it should not have a negative impact on adjacent or nearby properties, and because the proposed use does not conflict with the development pattern in the nearby area. That concludes my remarks. I'll hand it back to the Chair.

Mr. Hurd: Alright, thank you. We'll now hear from the applicant.

Mr. John Tracey: Thank you, Mr. Chairman and members of the Commission. John Tracey here from Young Conaway Stargatt and Taylor on behalf of the applicant, New London Road Associates. With me is Kevin Heitzenroder from New London Road Associates, as well as Mark Ziegler, the project engineer, who is also a member of New London Road Associates for this project, as well as Alan Hill, the architect from Hillcrest. The department, in its usual fashion, has provided a very thorough analysis of this project. I will try not to be repetitive of many of the things in there, particularly given the time limits the Chairman so eloquently reminded me of at the outset. But we do have a brief slide show to walk through the project.

[Secretary's Note: During his presentation, Mr. Tracey referred to a PowerPoint presentation being displayed on the screen for the benefit of the Commission and the public. A link to Mr. Tracey's presentation can be found at the end of this document.]

Mr. Tracey: Again, this is a project that represents an infill in every sense of the word. It proposes to construct two new two-story units in between the three two-story units that you see in the photograph there. Those units, the properties were purchased by my client in approximately 1999 but those three buildings were erected in 2000. One thing that this application does not require, as I think you heard the Planning Department indicate, is a rezoning. The zoning that is attached to this property permits the type of project that we are proposing today. But despite the fact that it has the garden apartment zoning, it has low-density designation in the Comprehensive Plan, meaning the Comprehensive Plan amendment is needed. I will remind several on the Commission that just at the beginning of last year when Campus Walk II was

approved, we had the same issue. It had the appropriate RM zoning, but it had the low-density Comp Plan designation. That was amended with a positive recommendation of this Commission and by Council as part of the Campus Walk II project.

Mary Ellen also, I think, effectively indicated that this is literally right on the border between low- and high-density designations. The eleven units per acre, which is rounding up from the 10.5 that we have, can be considered either low-density or high-density depending on the development type. Because this is considered a garden apartment when this project is done, it kicks it into the high-density but it's at the very bottom. High-density is 11 to 36 units an acre, and we're 11 units an acre when we're rounded up. Secondly, as Ms. Gray mentioned, we will be seeking site plan approval for this project. There are five deviations that are listed in the department's report, four of which are for existing conditions that are presently on the property, not something new that's going to be added.

I will use the slide show we have to walk you through the project. What you're seeing on the slide in front of you at the moment is the site photograph showing the properties that are the subject of the application. As I mentioned, they've been owned by my client since 1999. The existing homes are four-bedroom homes and those homes are not being, the bedroom count is not changing as part of this application. This is consistent with what you see in the area surrounding this property and along New London Road. Indeed, while primarily residential in nature and student rentals, we find a wide variety of housing types from townhouses, row houses, and single-family homes, to apartments along with University housing, institutional and recreational uses. This is reflected by, if you look at the aerial photograph on Page 2, it's C-2 of the department's report, you'll see the mix of uses that are around us. Per the Comp Plan, high-density residential is directly across the street from us and for the Comp Plan Future Land-Use Map, it's shown adjacent to us, as well. And as I mentioned, the RM zoning supports what we are asking for today.

How do I move this forward? There we go. This is the existing conditions for what is existing on the property presently. You can see, again, the three homes are reflected on the parcels. There is an existing entrance to a parking area off of Ray Street. Ray Street runs in a one-way direction. As you go past the entrance, it's only direction, as you can see from the arrows, is towards New London Road. There are walkways extending from the front and the rear of these existing homes to the parking area that's to the back. You'll notice between the walkways and the homes themselves, they're largely stone and rock areas in between the walkways and the homes themselves. Aside from several large trees you may have noticed in the initial picture of the site, there's very little landscaping on the property save for some existing trees that are on the border between our parcel and the parcel to our south. There are no direct pedestrian interconnections to New London Road, as shown here.

This is the color rendering of the proposal for the project. As you can see, it is truly a small proposal as all of the existing three buildings will remain in their current shape and size, with two new structures being added in between the existing buildings to take this from three single-family student rentals to five garden apartment units. That's again why I refer to this as infill because it's both literal and figurative in terms of the infill that's occurring here. These two homes will not be intruding closer to New London Road than the existing homes which, as Ms. Gray indicated, there are going to be porches and stoops added as architectural elements, but the homes themselves will hold true to the existing setback line that's there. We will be eliminating the lack of direct pedestrian access to New London Road. You can see the five walkways extending down from the homes to connect those homes directly to New London Road, thus providing the direct pedestrian connections that do not exist now. In addition, we will be, of course, sprinkling the two new units, but we will also be adding sprinklers to the three existing units which were constructed before such features were required. And finally, as you can see, we will be reconfiguring the parking lot to the rear to provide Code-compliant parking for all of the units. No additional vehicular connections are being proposed by the plan itself.

There are, as was mentioned, the five deviations that we are requesting. They are truly minor, as four of the five represent existing conditions. This includes the site area and the three setback intrusions that were pointed out by Ms. Gray. These exist and require relief only because of the addition of the two new units, but also, I think partly the reclassification of this as garden apartments changes the setback requirements. But all of those setbacks are external. In other words, were this project not to be going forward, those same setback intrusions would exist with the three buildings, the same site area would exist with the property itself. And then, as Ms. Gray mentioned, we are seeking a very minor deviation, 2.3%, from 20% to 22.3% for the building coverage. But the open land area requirements of the Code are far exceeded and obviously not subject to the request.

The next two slides are showing the architectural renderings that are proposed for the project. This is the front elevation from New London Road. The two new units, if you're going from the bottom to the top, would be Units 2 and 4 in the middle there. The existing homes, if you recall from the initial pictures, are the ones on the outside and the one in the middle. This is, again, what they look like presently. There is going to be a mix of stone siding and roofing materials added to give this an architectural feel that blends into what you have seen constructed in this area of Newark. In addition, one of the things you will notice, especially if you recall the original picture, is you will have four, right now, open and largely windowless walls being replaced by the two units in the middle which have an architectural benefit but also an energy efficiency benefit, as well. And, as I mentioned again, there will be sprinkling in the existing units as well as the new units.

Lastly, one of the bigger components of this is the landscape plan that's being proposed. So, you see the five trees that you could see in the photograph are on the bottom there, adjacent to New London Road. Everything else that you're seeing in here is being added as part of this plan. So, we're bringing in ground cover as well as shrubs, bushes, additional trees, flowering and green to add a lot of landscaping components to this, but also to assist with infiltration of water to the property. In addition, and I'm looking at Kevin to confirm this, we're also going to be doing some soil work in the front of the house to get better drainage soils along the property as opposed to what's there now.

The last slide just reflects the current Comprehensive Plan. You'll notice directly, again, across the street from us is the high-density residential that I was speaking of, Campus Walk II.

A couple of other notes before I wrap up, this is a minor subdivision plan so the project is not required to go before Council for the subdivision approval, but the Comprehensive Plan amendment and the site plan would be something that would be addressed by Council. As the department's report notes, due to the limited amount of impervious cover being added to the property, we weren't required to do stormwater management, however we were asked and did perform a stormwater analysis to make sure that the current system could handle the limited amount of additional impervious cover that we were generating. That report, and I'm looking at Mark, has been done and confirms that there has been no adverse impact on the existing system. That did not take into account, of course, that we're adding new plantings and tilling the soil to make it better along the property, as well.

Additionally, because this is site plan, there are the site plan components that we have to address. The department's report, I think, covers these in great detail. I'll note, because of the small size of the project, we weren't asked to provide open space. This was in part due to the fact that there are several public recreational park facilities less than 2,000 feet away from the project. The departments, both Public Works and Planning, thought it better that we pay the fee in lieu, which could be used for other ongoing City public park projects that they're doing, which we have agreed to do.

As with the parking facilities, in addition to providing Code-compliant parking and reconfiguring and restriping the parking lot, we are also adding landscaping around parking lot, which presently does not exist. We showed the architectural treatments that are being added to not just the new

buildings but also to the existing buildings. And again, with regard to the association with the natural environment and relationship with the neighborhood and community of this project, the department does a very thorough job of discussing this in their report. I will add that what we're trying to do is not only add to the gateway feel that you have on New London Road with the redevelopment that's going on that way to address the need for student housing in an area which is appropriate for student housing, but also doing things to make the individual property look better with the addition of the units, as well as directing interconnections for those homes directly to New London Road. Again, all of this is being done without the need to add any more vehicular access points to the project. And again, this developer has done a lot of work in the City of Newark, most recently with Cleveland Station, which is right around the corner from this, which I think has been a well-received project.

There were no public meetings as part of this. We were aware that our Councilman did discuss the project at one of his regular meetings and showed the pictures and things like that. We were advised by the City that our neighbor above us to the south, Mt. Zion Church, may have had some concerns. I know that Kevin made several outreaches after we were made aware of that and did have an opportunity at least to discuss the project with the pastor coincidentally at last night's meeting with Council. And I should mention we are going to be LEED-compliant, as well, which is one of the other aspects of the site plan process.

So again, the project was noticed multiple times because there were a couple of stumbles with regard to getting it on the agenda. I think this is the third Planning Commission it was on through no fault of anybody. It just happened that it had to get moved. So public notice has been out on multiple times with regard to this project. But again, we think this is a very minor project in the grand scheme of things. Again, the three existing homes are only going to change from the external appearance with the adding of some features on the inside. They're not being expanded. The bedroom count is not increasing. So, really all you have is two two-story buildings matching what's there now being fit in between the existing buildings, with a total of ten new bedrooms being added to the overall property. So, with that, I think we're done with our presentation and my understanding is we're having questions come afterwards.

Mr. Hurd: Yes. Thank you. Alright, I do not have anyone currently signed up to speak on this agenda item, but we will now take any public comment that people wish to have on this topic.

Ms. Tiffany Davis: Good evening, sir.

Mr. Hurd: Ma'am, I'm sorry, you need to come to the microphone.

Ms. Davis: Good evening and thank you for your time. I am a member of Mt. Zion Church.

Mr. Hurd: Ma'am, sorry, name and . . .

Ms. Davis: My name is Tiffany McCreary Davis.

Mr. Hurd: Thank you.

Ms. Davis: And I'm a member of Mt. Zion Church. And so in the interest of being good neighbors, we understand and we've seen the development and we've spoken to you previously over the last project. So how, going forward, do you plan to be good stewards . . . ?

Mr. Hurd: Ma'am, you need to direct the comments to the Commission, I'm sorry.

Ms. Davis: Oh, I'm sorry.

Mr. Hurd: Yes.

Ms. Davis: Good stewards and good neighbors during this process, which is going to involve construction, travel and all those things, which is certainly going to compromise parking and just the overall neighborhood of the neighbors that you're building around, from going from low-density to high-density, again, to accommodate housing for students, which we've already seen developments surrounding us. So, I guess my question overall, what is going to be the barrier? When is it going to be enough? And again, how do they plan to be good neighbors during this process that it's not going to affect the church and the building process overall? Because you may run into some things. You're digging, you're building, and it's on an incline. So, are there any safeguards that are going to be imposed to ensure that the church is not compromised during this process?

Mr. Hurd: Okay.

Ms. Davis: Thank you.

Mr. Hurd: Thank you. Ms. White, you had your hand up.

Ms. Jean White: Before I start, I thought that the public comment was five minutes. Have you cut it to three?

Mr. Hurd: Because of our time, we have three large items, we have two hours, and we have a lot of people, so I was concerned that there's going to be a lot of comment.

Ms. White: Okay. Jean White, District 1. This plan has some positives. One is that there are now going to be steps, shown in the diagram there, down from the top which were not there before, and I think that's a very positive thing. Secondly, I personally like the covered stoops, as they say in the packet, on the front doors. I think they're attractive. And I am going to have some other comments about the design, but I may not have time for that, so I won't say it.

Okay, Ray Street, as the spokesman talked about, is one-way going out to New London Road. That means that the cars for this project for the people living there have to come either through Rose Street or from Ray Street coming from North College. And that means that one is putting traffic that is coming either on Rose Street or all the way on Ray Street and adding additional traffic to it. So, even if the two additional houses between the three that are there already had just four occupants, four bedrooms instead of five, you'd be adding, I mean either way you're adding three parking places for each of the two. But if you're putting five students in there, you could imagine that there may visitors and other kinds of things, and where are they going to park? So, I'm going to say that I, if you look at this because they're narrower between the two and so, to make up for that, the property, it's not shown there but it goes further back, and they have five bedrooms. I would like these to have only four bedrooms. You can still have it go back a little bit to get in four bedrooms but, as the plan says, there are five bedrooms. The three that are there already have four bedrooms and the two that are going in there have five bedrooms.

Let me see, I'd like to have the traffic pattern addressed. As far as the parking lot, it's cutting out some grassy strips and putting a lot more macadam in there in order to get the six extra parking places. I particularly don't like #1, which is one of the new ones, that's heading into the hill with the Mt. Zion Church up above it. Now, there is room for it, but this is a sloped area and I personally wish that wasn't there because I think it may somehow impact the water flow and all that kind of thing.

Now, let me just see here. Okay, now I can get to this. It is very nice but from my personal taste, it's a little bit too much yellow all the way there. And I noticed that across the street where we have Campus Walk, which I believe was also done by Hillcrest, there's more different types of backgrounds. There are bricks, there's certain types of round shingle-type things, and I think there's stucco too. But there's a variation. And without putting like every other one, you know, red, black, red, black, or white, black, white, black, I just wondered if there could be a little variation there in the whole thing. As far as the siding, I see from reading the project description

that one cannot have vinyl, I think. But is it going to be aluminum siding or is it going to be like HardiePlank or CertainTeed? And I was wondering what it would be. And let me just see, I did see now the side elevations, but they weren't in the packet. They were in the packet, but I didn't see them, so I have a concern about what they look like in the back. I think you did flash them and the side, and it seemed to me they should be very nice looking, as well, as people will be going by this. How much time do I have left here?

Mr. Hurd: You're almost done.

Ms. White: Okay, I'm almost done. And, as I understand it, the trees that were shown in front already which are there originally are still going to be staying there. Okay, thank you. And I will say something about the site plan approval which has six different areas. In the one they say relation to natural environment. Well, I think it's very nice to plant ornamental plantings and things around there, but I don't feel it says any natural environment to start with, and I think that part has to be changed on our site plan approval. I mean it's one thing if there are trees and flowers and everything there, but there's no natural environment. Yes, it's very nice that there's landscaping being put in, but that does not equal the natural environment that's there. I guess with that, I am concerned about where, how this would be constructed. It might have been mentioned by the woman before me where one puts all the construction materials and is one going to be using the parking lot of the Mt. Zion Church, for example, or how this will be done. Thank you.

Mr. Hurd: Thank you. Anyone else? Okay, we'll bring it back to the dais. Kevin, do you want to pick up on the comments here?

Mr. Kevin Heitzenroder: Sure, thank you. Thank you, Mr. Chair. Kevin Heitzenroder, 271 Beverly Road in downtown Newark is where I reside. My business is also in Newark and I'm heavily invested in this town. I'd like to just briefly respond to the comments but before I do that, the real reason for this project is this was actually one of the very first projects we did twenty years ago. And at that point in time, Ms. White said we didn't have enough windows in the building, by the way, so she's been at this a long time. And she was actually right. We didn't know that back then, but we know it now. And we have an interest in making this gateway coming into Newark more aesthetically pleasing. We just finished Cleveland Station up to the north and we're very proud of that project.

You know, there is a limitation as to how far we can go. We're just adding two units, which is very minimal, as John said. But that is why we want to do this project in the first place. We have no reason but to be great neighbors to everyone around us. We run a very tight ship with our tenants. We expect perfect behavior and if it's not like that, we certainly address it. To address Ms. Davis' concerns specifically, I am aware that the church has bible study on Wednesday night and certainly church service on Sunday. So, we will restrict construction to not be at those times for sure. I don't think there would be construction at those times anyway. As far as the inconvenience to anyone with the construction itself, I really honestly believe it will be zero. All of the construction will remain on our site. We will not need any parking from anyone else. Our plan is to shut down the three existing rentals for one entire summer, lose the rent on those units for one summer, and these are slab on grade construction, there will be no basements in them. So, there are some structural challenges with installing homes in between two existing foundations, so we didn't want to get into the game of trying to dig deep, putting in a basement and that creates all kinds of soil and trucking and so forth. So, our intention is in the three months of June, July, and August, we would have the minor excavation complete, the slab on grade poured, the two new homes framed up, which should only take about four weeks, and the retrofitting to the inside of those three structures complete so that by the end of summer, when school comes back into session, the three existing homes, with the City's permission, will be able to move back in and we would now be confined to construction inside of the two new homes, which is tradesmen – drywall, plumbing, etc. So, our intention is to have no disruption to the neighbors and we certainly want to be a good neighbor. If they would like to meet with us any

time tomorrow morning or after, we're happy to do so and have a game plan together so that what we do makes them happy.

As far as Ms. White's comment about parking, we do have the parking rationale for three stalls per dwelling unit. I believe right now there are 12 stalls onsite in the current configuration. We have four per unit now. We will have 15 stalls for the new project. So they can only possibly add three cars to the new development than what's there now. We all know, we did Traffic Impact Studies at Cleveland Station, that student housing is one of the lowest traffic trips per day of any type of development possible, so the amount of trips that three cars could create in a day is not even measurable to be honest with you. It's a very low impact over what's already occurring. We are adding an insignificant amount of paving. We still retain 38% of open space and, like John said in the opening remarks, the front hill is not a happy site right now. The City owns the trees that are on New London Road. They're enormous. We've spoken to the Parks Department and they've kind of been neglected with a lot of dead wood in there. The City is going to prune them, thin them, allow more sunlight to get to the front bank so we can till that area, compost that area, and get some turf growing on there, which will actually absorb some runoff that isn't really occurring right now even though it's technically grass. It's probably mostly running off and just creates an ugly, messy kind of environment. We purposely added sidewalks to go down to New London Road versus going out the back to help our tenants go down the front, out to the public sidewalk, and head north toward the Marriott or south toward Main Street. So, we think, all in all, we put a lot of thought into this, and we certainly want to do that during the construction process, as well. I believe that was the comments unless the Commissioners have others.

Mr. Hurd: Well, yeah, we're going to start . . . so, we'll start on my left with Commissioner Wampler.

Mr. Tom Wampler: Yeah, I have several questions. I'm going to get into the variances in a minute but first did you say that the existing properties were built in 2000?

Mr. Heitzenroder: That's when we bought the property. I'm not getting any younger, but I believe they were built shortly thereafter.

Mr. Wampler: What I'm trying to think, and Mary Ellen you would know this, has the Code changed since then? One of the things that always bothers me is the granting of variances. And in this case, some of the variances are between 30% and 50%, which I think are substantial. And the question that always comes up is, if you continue to grant variances, particularly large variances from the requirements, why do we have the requirements if we're constantly granting these restrictions? And if these houses have been, are grandfathered from a time when the requirements were different, then I can understand it. If these houses were built, and you would probably know this, under the existing Code and were these adjustments made in the original construction of those houses? Because that gets into something that I think we need to address which is, once you start giving out these variances, then they become established and then you're required to give out more of the same variances. If these houses were built with these variances, it seems to me, 20 years ago, we probably would have had the same Code and I just want to point out that we continue to give larger and larger variances, we are setting a precedent that further projects will then require more variances and then it becomes a question of why do we have the Code in the first place?

So, specifically, I want to point out the lot coverage varies, the variance that we're looking for is 52%. I think that's a very large variance. The setbacks are in order that they're presented here, 38%, 50%, and 38%. And I understand that because you're dealing with existing houses, that those are already existing conditions. But from a policy standpoint and my way of approaching things, I would like to know whether this is the result of the fact that the original buildings were put up when the Code was not the same as it is now, or were those variances granted 20 years ago and now we're stuck with them? Does anybody have an idea?

Mr. Tracey: I'm going to give you my best guess answer to this. The buildings were constructed legally. They received Certificates of Occupancy. No variances were needed at the time that the buildings were constructed. I believe the reason that the setback variances are being requested, or are being required, is not, is because the classification of the building is changing. So, as single-family, three single-family student home rentals in their current location, they comply with the Code. But because setback requirements change when they're converted to garden apartments, that's why the variances are needed. So, the building locations are the same and the building locations are grandfathered under the terms of how they were built under that Code. It's only because the classification of these is changing to what the City considers garden apartments that new setbacks apply. That's why the request is being made.

Ms. Gray: And if I could add, and we've had this discussion previously, the term variance is unfortunate in that this plan is being sought for approval under the site plan approval provision which allows the, certain aspects of the Code to be varied. This is not a specific variance. A variance would be going to the Board of Adjustment. This is asking for the Code to be, it does use the term variance, but under what you, when you were saying variance, it's, yeah, I think a variation would be a, which is allowed under the site plan approval provision of the Code. And to reiterate, this, as Mr. Tracey just indicated, it's an indication of going from one classification of the building to another, and it is allowing for these buildings to line up with the current buildings that are there.

Mr. Heitzenroder: I just want to add to that, Mary Ellen, that also in return for that, as the provision of that Code, there has to be outstanding architectural addition. So, there is an enormous expense of ripping off the shingles on the roof and the siding of three functioning, perfectly good homes as we add in two more and install all of that all the way around. So, we could just come and ask to put two homes in between the three and it would really look terrible. So, that's the provision of the Code that allows for outstanding architectural element.

Mr. Wampler: Okay, well speaking of the architecture, what exactly is the composition of the siding that's going to be used?

Mr. Heitzenroder: So, to be honest with you, we had not picked the materials yet. What we are modeling the siding after, so across the street at Campus Walk II, they have siding on some of the homes. There are various different materials. They have a very high-end vinyl siding. We've been looking at the very high-end vinyl siding, but we've also looked at the concrete siding which Ms. White called HardiePlank, which is one of the manufacturers of that. We can commit to something but, quite frankly, have not decided. What we know it's not going to be is cheap vinyl siding that buckles and so forth. And I think the proof of our judgment on construction materials is Cleveland Station up the street. We spared no expense with choosing those materials and this will be no different. That's real, authentic stone veneer. That is not concrete fake stone. That's the same stone we used up the street. So, it's a high-end siding product, we just quite frankly hadn't picked or researched the exact kind yet.

Mr. Wampler: The reason I ask is in the January 6 letter which in our package is Page H-14 from the Subdivision Advisory Committee, they say specifically the applicant is requesting site plan approval and traditional siding cannot include vinyl siding and must be a more natural or durable material.

Mr. Heitzenroder: So, our wish was after Planning Commission and before Council, I didn't know if this would come up or not come up, was to pinpoint the construction materials at that time. I'm not really sure where that comment came from. I do remember it being mentioned when we met. At that point . . .

Mr. Wampler: It's . . .

Mr. Heitzenroder: No, I read the comment.

Mr. Wampler: It's in a letter from Mary Ellen.

Mr. Heitzenroder: Yeah, right, right. That came from the Subdivision Advisory Committee. We've taken it . . . I just want to point out that not all vinyl siding is garbage. There are very expensive, very good vinyl sidings. Again, Campus Walk I, which has been up for five years now across the street has vinyl siding on it and it looks like cedar shake and you probably don't know it's vinyl, but it is. So, I'm not trying to avoid the question, we just hadn't, quite frankly, figured it out.

Mr. Wampler: Okay, and one more question. In the architectural design, it says that the buildings will be roofed with architectural shingles. How are they different from regular house shingles?

Mr. Heitzenroder: So, they're asphalt shingles. Architectural shingles means instead of the tabs of the shingles being exposed and lining up . . . Mr. Hurd is the architect here . . . and lining up every six or eight inches or so, and the next row of shingles has the same tab centered on the row above, these are kind of random in nature, with just a variety of shingles over the roof. It's one of the most popular shingles. They're asphalt shingles but architectural in nature.

Mr. Hurd: They tend to be a little thicker and some of them will have slight variation both in color and overall length, so it looks a little more like a natural product has been applied.

Mr. Silverman: Three dimensional

Mr. Hurd: Yes.

Mr. Wampler: Okay, that concludes my questions. Thank you.

Mr. Hurd: Thank you. Commissioner Kadar?

Mr. Karl Kadar: Thank you, Mr. Chairman. I'd like to follow-up on the question about the clearance between the sidewalk and the first house. Under the low-density residential requirements, are they any different in terms of the setbacks between that and the high-density, or are they identical? And if they are, what are they? Under current requirements.

Ms. Gray: The high-density and low-density requirements are regarding the Comprehensive Plan designation, so it's not a zoning classification.

Mr. Kadar: We just had a discussion about the clearance in front, okay, so when the houses were built, which I believe are low-density, single-family low-density currently, the comment was that they met the requirements.

Ms. Gray: So, it was under, I wasn't here 20 years ago, so I'd have to refer to Mr. Heitzenroder to see, or Mr. Ziegler, to see what they were, what the permit was for. I would imagine it was RM-zoned and was for a single-family home. And this classification for this proposal is for townhouse style garden apartment, which is a different use in the RM, which does have a different set of setbacks. So, but I don't know what it was approved for 20 years ago.

Mr. Kadar: So, the 30-foot setback which applies to the garden apartment comes into play because of the fact that we're adding two units in between the existing three?

Ms. Gray: Yes, sir.

Mr. Hurd: Correct.

Mr. Kadar: So, that's a new requirement. So, they are actually asking for a variance regardless of what it was before.

Ms. Gray: Yes. And that's under the site plan approval provision. That's what is listed in your report under Site Plan Approval on Page 4. Those are the five items that are listed there that they're asking for the variances there.

Mr. Kadar: So, in summary . . .

Ms. Gray: Yes, sir?

Mr. Kadar: Because of the fact that this is going to a garden apartment classification, whether it's low density or high density doesn't matter. Both of those require 30-foot setbacks. Correct?

Mr. Hurd: Yeah, based on the building type. Yes.

Mr. Kadar: Yes?

Ms. Gray: I'm not sure of the . . .

Mr. Hurd: I think to your point, if they only added say, if they made it a four-unit townhome, because it's a connected townhome building, those setbacks would come into play, yes.

Mr. Kadar: Okay, so it doesn't matter whether it's low or high . . . ?

Ms. Gray: Right. Yeah, that's where I'm hesitating with my answer. The low-density is throwing me on the answer. I want to be correct.

Mr. Kadar: Thank you.

Mr. Heitzenroder: I think your interpretation is correct.

Mr. Kadar: Okay.

Mr. Heitzenroder: It's just we're married to those setbacks because the buildings already exist.

Mr. Kadar: Yeah, short of tearing down the buildings . . .

Mr. Heitzenroder: Or moving them.

Mr. Kadar: I understand. Okay, that's all. Thank you.

Mr. Hurd: Okay, thank you. Commissioner Silverman?

Mr. Alan Silverman: I concur with the department's recommendations and findings in their report submitted to the Commission. I also believe that the site plan development relief is appropriate for this particular site and I understand the need to conform with the setback. This is consistent with other sections of the City of Newark Code on averaging setbacks, etc. And I think the site plan development relief also takes into account existing conditions, particularly the topography and the relationship to the existing parking on the site. The site, the proposal, the buildings, the design, they're also consistent with the units across the street and generally found within the community. This particular area has been designated a focus study area by the Planning Commission. There was considerable time and effort through public hearings that went into defining what's appropriate in that area and the high-density residential is a recommendation – it has not been adopted by Council – is a recommendation within this focus area. The zoning, as we already heard, is appropriate. One thing that did not come out, Mr. Tracey and the applicant, I believe, according to their documentation, will be extinguishing lot lines – there are currently three fee-simple lots – and creating a single lot ownership. This is consistent with the development proposal with respect to the garden-style townhouse apartments. The site, as was shown in the aerial photographs and the photography of the site which was shown in the demonstration, shows the need for landscaping. The applicant is

proposing to put a significant amount of landscaping on the site which will also help mitigate any additional runoff. The architectural features added to the building, although beauty is in the eye of the beholder, it is in my humble opinion, a very large step from the existing very plain box, mono-color, windowless structures that are on the site. And as was pointed out by the applicant, student traffic tends to be the least impactful traffic and by my experience and observation in Newark, student traffic does not coincide with peak traffic. It tends to be off-peak. Therefore, I intend to support this proposal as submitted.

Mr. Hurd: Thank you. Commissioner Drake?

Mr. Pete Drake: I also recommend . . .

Mr. Hurd: Microphone, please.

Mr. Drake: I also recommend that we follow the recommendation of the Planning and Development Department as set forth in their report.

Mr. Hurd: Thank you. I think most of my issues have been addressed. I want to just say a couple of things, partly for the benefit of our newer members of the Commission and for others. The site plan approval process, and I will say I agree with Ms. White that the current Code for it is really written for greenfield development and you can tell that in the criteria that they're looking for and, in my opinion, it's not adequate when we're looking at a redevelopment proposal. It's something they're working on, but we've only got limited staff and limited time to make that happen. So, we're doing the best we can using criteria that are in the Code for projects that don't always work to it. What I try to do when I'm looking at this is to balance the amount of relief that the applicant is looking for from the requirements with the amount of benefit that the project is bringing. And so, sometimes you have to look at the architectural designs, sometimes you look at the layout, sometimes you look at pedestrian access or other amenities as a way to see if there's sort of a net, basically is this going to be a positive impact and therefore, for that reason, we could feel comfortable granting relief from the 30-foot setback that's required by the Zoning Code, granting relief from the minimum lot size because it's an existing set of three lots that wasn't, you know, really intended to be developed at this level back when it was first laid out. Those are the things that I look at. And in my mind, I think this is very similar to others that we've seen and reviewed, and it certainly doesn't have the scale that Campus Walk II has, so . . . and I will also say I think that the applicant has done a commendable job in meeting with the neighbors and discussing their concerns and planning this project in a way that's not going to have a negative impact on their neighbors. So, I would say that I would also be in favor of this.

Alright, any further discussion or comments? Alright, then we will move to the motions. Mr. Secretary, if you could.

Mr. Wampler: I recommend that the Planning Commission recommend to City Council to revise the Comprehensive Development Plan V Future Land-Use Map for 118, 126, and 130 New London Road from residential low-density to residential high-density.

Mr. Hurd: Thank you. Do I have a second?

Mr. Silverman: I'll second.

Mr. Hurd: Thank you. Any comment, discussion, amendment? No? Alright. All those in favor, signify by saying Aye. Opposed, say Nay. Alright, the motion carries.

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

THAT CITY COUNCIL REVISE THE COMPREHENSIVE DEVELOPMENT PLAN V FUTURE LAND USE MAP FOR 118, 126, AND 130 NEW LONDON ROAD FROM RESIDENTIAL LOW-DENSITY TO

RESIDENTIAL HIGH-DENSITY, AS INDICATED IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT DATED JANUARY 6, 2020.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER

NAY: NONE

ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Heitzenroder: Thank you very much.

Mr. Hurd: Whoa, we have two. Easy there, cowboy.

Mr. Wampler: Furthermore, I move that the Planning Commission recommend that City Council approve the 118, 126, and 130 New London Road minor subdivision as shown on the McBride & Ziegler, Inc. Minor Subdivision and Site Plan Approval of 118, 126, and 130 New London Road plan dated October 17, 2018 and revised December 12, 2019, with the Subdivision Advisory Committee conditions.

Mr. Hurd: Thank you. Do I have a second?

Mr. Kadar: Second.

Mr. Hurd: Alright, any discussion, amendments, concerns? Okay. I'll move to the vote. All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

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

THAT CITY COUNCIL APPROVE THE 118, 126, AND 130 NEW LONDON ROAD MINOR SUBDIVISION AS SHOWN ON THE MCBRIDE & ZIEGLER, INC. MINOR SUBDIVISION AND SITE PLAN APPROVAL OF 118, 126, AND 130 NEW LONDON ROAD PLAN DATED OCTOBER 17, 2018 AND REVISED DECEMBER 12, 2019, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER

NAY: NONE

ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Hurd: Thank you.

Mr. Heitzenroder: Thank you.

Mr. Hurd: Now you can flee.

4. REVIEW AND CONSIDERATION OF AN ORDINANCE TO AMEND COMPREHENSIVE DEVELOPMENT PLAN V TO ADD PLANNING AREA 7 TO THE FUTURE LAND-USE MAP.

Mr. Hurd: Alright, Mike, you look ready to go so we'll just let them clear. Alright, Mike, we're counting on your to keep us on schedule here.

Mr. Mike Fortner: Everything I want to say is already written in the report.

[Secretary's Note: A link to the Planning and Development Department report regarding an ordinance to amend Comprehensive Development Plan V to add Planning Area 7 to the Future Land-Use Map can be found at the end of this document.]

Mr. Fortner: You have the, this came about with the next project you're about to hear about. They came in and were interested in annexing into the City that property right there, which I believe is 751 Paper Mill Road. And so, with that, that wasn't in our current annexation area when we did Comprehensive Development Plan V, so it drove us to do a review of the land all surrounding and see if it was appropriate. And so we did an analysis of all of the properties and determined that they're sufficient low-density. They're kind of cut off at White Clay Creek State Park and I think it's Middle Run County Park. And we thought this was an area that was appropriate to put in our annexation area. Because it was an amendment to our Plan, we went to the PLUS process of the state, which is a committee of state agencies that review our Comp Plans and they determined that they had no objections and it was appropriate for us to proceed to include it as a new planning area. That was also reviewed by New Castle County, as well. They're part of the PLUS process. And so, they came with comments, the letters in your packet, and around there is a variety of zonings including commercial zoning and a lot of low-density residential, including half-acre lots and 15,000 square foot minimum lot size lots, so our recommendation is to include that in our planning area. We recommend the same types of land uses that are with the current county zoning. We would follow that in our recommendations. And it would be a new planning area that would be added. That's the existing area there and I can take any questions that you have.

Mr. Hurd: Alright, I'll start on my right with Commissioner Drake.

Mr. Drake: I have no questions.

Mr. Hurd: Okay. Commissioner Silverman?

Mr. Silverman: I do have one question. Michael, do you know whether the units that still exist in New Castle County are on public sewer and water or are they on septic and well?

Mr. Fortner: I don't know about all of the parcels, but I believe a lot of them are on septic. But I don't know all the properties there.

Mr. Silverman: Would you anticipate that once public sewer is established in this new community, there may be people who would wish for additional annexations who are adjacent to this site to take advantage of public sewer?

Mr. Fortner: Do you mean they're not in this current planning area?

Mr. Silverman: Correct, as we've seen in Christine Manor.

Mr. Fortner: Certainly. I think it's an area that once some annexations start happening there, that we'd want to look further for our Comprehensive Plan update in the next two years, we'd want to look at that area. Mary Ellen looks like she wants to say something.

Ms. Gray: We also have the amendment that allows New Castle County residents to get sewer without annexation.

Mr. Silverman: So, an outcome of this annexation would be access to public sewer, eliminating the potential failing septic systems.

Ms. Gray: Yes.

Mr. Fortner: Yes.

Mr. Silverman: Thank you.

Mr. Hurd: Alright. Commissioner Kadar, any comments here?

Mr. Kadar: A question about the recommended uses. I can understand residential, parkland. I'm a little leery about commercial and institutional. And the reason I say that is I think there's more than adequate commercial development already in that area. You have the Shoppes at Louviers which are just down Paper Mill Road. You have the Shell station at the corner of Paper Mill and Possum Park. You have Paper Mill Plaza also in that same location on the opposite side of the street. And you also have the Bank of America complex which is catty-corner from that development. And I know that the next item for discussion is going to talk about a subdivision that's in that area and since the subdivision is planned to be single-family residential, I'm a little leery about throwing more commercial property in that area. So . . .

Mr. Fortner: The reason the commercial is on there is because there is commercial in there. That's the only reason why. Say that gas station right there . . .

Mr. Kadar: Yeah, yeah . . .

Mr. Fortner: If that was to annex, which it wouldn't, but we would annex it as commercial.

Mr. Kadar: That currently belongs to New Castle County? That's not part of the City of Newark, the gas station?

Mr. Fortner: The gas station is not in the City of Newark. So, if it was to annex, it would be annexed as commercial. There is a vacant property right there that I believe is going to have a proposal that's going to be in New Castle County and they're not going to annex. But that is a commercial property. That's right below the Woods, or right above, that's the Woods of Louviers Shopping Center . . .

Mr. Kadar: Yeah.

Mr. Fortner: That is a vacant parcel right there that is zoned commercial and so if it did go into the City, we would consider it a commercial zoning. But the designation of commercial and institutional, which covers churches, because there's a church in that area . . .

Mr. Kadar: Yeah, I understand that.

Mr. Fortner: So, we'd just allow a church if it wanted to annex in, it's institutional. It's appropriate for . . .

Mr. Kadar: So, the description up there would be residential low-density, parkland, commercial, and institutional, purely because some of the structures that exist on that land meet those requirements. So, it would be on the Planning Commission and the City Council then to deal with each one of them on a one-off basis. And if there's a concern about, let's say, putting a commercial development directly across the street, or across Paper Mill Road in that square section of land up there, then we would have to deal with that when the time came.

Mr. Fortner: It would have to come in as a request to do that.

Mr. Kadar: Okay.

Mr. Fortner: It would have to be BC or whatever they wanted to be.

Mr. Kadar: Okay, I see your logic now.

Mr. Hurd: Fundamentally, this creates a policy basically in the Comprehensive Plan that says we're looking at this for annexation, so that we can then take annexation applications within that area.

Mr. Kadar: I'm fine with that. That's all I have. Thank you.

Mr. Hurd: Okay. Commissioner Wampler?

Mr. Wampler: I just have one quick question. In the list of the parcels and addresses that we had, Exhibit B, five of them are on Waltmonte Lane. Could you show me where that is? I can't see that on the map and I'm just curious where that is on the map.

Mr. Fortner: I may have to defer to Max. Max, do you happen to know, it could be one of these little minor streets in there. There are these little streets in there and I don't know. Do you know, Max?

Mr. Max Walton: There's the owner of one of them.

Mr. Andrew Feldman: I live there. So, that is Waltmonte Lane right there and these are the parcels . . .

Mr. Wampler: Okay, so it's the little one that's parallel to Vista Drive?

Mr. Feldman: Yes. Yes, it's adjacent to Vista Drive. Two of the lots are, yes. Two of the lots are adjacent to Vista Drive.

Mr. Wampler: Okay, thanks. I was just trying to place that. That's all I had, thank you.

Mr. Hurd: Alright, thank you. I think I also had some questions about the boundary. I guess I had seen some comments from the state, I think it was, about basically extending the boundary all the way over to the natural lands, the parklands, just to avoid having, you know, sort of, rather than leave them out there. Part of me says what's the, is there any issue with just saying that's our planning area and having the whole thing now rather than doing it again in two years. I mean is there any harm to that?

Mr. Fortner: Probably not. I mean I get a little conflicting evidence from the suggestions from the state. The state originally wanted us to kind of make it a realistic plan of what we would expect in the next 5-10 years . . .

Mr. Hurd: Okay.

Mr. Fortner: And so I tried to do that and now it's like why don't you just add on others, I mean I don't really think there's a realistic option of annexing that in the next three or four years and so I think when we do our Comp Plan update, we could relook at that. It seemed like a newer established neighborhood is not likely to annex.

Mr. Hurd: Let me just double-check. I think one of the letters to the state was from a resident of that outlying area on Stage Road, which I think is in that development between our planning area and the park.

Mr. Fortner: This area? It's in there?

Mr. Hurd: Yeah.

Mr. Fortner: Or up there? So, you're suggesting we just make that into our area?

Mr. Hurd: I'm throwing it out there . . .

Mr. Fortner: Okay.

Mr. Hurd: To see how people feel. It seems to me it sort of, I understand about wanting to have a realistic horizon but also, you know, I think realistically the park is as far as we're ever going to go, so we could just say now or in the immediate future, that's the planning area for potential annexation and be done. But that was all I had.

Alright, public comment time. I have two people who signed up for agenda items 4 and 5, and I prefer if you can speak mostly to just this item, the planning area, for this. And if you wish to speak on item 5, which is about the development, do that separately just because I think it would be easier to have comments following the presentation of the development project. But I have Ed O'Donnell signed up first.

Mr. Ed O'Donnell: Thank you, Mr. Chairman and Commission members. My name is Ed O'Donnell and I live at 103 St. Regis Drive, Chapel Hill, about a mile away from this project, or at least from this proposal. I'd just like to go on record in favor of the proposal for a variety of reasons, specifically the ones spelled out in the Planning Department's letter to the Planning Commission, which you went through the analysis and everything. But four things popped out to me immediately from that letter. One, it's in state strategies levels 1 and 2. Number two, it's basically the provision of infrastructure to an area that can't have infrastructure right now. County sewer is not coming in and private water companies are not coming in. Number three, this is an opportunity to provide infrastructure not only to new development but possibly to existing development to let us solve some of the failing septic systems in the area. And number four, more importantly to me at this point in time, is it's right next to Middle Run Valley which is a critical natural area and the water quality is extremely important in that area and here is an opportunity to provide public infrastructure, specifically sewer, to maintain the quality of that area. And with that, I think I used my three minutes.

Mr. Hurd: You had time. Thank you. Next, I have Robert Munyon signed up.

Mr. Robert Munyon: My comments are specifically for #5.

Mr. Hurd: Okay, thank you. Anyone else who wishes to speak to the planning area agenda item? Sir, yes?

Mr. Bill Bliss: My name is Bill Bliss. I live on Possum Hollow Road. Do I understand that the area that's been colored is in consideration for being included in Newark?

Mr. Hurd: So, what that is that it's a designation within our Comprehensive Plan to say these are areas that we expect at some point may want to annex into the City. That's all it is, just a map designation. It doesn't mean that the City is coming to take over. The City never does that. All annexations are by application of the owner.

Mr. Bliss: If that's not the purpose of this meeting for taking it over, what are we talking about?

Mr. Hurd: Basically so that everyone is aware that the City is basically drawing the boundary line outside their, the City boundaries to say this is an area where we have an expectation of annexation projects coming to us. And we need to have that in the Comprehensive Plan so that we can then hear annexation applications, if I'm understanding the legality of it. We can't hear an annexation application if it's not within one of our planning areas.

Mr. Bliss: So, in order to encourage that, we have to have other meetings and . . .

Mr. Hurd: Right, so for instance, the item after this is three properties asking to be annexed into the City that are in that area. So, we couldn't hear that application if we don't have this planning area in place. But that's all we're hearing tonight.

Mr. Bliss: Because my property butts right up against that colored area . . .

Mr. Hurd: Okay.

Mr. Bliss: And frankly, I don't want to have to put up with Newark.

Mr. Hurd: Are you in the City or the county?

Mr. Bliss: I'm in the county.

Mr. Hurd: Okay. Okay. Sir?

Mr. Stephen Gugerty: Stephen Gugerty. Stephen Gugerty, I live in the Woods at Louviers. I just kind of want to follow-up on that to understand what's going on a little bit more. So, this would sort of give the City of Newark jurisdiction kind of, so to speak, when future proposals come forth for that area. That you would, this committee would have the jurisdiction to oversee that.

Mr. Hurd: Yeah, I'd liken it maybe, I'm going to angle this, Max, to standing basically. It gives us, it means that someone could actually apply to annex because we have a planning area defined. If we didn't have a planning area defined for that northern area above the City, then no one could come to us and say I'd like to be annexed into the City because I want to receive City sewer. We'd have to then go through this process for the next application.

Mr. Gugerty: But if the land is annexed, which I understand this isn't really the annexation plan right now . . .

Mr. Hurd: Right.

Mr. Gugerty: If the land is annexed, does Newark have to buy the land from somebody?

Mr. Hurd: No.

Mr. Gugerty: It's just sort of a redrawing of boundaries?

Ms. Gray: If I may. The, any annexation is property owner driven. So, the property owner has to ask to be annexed. But the property owner can't ask to be annexed unless you're in a planning area.

Mr. Gugerty: Right.

Mr. Paul Bilodeau: And we wouldn't be, the City wouldn't be buying anything. It would just be redrawing the boundaries of Newark. Extending the boundaries.

Mr. Gugerty: That clarifies it. Thanks for your help.

Mr. Hurd: Sir?

Mr. Sam Johnson: My name is Sam Johnson and I live on Possum Hollow Road. The question I have basically is in your Chapter 11 for annexations on your website, it talks about annexation and you're saying in here basically that Delaware Code defines contiguous, that you can only do contiguous annexation to your border. You don't have a border that's on the other side of Possum Park Road. There's nothing that's part of Newark currently along that side of the road. It stops at the, I don't know what the development is but there's a development there. But basically, you don't have a contiguous thing and you cannot use a roadway. According to the Delaware State Law, it says annexation having a shared border with the boundaries of the annexed municipality. Roads or rights-of-way cannot be used to create a corridor annexation and that's what you're asking to do. You're asking to jump over the highway and annex all that property. I mean all the research that I've done so far, and I'm not trying to tell people what to

do with their property but we own two acres of ground past that down near the park, but there's a lot of, there's Ward Brothers Holdings that's bought up two lots and there's a third lot going into that which would create that little corridor up there. Further up, there's the Feldman, unless I'm pronouncing the name wrong, there's a Feldman LLC which owns about five acres up here. And I would imagine that the Ward Brothers Holdings, when that happens, I'm pretty sure there's a good chance that the Walton Drilling Company, which is also part of the Ward Brothers Holdings, will probably end up moving and then that will also come down to a junction, which is what you've got here. If they put houses that are based on one-acre lots, which is actually what the New Castle County comprehensive plan is, I don't think I have a problem with that but start putting up garden style apartments or houses that look like that, that simply have a gap between them, I think that's out of character. So, my one concern here is that in your own website, if this is current, you are violating your own rule. You need to change this rule first, if you're going to do this annexation of this entire area. But it seems to me like you're waiting for a juggle of the road and then you're going to get the Walton property, which is another juggle over 72, because that butts up to Delaware state parkland. It's not contiguous to Newark's boundary. And that's my concern.

Mr. Hurd: Okay. Thank you. Mr. Bilodeau, can you . . .

Mr. Bilodeau: I was just going to comment that, you know, the comments were jumping over the road to annex the Walton Farm, but we're not here for that tonight.

Ms. Gray: Correct and for annexation purposes, you can cross over a road. You cannot go down the road. When land is considered contiguous, you can't use the road for, I can't say the contiguity, but you can cross over the road. So . . .

Mr. Johnson: I think you need to read the Delaware state law again.

Mr. Hurd: Sir, sir.

Mr. Fortner: We wouldn't be able to annex down the road and annex that parcel right there. That is what that is referring to.

Mr. Hurd: Okay. Right, but there just seems to be . . .

Mr. Fortner: But we're going across the street . . .

Ms. Gray: Correct.

Mr. Hurd: There just seems to be some uncertainty about how that code is being interpreted or applied and so . . . because I know the O Paper Mill project was across the road from the City boundary.

Ms. Gray: Right. Yes, it was.

Mr. Hurd: That's permissible.

Ms. Gray: Yes.

Mr. Silverman: Mr. Chairman, I think the gentleman cited the operative word and that's a corridor. If you can picture a flag and flagpole, you can't use the pole of the flag, the road, to extend your boundary down to the flag that you would want to annex in the future. You can go across the street. So, corridor is the operative word here.

Mr. Hurd: Okay, thank you.

Mr. Johnson: My concern is that the law that you have stated on your website is unclear.

Mr. Hurd: Sir, we have an interpretation from the City Solicitor that says that what we are doing, the application that is coming after this, is permissible by the Code.

Mr. Johnson: My only concern is that I would have to insist that the Delaware State Code, and I would have to call and find out from them what their opinion is, because it's their code, not your code. It's their interpretation of the wording . . .

Mr. Hurd: Sir . . .

Mr. Johnson: In your code, which is 62 Delaware Law, Chapter 363 and then Chapter 139. And then you have a bracket down here titled 22 Section 101 and it has a bracket too. And the Delaware Code defines contiguous.

Mr. Hurd: Okay. I'm going to have to defer to our solicitor on this . . .

Mr. Johnson: Okay.

Mr. Hurd: I'll double-check but . . .

Mr. Bilodeau: We've also run this by a state agency, and they have no objections to this.

Mr. Hurd: Okay. Any further public comments? Ma'am?

Ms. Mary Clare Matsumoto: Mary Clare Matsumoto, District 6. So, my concern in expanding our boundary to allow further properties to be annexed into the City is I'm not so sure that the City can afford to fully take care of small, additional developments. I personally wouldn't have a problem if, you know, off of Nonantum Mills if they wanted to join the City. That's a huge development, it's like an island. If they came and asked but, you know, I understand that people have to ask to be annexed. But I don't really think that the City should just think, okay, let's expand our boundaries if we don't really look at what we can afford within that annexation.

My other concern is, you know, we have this beautiful parkland and we sort of have a corridor from high-density . . . I have no problem with the previous development, you know, to really build up where we have a lot of development, but I believe in the county this might be suburban reserve, which would be one house on five acres. If it's not, at most, it would have to have one acre. So, that means this, you know, to look at potential what we can afford to take care of, I guess I don't really see the big advantage to the City of Newark, but I kind of like the idea that, you know, we have county and then it's less development as we go towards some of our wonderful parkland. Thank you.

Mr. Hurd: Okay, thank you.

Mr. Max Walton: Hello, my name is Max Walton and I'm here with my mom, Mary Walton and we're the folks, my mom owns 751 Paper Mill Road. I think it's good planning, as Mr. O'Donnell said, regarding your future annexation areas and ultimately this particular agenda item doesn't obligate any annexation whatsoever. It just allows the Planning Commission in the City of Newark to evaluate those on a case-by-case basis. Mr. Bliss, I haven't seen you in a while. It's good to see you.

Mr. Bliss: Hi.

Mr. Walton: I will tell you that this by no means requires you to have to deal with the City of Newark because it doesn't obligate anything. And in addition, with respect to the other gentleman's comment, I'd just like to say that the operative contiguous definition is in 22 Delaware Code, Section 101, and I did not bring that with me, but I have read it many, many times. Ultimately, that definition allows you to cross a road and, as Mr. Silverman said, it just doesn't allow you to flagpole annex a road and annex up the road. This is, the proposal that will

be before you tonight is directly across the road and it's contiguous to the City of Newark. So, thank you.

Mr. Hurd: Okay, thank you. Alright, anyone else? Sir?

Mr. Robert Bell: Good evening. My name is Robert Bell and I also live on Possum Hollow Road. I just have one question about the planning area proposal. I understand that you can ask to be annexed to the City if you are contiguous. My particular property, I could envision all of the surrounding property owners annexing and me not wanting to annex, and then be surrounded by the City of Newark. What would be the outcome there? Have you ever had such a situation?

Mr. Hurd: We have several situations like that currently in the City.

Mr. Bell: You do?

Mr. Hurd: Yeah, especially along Elkton Road there are several single and paired parcels of New Castle County isolated within the City.

Mr. Bell: And the City never takes any measures to try and control those properties whatsoever?

Mr. Hurd: No, not at all. No.

Mr. Bell: Thank you.

Mr. Hurd: Anyone else on Planning Area 7? Going once . . . alright, I'll bring it back to the table.

Mr. Bliss: I have one more question.

Mr. Hurd: Well, quickly please, sir.

Mr. Bliss: Before annexation is in the works, do we get notified by mail because we're in the area?

Mr. Hurd: Mary Ellen? Annexation projects . . .

Ms. Gray: For annexation, should you be within 300 feet, you would be . . .

Mr. Bliss: I am. I butt up against it.

Mr. Hurd: So, yeah, within 300 feet of the property border, you would get notification by mail of the application for annexation.

Mr. Bliss: Thank you.

Mr. Hurd: Alright . . .

Mr. Silverman: Mr. Chairman, a comment was made about five acre zoning and according to the exhibit, Exhibit D, the county zoning is suburban, and I believe that's one acre in lot area and that's generally for the purposes of having separation between well and septic tank.

Mr. Hurd: Gotcha, thank you. Okay, any further questions or comments by the Commissioners? Alright. Well, Mr. Secretary, why don't we read the motion?

Mr. Wampler: I move that we recommend that City Council approve the Comprehensive Development Plan amendment to create a Planning Area 7 as shown in Exhibit C and D of the Planning and Development Department report dated January 2, 2020.

Mr. Hurd: Do I have a second?

Mr. Drake: Second.

Mr. Hurd: Alright. Any comments or amendments? I guess I will throw out, because I sort of brought it up, I will throw out proposing an amendment to this to extend the boundary of Planning Area 7 to cover all of the properties between the current boundary and the park areas.

Mr. Bilodeau: I would just say that we might need to go back to PLUS to do that, to get them to approve that.

Ms. Gray: Good point.

Mr. Hurd: Oh, that's an excellent point. Okay, I withdraw my amendment. Alright, so we'll move to the vote. All those in favor, signify by saying Aye. Opposed, say Nay. Alright, motion carries.

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

THAT CITY COUNCIL APPROVE THE COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT TO CREATE A PLANNING AREA 7 AS SHOWN IN EXHIBIT C AND D OF THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT DATED JANUARY 2, 2020.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER

NAY: NONE

ABSENT: MCNATT, STOZEK

MOTION PASSED

- 5. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT, ANNEXATION, REZONING, AND MAJOR SUBDIVISION AT 734 PAPER MILL ROAD AND 5 AND 11 POSSUM HOLLOW ROAD (PR#19-08-02). THE PLAN PROPOSES TO ANNEX THE PARCELS INTO THE CITY OF NEWARK, REZONE THE PARCELS FROM NEW CASTLE COUNTY NC15 (NEIGHBORHOOD CONSERVATION) ZONING TO CITY OF NEWARK RD (ONE-FAMILY SEMIDETACHED RESIDENTIAL) ZONING, DEMOLISH THE EXISTING DWELLINGS AT THE SITE, AND CREATE AN 11-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION. A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT IS REQUIRED TO ADD THE PARCELS TO THE FUTURE LAND-USE MAP AS LOW-DENSITY.**

Mr. Hurd: Alright, now to the big one, Item 5, review and consideration of a Comprehensive Development Plan amendment, annexation, rezoning, and major subdivision at 734 Paper Mill Road and 5 and 11 Possum Hollow Road. Are you ready, Madam Chair, Madam Director?

Ms. Gray: Yes, sir, Mr. Chair, I am ready.

[Secretary's Note: A link to the Planning and Development Department report regarding a Comprehensive Development Plan amendment, annexation, rezoning, and major subdivision at 734 Paper Mill Road and 5 and 11 Possum Hollow Road can be found at the end of this document.]

Ms. Gray: Okay, this land-use application is a request for an annexation, rezoning, and major subdivision for 4.47 acres of property located 734 Paper Mill Road, 5 Possum Hill Road, and 11 Possum, excuse me Possum Hollow Road, and 11 Possum Hollow Road. The plan proposes annexation of the properties and demolition of the three existing homes. The plan currently includes construction of a new private cul-de-sac and subdivision of the three existing lots into ten building lots for single-family homes. The plans also include some shared common areas for open space and stormwater facilities.

The Planning Commission was provided the staff report dated January 6, 2020. The agenda for this meeting was posted on the website January 28, 2020. The staff report was distributed to the Planning Commission and posted on the City website the same day, with the following attachments: Exhibit A, subdivision plan and elevations, zoning requirements, site maps, site photos, the rezoning map, excerpts from the Comprehensive Development Plan, the draft governing documents for Milford Run, the Subdivision Advisory Committee comments, as well as photographs of the public notification signs. In addition, the Planning Commission was also provided with a full set of plans.

At the time the initial application was prepared, the properties included three single-family homes. The homes at 11 Possum Hollow Road and 734 Paper Mill Road have since been demolished. The proposal is for the demolition of the remaining existing structures and construction of the 600-foot cul-de-sac road to access ten new single-family home building lots, as well as shared community open space which includes two bioretention basins.

The existing zoning for 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road is NC15 UDC Single-Family 150000SF. The applicant is requesting a change of zoning for that designation to RD, which is one-family semidetached residential. The proposed lot size would not be allowed in existing New Castle County zoning district. The proposed density appears to be about twice the density that would be allowed were this developed allowed in New Castle County, assuming water and sewer were extended to the property. The proposed Newark zoning of RD does allow the proposed lot sizes. The RD zoning district does not regulate it explicitly by density. Instead, the district regulates allowable lot size and requires a minimum lot size of 6,250 square feet. The lot sizes of this development range from 6,298 square feet to 23,030 square feet, which complies with the RD zoning district. The density of this project, as proposed, is about 2.2 units per acre and about 29% of the development is shared open space located outside of the road rights-of-way. The Comprehensive Plan includes a planning area that we just discussed, known as Planning Area 7. The roads and infrastructure for this project will be privately owned and maintained. The developer is proposing a maintenance declaration, declaration of restrictions and easements, articles of incorporation and bylaws of the maintenance corporation to ensure the development is capable of supporting the maintenance requirements of the shared infrastructure and to protect the City from maintenance requirements in the future.

This proposed development meets all the requirements detailed in Municipal Code of the City of Newark. The Planning and Development Department staff recommends approval of the annexation, rezoning, and major subdivision for the land-use project located at this address, 734 Paper Mill Road, 5 and 11 Possum Hollow Road. Because this plan is compliant with the City of Newark Code with the Subdivision Advisory Committee recommended conditions, it should not have a negative impact on adjacent and nearby properties, and because the proposed use does not conflict with the development pattern in the nearby area. That concludes my remarks.

Mr. Hurd: Alright, thank you. We'll hear from our applicant. Fifteen minutes, if you can, and then we'll do public comment. Thank you.

Mr. Barrett Edwards: Thank you, Mr. Chairman, my name is Barrett Edwards and I'm with the law firm of Hudson, Jones, Jaywork & Fisher, here on behalf of the applicants tonight.

[Secretary's Note: During his presentation, Mr. Edwards referred to a PowerPoint presentation being displayed on the screen for the benefit of the Commission and the public. A link to Mr. Edwards' presentation can be found at the end of this document.]

Mr. Edwards: So, just to address one thing that we've kind of touched on a little bit, but with respect to the annexation matter, in the Delaware Code where it touches on annexation, as was indicated, it says nothing shall be construed to allow rights-of-way, utility easements, waterways, or like entities to be annexed in corridor fashion. That absolutely is in there. But what's important, really, is the sentence before that. It says the separation of the parcels sought to be annexed from the annexing municipal corporation by a right-of-way for a highway, road, canal,

utility, or body of water or watercourse, running parallel with and between the parcel sought to be annexed and the annexing municipality shall not prevent annexation pursuant to this section. So, certainly both those phrases of that need to be read together. So, it certainly is our position that this would certainly be in alignment with that. And, among other things, we are seeking the annexation of that tonight.

I'm here representing Ward Brothers Holdings. Mr. Walton already introduced himself. He and his mother, Mary Walton, are here tonight. Also part of this application is Albert and Grace Neal. So, tonight we are asking for, as has already been touched on, an amendment to the Comprehensive Plan. We're asking for the annexation of these parcels into the City of Newark, we're asking for the subdivision approval, and also for the rezoning of these parcels to RD.

So, this is the site here. As was discussed, it constitutes three different parcels. Those tax parcel numbers have been circled there. Collectively, they equal 4.47 acres, plus or minus. This is the aerial of where those are located. So, up until recently, these parcels had been falling into a state of disrepair. This is the picture of the parcel, the property that was on 11 Possum Hollow and right on the back side of that, 734 Paper Mill. These were pictures of the building that was located on that parcel. As you can see, it certainly has seen better days. Just another picture. I believe that's a car that's half-submerged there in the undergrowth. And then there are a couple of pictures from the interior of these properties. It didn't really get a whole lot better when you got to the inside. These pictures are specifically of 734 Paper Mill Road. My understanding was that we had videos of the interior of 11 Possum Hollow but didn't think it necessary to show those tonight.

So, these parcels were acquired in April of 2018 by Ward Brothers Holdings, particularly 734 Paper Mill Road and 11 Possum Hollow Road. Those were the two that were acquired. They went through, they applied for and acquired demolition permits, they were able to demolish those two structures that we just saw pictures of, clean up the lots and then the demolition permits were closed out by New Castle County. The current condition of the property is as follows. At this point there is also no remnant at all of there having been a structure here. This is the 734 Paper Mill Road. These are all pictures of the same parcel. And then this is 11 Possum Hollow. At 5 Possum Hollow there still is a structure there. If this subdivision is approved, this structure will also be removed. It's been unoccupied for approximately 15 years. So, as seen from these pictures, these parcels were really in a deplorable state. The applicants have come through and they've done a lot to clean up these parcels. Asbestos was remediated and through that we have a much more, certainly much more pleasant area for all those who are in the surrounding area now.

Under the land development code, we have some core principles and I just want to highlight two of these. One is that we really focus on appropriate infill and redevelopment, and this is absolutely what this project is. It's redevelopment – the removal of dilapidated structures and the proposal for a new subdivision that will certainly enhance the area. Also, we're looking for a mixture of housing choices and that's what this will do also. It will provide a new supply of single-family housing stock in the area.

Again, returning to the aerial photo, as you'll see in the upcoming slide, the property boundaries are certainly not an oval like this, that's just the general vicinity. That's where this is located and as you can see, there is development all surrounding it and this is now underutilized property that would be ideal for infill.

The Zoning Code here, as you can see, nearby there's RS zoning, RT zoning, there's even a little bit of RD zoning down there. These are all different zoning categories with different standards, and the addition of this subdivision as RD zoning would create more variety of housing in the area, but it also is consistent. All of these zones fall under the low-density residential category in the Comprehensive Plan. So, while creating some variety, it's still in harmony with the surrounding area.

This is the proposed redevelopment plan and subdivision plan that we're seeking approval of. As you can see, there are ten lots. There's a cul-de-sac, two bioretention ponds right at the beginning, and some open space at the end of the cul-de-sac. The goals of the redevelopment plan really are to enhance the area through this appropriate infill redevelopment to create a single-family community that will have just enough density so that it will not be a financial burden on the City. And then, as will be discussed, the developer is putting into place restrictions on the property that will help eliminate the financial risk that could possibly be incurred by the City with this.

As part of this process, the applicant really has worked tirelessly with the nearby property owners, continuing to meet with them, trying to address all needs that have been raised. The applicant, while we refer to the applicant perhaps as a developer, in reality, the applicant is not a professional developer. Right across the street from this development on Paper Mill Road is the Walton family farm that has been there for many, many decades, and the applicant certainly wouldn't want to propose anything for this area that would not be in harmony because the applicant lives in the area. The Comprehensive Plan amendment which was recently discussed, went through the PLUS process, and there's no objections from the state with respect to this.

Now to get a little bit into the details of this, there have been stormwater investigations and geotechnical investigations to determine the infiltration potential. As a result of these processes, one of the lots was removed to increase the surface area for the stormwater and there are no wetlands situated on the property. A tree delineation study was performed, and this is a tree delineation plan. There were 19, at a maximum 19, valued trees identified on this property and four have been identified as remaining. The reason I say that there was at most 19 valued trees here is because there's still a little bit of discrepancy in terms of whether or not all 19 of those are valued and so we still continue to work with the City of Newark to determine if all 19 of those are indeed valued. Some of the tree delineation study was performed in the late fall when there weren't any leaves on the trees, so there is some question as to whether or not some of those trees that are identified as valued are, in fact, living or if they're dead because even right now there's no leaves on the trees so it's difficult to tell whether they're living or dead.

So, as part of this project, the application is proposing to have deed restrictions on the property. One deed restriction would be that the subdivision is to be used exclusively for single-family residences. As part of this, there will be a maintenance corporation, a homeowners' association, that will be responsible for the maintenance of the stormwater management areas. The Milford Run Drive, that cul-de-sac that we saw, that will be a privately-maintained roadway. That will be maintained by the maintenance corporation so that shouldn't create any financial burden for the City. And then the maintenance corporation will similarly be responsible for the maintenance of that open space adjacent to the cul-de-sac. Now, in order to provide additional protections for the City, the maintenance declarations have been drafted so that the City has the right to step in and maintain these facilities and assess the property owners themselves for any maintenance costs. So, that's something that should definitely benefit the City and eliminate the risk for any financial implications to the City. Trash collection is included as part of the maintenance declaration. The property owners will be responsible for arranging for that and paying for that amongst themselves. Utilities will be provided by the City of Newark – water, sewer, and electric – and the Department of Public Works has confirmed that there is capacity and appropriate connection points.

Finally, with respect to transportation, there's only going to be one entrance to this project. That was the entrance right off of Possum Hollow Road. There is not going to be an entrance that connects the cul-de-sac to Paper Mill Road. That was, the City of Newark was not in favor of that, the residents were not in favor of that, and so that was eliminated early on. And even the idea of having an emergency access there, DelDOT was not in favor of that either, so that's been completely eliminated. So, there will not be any access on that back side. It is anticipated there's going to be approximately 12 trips in the AM peak hour and 11 trips in the PM peak hour. That's about one trip every five minutes. As was indicated in the staff report, the staff didn't anticipate the addition of ten homes being any impact on traffic in the area and we are certainly in

agreement with that. One thing that I'll note, let me go back to the plan here, you'll notice at the bottom there is a driveway coming off to two lots. That's going to be a shared driveway between those two lot owners. Again, the maintenance will be the responsibility of those lot owners. But that was [inaudible]. And again, just by further reference as was mentioned, the street that will be running through the subdivision will be privately maintained by the homeowners association.

So, in summary, by taking these dilapidated structures and removing them, the applicants have already done a lot to enhance the area. They have done what they could to meet with neighbors and work with them to address the concerns they may have had. This is going to be in harmony with the amendment to the Comprehensive Plan. It will be in harmony with the area and the existing zoning classifications. It really should financially benefit, as indicated in the staff report, the City once this property has been built out. It should not create any additional costs for the City. It will increase the City's single-family housing stock and, as a result of the maintenance corporation deed restrictions, the homeowners association will be responsible for a lot of those points that can be sticking points. And if at any point there is any concerns, the City has the authority to step in and assess those costs to the property owners. So, we believe that this annexation, this subdivision, and the rezoning to RD will be beneficial to the area, will be in harmony with the area, and will be a great asset to the City. Thank you very much.

Mr. Hurd: Thank you. Alright, I'm just going to move to public comment just to speed things up a little. We'll start with Robert Munyon.

Mr. Munyon: My name is Robert Munyon and I live in the City. For the last 40 years . . .

Ms. Gray: Sir, could you pull the microphone up, please? Thank you.

Mr. Munyon: Oh, did I do that?

Mr. Hurd: Not that far.

Ms. Gray: I understand we are getting new microphones.

Mr. Hurd: The holder, just the holder. There you go. Thank you.

Ms. Gray: Sorry for the excitement there. Thank you, sir.

Mr. Munyon: I have lived in the Possum Hollow Road area for the last 40 years. I've watched those properties deteriorate over those 40 years and I just want to say that I think this subdivision is a great improvement to the area and will fit in well with the surrounding community.

Mr. Hurd: Thank you. That was all we had signed up. Anyone else wish to speak on this agenda item? Sir, why don't we start with you.

Mr. Ed O'Donnell: I don't want to touch the microphone. My name is Ed O'Donnell and I live at 103 St. Regis Drive, Chapel Hill, about a mile down from this project. I'd just like to go on record in favor of the project basically based on two things. One, the correspondence of January 2, 2020 from, that's basically the Planning Department's report to the Commission, which listed out a whole series of conditions. Also, the January 3, 2020 letter to the development group, Mr. Duke is who it was sent to, which dealt with specifically conditions for Parks, Police, Stormwater, Electric, Sewer, Water, Fire Marshal and Code Enforcement. It also dealt with fiscal impact, I believe. I think the fiscal numbers were like during the build-out phase, net revenue to the City is around \$14,500. At completion of build-out, I think it was \$7,200 as the actual net profit to the City on an annual basis. Once again, I'd like to express my opinion in favor of the project.

Mr. Hurd: Sir?

Mr. Allen Godwin: My name is Allen Godwin and I'm here on my sister's behalf. She lives at 726 Paper Mill Road and that property backs up to the subdivision. I just want to say that she does support this 100%. And I also own half of the property at 722 Paper Mill Road which backs up to the property, and I am in support of this, too. Thank you.

Mr. Hurd: Thank you. Sir?

Mr. Bill Bliss: Again, my name is Bill Bliss and I live on Possum Hollow Road. I may have misunderstood because of the terminology I'm unfamiliar with, as well as the rules. But isn't that property, right now, county property?

Mr. Hurd: Yes, sir. That's why we're having, so this application, there are going to be four motions that we're going to be taking and the first one is to annex the property into the City and thereby once we've . . .

Mr. Bliss: Tonight?

Mr. Hurd: Tonight, right. And then once we've done that we can proceed to the other parts of the application, which are about the Comprehensive Plan amendment, which means we have to include it, the rezoning, and approval of the plan itself.

Mr. Bliss: I'm on record now of being opposed to this.

Mr. Hurd: Okay.

Mr. Bliss: We moved to Possum Hollow Road, along with everybody else along that road, to get away from developments, to get some room between us and everybody else. If you move a group of ten houses in there, they're going to also have children. Children have adventures on their mind, and they've got a lot of energy. They're going to use the road, Possum Hollow Road, to subdue some of that energy and the houses that are most at risk are the houses that back up to the woods because they can come onto your property when you're not there, because this has happened. There was a family living at the end of the road years ago that was in a rental house and they had three boys. And the three boys were on my property several times and in addition to that, they're the ones that burned the barn down on the property that is now parkland. So, because of moving in a development with the houses the number of which we are talking about, and all the kids that are going to be present, there's going to be trouble. And I want to be on the record as saying that we didn't move to that property and put up with the trees and all the traffic up and down that road and the parkland to then have a development move into the beginning of the road.

Mr. Hurd: Okay, thank you. Ma'am?

Ms. Liz Carlisle: Thank you. I'm Liz Carlisle and I live on Possum Hollow Road and I am having some trouble understanding how ten houses on a four-acre parcel fits in with the community character of a neighborhood that has a minimum of one acre per house. I just can't see that and that's my biggest objection to this. I appreciate the demolition of the houses. I agree with that completely. They had been eyesore. But that just seems like a lot of housing in a really small area. There's going to be a great deal of traffic now. It's already hard enough to get out of Possum Hollow Road onto Possum Park because of the Bank of America traffic and other traffic. One hundred twenty-five vehicles a day? Did I understand that correctly? It's just going to be very, very difficult. That's a little one-lane road. We already have trouble with cars passing one another, so I'm really concerned. I can understand a house, even two houses on one acre, but ten on four acres is just really extreme. Thank you.

Mr. Hurd: Okay. Ma'am?

Ms. Laura Fickes: My name is Laura Fickes. I'm a resident of Middle Run Meadow on Delanco Court. My concern, too, is the traffic in the area. The density of ten additional homes and the additional trips is a concern. I have difficulty leaving my development when I leave the development on Middle Road and this is throughout the day. Another big concern is that with the parkland and the trails behind my neighborhood, there are a large number of bicyclists that come out of my neighborhood, they cross over to Possum Hollow Road to access the parkland there. So, that is a concern for the safety of the bicyclists, as well. And then just a further need of clarification, it was mentioned that there would be private maintenance. Does this include snow removal also? And clarification of would the new residents be expected to retain their own trash removal, or would it be City trash removal? And that's my only questions.

Mr. Hurd: Thank you. Ma'am?

Ms. Paula Higgins: Paula Higgins. I, too, am a resident of Middle Run Meadow and as a 25-year resident of the City of Newark, I object to a project that would not be allowed in New Castle County as it is twice the density allowed in New Castle County. And I do not believe that my quality of life and that of my neighbors should be impacted so that the City of Newark could have a net revenue of only \$7,200 per year. In addition, really what this is about is the need for sewer tie-in, otherwise that development cannot happen. And is noted, the closest sanitary sewer manhole is on Fir Court, which is where I reside. There are many natural springs that bubble up after a high rain, a heavy rain. I'd like to know if it has been considered by this Planning Commission the impact that what is really questionable as to whether it is a heavy density. I realize they're requesting an RD designation, but the other reason that I respectfully request that the Planning Commission table a decision is because there needs to be clarity. There is a statement that there are going to be ten building lots. I received a letter dated January 24, 2020 by the Commissioner that says the project is for 12 building lots, which would indeed make it a high density, you know, project. And the agenda tonight, which of course is public, is such that it states that there are 11 buildings going to be houses. So, for those reasons, I respectfully request that the Planning Commission not annex this to the City of Newark.

Mr. Hurd: Okay, thank you. Sir, did you . . . ?

Mr. Andrew Feldman: My name is Andrew Feldman and I live on Waltmonte Lane, which was in the future annexation plan. I do support this. I think it is a great area for single-family homes. As Mr. O'Donnell was saying, I also think the area is in need of public infrastructure to supply water and sewer to the area due to the failing septic systems. So, I do support this project and I do think that the structures that were removed were eyesores for years. I do think this will be an improvement to that area as a whole.

Mr. Hurd: Alright, thank you. Ma'am in the back. No, next to Ms. White. You. No. Yes, you. Then you, sir.

Ms. Mary Clare Matsumoto: Mary Clare Matsumoto, District 6. So, I appreciate that the, you know, the eyesore properties were removed. I think that was great. It is a little bit of a concern how they got in that condition. But anyway, that was good. I just, my big concern is I do not think the City should take on a project to make so little money but not be able to give the City residents the benefits that I enjoy as a City resident. I would be concerned about moving into a development where I had to be responsible for the streets, for the stormwater runoff, for my garbage collection, all of those things that I feel, I mean that's what my tax dollars are going for. And I understand that there is something in here that the City can step in if the homeowners association fails and can assess people and then take it over. But then if that happens, you know, that's a lot of work for the City. I just think it's not a good precedent to start having private roads that are maintained by homeowners association. I live in a very small development. We have one person who . . . and we have very little to do because we don't have to take care of our streets, we have the City taking of us, like plowing our roads. But it is really hard to get people to want to do this. And I wouldn't want to do it. And now there's 11 homes and someone is going to have to move in here and know that they're the one that has to step up to be responsible.

I don't know. I just think it's a very big risk for the City for very little monetary benefit. Thank you.

Mr. Hurd: Okay, thank you. Sir, in the back, you were eager.

Mr. Dean Moore: I'm Dean Moore. I live in Stafford, 44 Hawthorne Avenue, and I just learned about this project and I'm just here to talk to it for some friends. I told them I would come to the meeting to see what it was all about, and I'd like to say that I support the idea. It sounds like a good idea and I know other developments that work the same way, and it does work in Newark. Again, I'm just here to say I'm in favor of the proposal.

Mr. Hurd: Okay, thank you. Ms. White? Did you want to speak, Ms. White? Jean, did you want to speak or no? Okay, it looked like you did. Sir?

Mr. Bob Manning: My name is Bob Manning. I live in Chapel Hill. I've lived there for 30 plus years and am quite familiar with the area that is being discussed. The fact that the houses that were taken out of there already were an eyesore and so was the undergrowth, I think is a plus for that area. I think it's an area that needs some improvement. The fact that none of the cars will be exiting out on Paper Mill Road I think is a great idea. Possum Park Road is not that busy. I've been down it hundreds and hundreds of times. I think it would be beneficial for everyone to encourage this development.

Mr. Hurd: Okay, thank you. Ma'am?

Ms. Amy Nelson Connell: Hi, my name is Amy Nelson Connell and I'm a resident of Newark. I grew up in Newark and have lived here for a very long time. That area has been an eyesore for a long time. I appreciate the fact that those properties have been removed. I think the model and the sizing of this development is very user-friendly. I mean being a neighbor with ten other homes and having a lot of control over that area I think is a big benefit. I would think it would be a benefit to me if I were to live there. I travel that way often and I do think that there are times when there's a lot of traffic there, particularly when Bank of America people are coming and leaving. But other than that, I certainly don't think that this amount of housing is going to severely impact the transportation that's there or add a lot to that area. So, I am in favor of this.

Mr. Hurd: Okay, thank you. Anyone else? Sir in the back?

Mr. Robert Bell: Good evening. My name is Robert Bell. I live on Possum Hollow Road and I would like to concur with everything that was said by my neighbor, Bill Bliss, and further emphasize that of all the people speaking here tonight, none of the people in favor live on Possum Hollow Road. I think that's an important point for you to consider because it's going to have the most impact on the residents of Possum Hollow Road. And Bill's concern about the children that might be in the neighborhood, well it's tenfold for me because I'm immediately adjacent to this property. Like Bill, I moved to Possum Hollow to not be in a development and the applicant wants ten more neighbors in my back yard. This is not NIMBY, this is just I moved here purposely to avoid being in a development and everyone on my street that has spoken, has spoken against the project. And that's an important point for you to consider. And I would take issue with the final statement the applicant made about this being beneficial for all concerned. Again, no one feels that way that lives on Possum Hollow Road. Thank you very much.

Mr. Hurd: Thank you, sir. Anyone else? Alright, we'll bring it back to the table. So, I'm hoping the applicant has been taking some notes on some of the direct comments and questions. Why don't we start with Commissioner Wampler and then we can see if we can fold some of that in?

Mr. Wampler: My one, there seemed to be a discrepancy as to how many lots. According to the plans that we have, I think it is definitely ten lots, is it not?

Mr. Edwards: Correct, it's ten lots.

Mr. Wampler: So, I don't know where the misinformation is coming from, but the official thing that we are dealing with this evening is for exactly ten lots. Not eleven lot, not twelve lots.

Mr. Edwards: As was mentioned at one point, part of the stormwater revision caused one of the lots to be eliminated and I think another lot was eliminated in order to create a little bit larger lots. In the end, we're talking about ten lots. That's correct.

Mr. Hurd: Right.

Mr. Wampler: Other than that, I don't have anything else.

Mr. Hurd: Alright. Commissioner Kadar?

Mr. Kadar: Thank, you, Mr. Chairman. Some of the discussion that occurred just a little while ago kind of hit home with me. I live in the Hunt at Louviers and I'm a member of a three-member Hunt at Louviers landscape project because we don't have a homeowners association. And the purpose of the landscape project is to maintain the front entrance of the development so that it always looks clean and crisp and it looks like a place that people would want to live. The Hunt at Louviers is a typical Newark development. Snow removal is provided by the City, trash collection is provided by the City, roads are maintained by the City. And in fact, recently the City came through and improved some of the curbs around the driveways that had been cracking and they did a wonderful job and I appreciate that. So, what I have trouble with is, here we have a new development that potentially is going in and that new development does not provide trash service from the City and it does not provide maintenance of the roads in the City. Sidewalks we're all responsible for and that's the same here or there. And my question is, if \$7,200 a year of revenue is provided to the City without trash collection and without road maintenance, what would it be if we provided trash collection and road maintenance, because I feel that at some point in time, given how difficult it is to get a homeowners association with 167 houses, here we have a community with ten houses trying to get someone to pull the weight and make that happen is going to be interesting, and will probably go into default and non-compliance. Okay?

The other question I have is, I've got four proposals that I suspect we're going to be voting on here shortly and the fourth one approves the subdivision. I have no details on the homes. I don't know what's going in there. I don't know how big they are. And until that's provided, I don't think we can actually approve a subdivision that says there's going to be ten houses, but we have no idea what those houses look like. We have a roadway. A roadway which, by the way, the City fire department, the Fire Marshal has pointed out that the radius of the cul-de-sac is insufficient to take care of the fire equipment that the Aetna Hose Hook and Ladder would have. And I am looking at the plan here and in order to enlarge the cul-de-sac to meet those requirements, you're shaving off quite a bit from the properties because you have nowhere to go the other way. So, given all of that stuff, I'd like to see some of those things changed.

Ms. Gray: Can I address the issue regarding what information was provided by the applicant regarding the subdivision?

Mr. Hurd: Sure.

Ms. Gray: So, this is a subdivision that is not under the site plan approval provision, so architectural renderings are not required. So, this application does comply with all of the Code requirements for a subdivision.

Mr. Hurd: Okay. Is that all?

Mr. Kadar: I'm done. Thank you.

Mr. Hurd: Commissioner Silverman?

Mr. Silverman: Okay, I'm in concurrence with the department's report dated January 3 and their findings and recommendations. I also think that the applicant came very well prepared and there was a lot of thinking that went into the proposal that was expressed here. The fact that this parcel has discontinued any access on Paper Mill Road, I think is an attribute. If we have to do it in the way of an amendment or recommendation that the applicant will agree to as part of moving forward, I would suggest that for Parcel #6, that the engineering drawings reflect a denial of access strip along the property line that would in the future prevent a homeowner from, say, building a two-car garage and having it access off of Paper Mill Road. This site design eliminated at least one driveway, maybe two driveways, and Highways found that very desirable when they also concurred that eliminating the access was a good thing.

With respect to the units, one of the comments we often hear at public hearings before our commission is that everyone is building apartments, everyone is building townhouses, everyone is building garden apartments. Here's an opportunity to add to the single-family detached housing inventory within the City of Newark. By virtue of the applicant cleaning out this particular property, they cleaned out a significant amount of underbrush, scrub, and just looking at some of the early slides, invasive species. I think I identified several mulberries there. I know this has been an ongoing problem within the state park system and the county park system, so they've eliminated some of that propagation. The housing density as proposed, even though it's different than the density that was offered in the county, if one goes immediately across Possum Park Road, you'll find that the density is very consistent with the density that exists within the City of Newark in that general area.

The applicant very astutely recognized the financial burden on the City of Newark and chose to go in the direction of a homeowners association with the property owners being responsible for what has been rightly identified by the Commissioners and people giving testimony as kind of a City service, a City responsibility. It's my belief that they are reacting to an earlier proposal that was defeated by Council at 0 Paper Mill Road, not too far from this site, where one of the main objections expressed, at least in the paper, was the financial burden of providing City services and street maintenance and other attributes which are normal City services and were discussed as being a burden. The applicant responded to that and moved away from that particular touchpoint. The open space, through the homeowners agreement, both the sediment erosion control and runoff basins, will be privately maintained. The homeowners association will be in place with a backstopping of the City being able to come in and, the operative word here is assess for services. So, if there is a cost to replace curb, a cost to replace a street, I would believe that through the homeowners association, the City could recover the kind of costs that would be involved there. I heard the figure of 125 automobile trips a day being generated. Was that stated by the applicant?

Mr. Edwards: That's correct.

Mr. Silverman: Okay, thank you. I wasn't sure where that number came from. And something to keep in mind for those of us who have been in the Newark community for a long time, I don't think the traffic issue at the crossroads has changed much, at least in my estimation, from the time when Louviers used to be a very active site. I know I deliberately would not go through that area at 4:30 or 5:00 because it was gridlocked with people coming out of the old DuPont facility. I intend to . . . oh, and with respect to the cul-de-sac, I take issue with the Fire Marshal's comments. Using . . . I don't have a scale with me . . . but using a reference with respect to the buildable area on a lot, it appears that this cul-de-sac is some 90 feet in diameter, plus or minus. I believe state standards for a state street for a cul-de-sac is somewhat less than that. So, if this were to be a public road, a dedicated public road, it would appear that the cul-de-sac would meet the standards that are used by the State Fire Marshal's Office and DelDOT highway standards. So, I'm not quite sure where the City fire review person is getting this idea that there's a particular problem there. And I don't see it on this plan, perhaps I missed it, but is a fire hydrant being located at the entrance of this community? In close proximity to the entrance?

Mr. Edwards: I would defer to the engineer on that.

Mr. Christopher Duke: There will be, yes.

Mr. Silverman: Okay, so the engineer, and I don't believe there is a fire hydrant on that side of the road serving this particular street, Possum Hollow Road, that goes back in, so there is another benefit to the community. In addition, and I'll close out on this, going back to what's been said tonight, if this site were to be developed in the county, it would be developed on onsite sewage disposal and well. By virtue of bringing public water and public sewer in this area, the potential of that having occurred has been eliminated. And as I said in my comments with respect to the planning area that was recently adopted, this allows the opportunity for those people with failing systems to, at least from an engineering point of view, connect into a public sewer system. Thank you.

Mr. Hurd: Thank you. I'm going to exercise the Chair's prerogative to extend the meeting to 9:30. And then Commissioner Drake, any questions?

Mr. Drake: No questions or comments.

Mr. Hurd: Alright, before I pick up my stuff, are there any questions or concerns from public comment that we didn't also address that you want to address into the record?

Mr. Edwards: The one thing I would touch on and I'll again look to the engineer on this, but it's my understanding that the cul-de-sac does meet the City of Newark Code requirements.

Mr. Duke: That is correct.

Mr. Hurd: Okay.

Mr. Edwards: I honestly don't have a whole lot to add. As was discussed, one of the questions was about snow removal and trash removal being coordinated and the responsibility of the homeowners association. We talked about the 125 trips per day. If we were to make that over a 12-hour period, that's about one trip every five or six minutes. You know, one of the great parts of this process is that everybody gets an opportunity to express their opinions and, you know, we respect everybody's opinions. In some instances, we just respectfully disagree with the position that they've taken. And so, with that, I don't have any additional comments.

Mr. Hurd: Alright, thank you. I guess I had just a few things. You addressed the valued trees . . . I understand the concerns about the smaller lots and the higher density, and one of the factors of the annexation and rezoning process is that the applicant gets to decide, basically, what zoning they're going to ask for. I think oftentimes it is partly an economic decision. If you did this at the NC15, that's basically the RM, I think, the 15,000 square foot lots and you have five or six, and I can see how economically there are some issues with that. I think, also, with five or six houses, you don't really have much of a homeowners association at that point. You have a lot of, you know, six people trying to carry the whole thing. I will say that this comes up a lot and I have yet to see a good answer as to why annexed properties, at least the recent ones, don't receive City trash and City snow removal. At one point I was told it was because they don't receive City electric, but this project seems to be receiving City electric, so I wasn't, I'm not sure what the mechanism is in the City that's not providing, what threshold do you have to cross to receive full City services? But I will say, every annexation that I've seen since I've been on the Commission, basically they get water and sewer and that's all they're getting from the City. So, the properties along Valley Road, the ones we've done near the golf course over near the side of the river, they've all, basically they get the water and sewer and then they still have to deal with trash and snow themselves.

Mr. Silverman: Covered Bridge Farms?

Mr. Hurd: Covered Bridge, thank you, where we've been getting a number of applications. I guess from what I'm seeing in the world of development, people are starting to look at how to

do incremental density, sort of incremental development to, you know, incremental density sort of increases in small ways so that they don't overload the system. And I think this is probably one of those times. To my mind, the smaller lots, the other advantage is that it's a more accessible housing type for people who are starting out. I think the City is lacking in small lots, small houses, affordable housing. We just had this conversation last night, in fact, about affordable rental housing. But it also brings up the point that the City has a lot of, you know, quarter-acre lots, half-acre lot, large houses, which millennials and such starting out can't afford. And so this is sort of an introductory house for someone who wants to live in the City. They can move into here, they can get started, they can start to develop equity, and they have some place to move up from.

I had a couple of comments on your homeowners association agreement that I'll just throw out for you to consider. Your ban on composting and clothes lines, to me, are in some ways counter to the trends that we're starting to see people trying to be more sustainable and more responsible to the environment. You know, not running their dryers, not buying chemicals and doing stuff, and trying to do a little more. I appreciate it's a small lot and you have to be a little more concerned about that and I will say you kind of saved it a little bit by allowing the photovoltaics, so good on that. But I just would like you to look at that again and just sort of reconsider if that's really the direction that you want to go.

I'm going to assume that the 125 trips a day, we've had this conversation also in the Parking Subcommittee at times, too, that the manuals for traffic and parking are old and are often based, I think, on old assumptions. So, I can't see how that thing is generating 125 trips a day. I just can't. I mean I live on a student street and there's not even that much happening. Again, I can see out and back and something in the middle, and we're at 40 or something. So, it just, I'm not seeing 125 and I'm not sure . . . I understand that's the manual you have to go by, but I don't see that that's a realistic number. That was all I had. I do appreciate the applicant's efforts reaching out to the neighborhood, suggesting the plan, especially the removal of units to allow for the stormwater, because stormwater is certainly a big issue that we also deal with, trying not to overburden the system and neighbors and such.

Alright, anything further from anyone? No? Okay. Mr. Secretary.

Mr. Wampler: We'll be voting on four specific actions. Number one, I move that we recommend that City Council approve the annexation of 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road as shown on the Becker Morgan Milford Run Major Subdivision Plan dated July 12, 2019 and revised December 18, 2019 with the Subdivision Advisory Committee conditions.

Mr. Hurd: Thank you. Do I have a second?

Mr. Silverman: I'll second.

Mr. Hurd: Thank you. Any discussion or amendments? Hearing none, all those in favor, signify by saying Aye. Opposed, say Nay. The Ayes have it. Alright.

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

THAT CITY COUNCIL APPROVE THE ANNEXATION OF 734 PAPER MILL ROAD, 5 POSSUM HOLLOW ROAD, AND 11 POSSUM HOLLOW ROAD AS SHOWN ON THE BECKER MORGAN MILFORD RUN MAJOR SUBDIVISION PLAN DATED JULY 12, 2019 AND REVISED DECEMBER 18, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER

NAY: NONE
ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Wampler: Next, I move that we recommend to City Council to approve the revision of the Comprehensive Development Plan V Future Land-Use Map for 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road to residential low-density.

Mr. Hurd: Thank you. Do I have a second?

Mr. Silverman: Second.

Mr. Hurd: Thank you. Any discussion or amendments? Alright, moving to the vote, all those in favor, signify by saying Aye. Opposed, say Nay. Alright, the motion carries.

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

THAT CITY COUNCIL APPROVE THE REVISION OF THE COMPREHENSIVE DEVELOPMENT PLAN V FUTURE LAND-USE MAP FOR 734 PAPER MILL ROAD, 5 POSSUM HOLLOW ROAD, AND 11 POSSUM HOLLOW ROAD TO RESIDENTIAL LOW-DENSITY.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER
NAY: NONE
ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Wampler: Thirdly, I recommend that we, I move that we recommend that City Council approve the rezoning of 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road from NC15 to RD as shown on the attached Exhibit E – Rezoning Map dated November 27, 2019 and the Becker Morgan Milford Run Major Subdivision Plan dated July 12, 2019 and revised December 18, 2019 with the Subdivision Advisory Committee conditions.

Mr. Hurd: Thank you. Do I have a second?

Mr. Silverman: Second.

Mr. Hurd: Thank you. Any discussion or amendments? Alright, we'll move to the vote. All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

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

THAT CITY COUNCIL APPROVE THE REZONING OF 734 PAPER MILL ROAD, 5 POSSUM HOLLOW ROAD, AND 11 POSSUM HOLLOW ROAD FROM NC15 TO RD AS SHOWN ON THE ATTACHED EXHIBIT E – REZONING MAP DATED NOVEMBER 27, 2019 AND THE BECKER MORGAN MILFORD RUN MAJOR SUBDIVISION PLAN DATED JULY 12, 2019 AND REVISED DECEMBER 18, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER
NAY: NONE

ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Wampler: Finally, I move that we recommend that City Council approve the 734 Paper Mill Road, 5 Possum Hollow Road, and 11 Possum Hollow Road major subdivision as shown on the Becker Morgan Milford Run Major Subdivision Plan dated July 12, 2019 and revised December 18, 2019 with the Subdivision Advisory Committee conditions.

Mr. Hurd: Thank you. Do I have a second?

Mr. Drake: Second.

Mr. Hurd: Thank you. Yes, question?

Mr. Silverman: Mr. Chairman, how do we want to place onto the record my recommendation with respect to denial of access strip along Possum Park Road? An amendment?

Mr. Hurd: I feel that you can make that as an amendment.

Mr. Silverman: Okay, I would like to amend the motion to add that the applicant place a denial of access strip along the entire westerly boundary in the vicinity of Lot 6 along Paper Mill Road.

Mr. Hurd: Alright, do I have second on the amendment?

Mr. Wampler: Second.

Mr. Hurd: Alright. We don't have to vote on the amendment, right? Or do we vote?

Mr. Silverman: We have to vote on the amendment first.

Mr. Hurd: I always get that confused. Alright, so first we're going to vote on the amendment to the motion of the no-access strip. Any further discussion? No? Alright. All those in favor, signify by saying Aye. Opposed, say Nay. Alright, that carries.

MOTION BY SILVERMAN, SECONDED BY WAMPLER THAT THE APPLICANT PLACE A DENIAL OF ACCESS STRIP ALONG THE ENTIRE WESTERLY BOUNDARY IN THE VICINITY OF LOT 6 ALONG PAPER MILL ROAD.

VOTE: 5-0

AYE: DRAKE, HURD, KADAR, SILVERMAN, WAMPLER

NAY: NONE

ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Hurd: Now, back to the original motion . . .

Mr. Silverman: As amended.

Mr. Hurd: As amended. Any further discussion or amendments? No? Okay. Moving to the vote, all those in favor, signify by saying Aye. Opposed, say Nay. Thank you. Motion is carried 4-1.

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

THAT CITY COUNCIL APPROVE THE 734 PAPER MILL ROAD, 5 POSSUM HOLLOW ROAD, AND 11 POSSUM HOLLOW ROAD MAJOR SUBDIVISION AS SHOWN ON THE BECKER MORGAN MILFORD RUN MAJOR SUBDIVISION PLAN DATED JULY 12, 2019 AND REVISED DECEMBER 18, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS, AND WITH THE ADDED CONDITION THAT:

- A. A DENIAL OF ACCESS STRIP BE PLACED ALONG THE ENTIRE WESTERLY BOUNDARY IN THE VICINITY OF LOT 6 ALONG PAPER MILL ROAD.

VOTE: 4-1

AYE: DRAKE, HURD, SILVERMAN, WAMPLER

NAY: KADAR

ABSENT: MCNATT, STOZEK

MOTION PASSED

Mr. Hurd: Alright, that concludes Agenda Item 5. Thank you, everyone.

7. INFORMATIONAL ITEMS.

- a. **PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS**
- b. **PLANNING AND DEVELOPMENT DEPARTMENT LAND USE PROJECT TRACKING MATRIX**
- c. **PLANNING COMMISSION 2020 WORK PLAN QUARTERLY UPDATE**
- d. **PLANNING DIRECTOR'S REPORT**

Mr. Hurd: Alright, we've got three minutes. So, first, I would ask the Commission because we're approaching 9:30 and going beyond that requires a vote of the Commission . . . excuse me, if you're going to continue to converse, can you please exit the room? I need the conversation, please, to leave the chamber.

Alright, I think that we can get through the last couple things in ten minutes, but I need to put that to the Commission to extend past 9:30. Do I have . . . are you okay? Okay, we're good.

Mr. Silverman: Consensus.

Mr. Hurd: Consensus. Alright, Items A, B, and C are in your packet. Item D is the Planning Director's Report. Mary Ellen?

Ms. Gray: I'm still playing with the format here, but my purpose is to provide value and information to the Planning Commission, so please feel free to comment at some point if this information is helpful to you.

So, approved projects going to Council. On December 9, Council approved a special use permit for Atexquita Mexican Grill, I'm sorry, Grill and Bar to allow the sale of alcoholic beverages for consumption on premises at 136 South Main Street. On January 6, Council approved the Transportation Improvement District agreement with the map, with the Planning Commission recommendations with two amendments. They added Valley Road beginning at Barksdale Road and ending at the state line, and they added Old Paper Mill Road. On January 13, I gave a presentation to the Council on the 2019 Planning Commission Annual Report and the 2020 Work Plan. The [City Council] extended their many thanks to all the Planning Commission members for their dedication and hard work over the year and continued work on the Planning Commission and wished them well and asked that perhaps that the next time we present, that you all come so they can thank you in person. Any maybe we'll go out for drinks or ice cream. On January 27, the Council approved the 2018 International Fire Code amendments. I know that's not one of your chapters, but it does impact the Planning Commission's activities. And on January 27, I'm sorry, yes that's January 27, at the same meeting, they tabled the proposal to add a special permit

farm use in the Chapter 5 amendment. Oh, you guys didn't hear this, but they tabled the farm use proposal and asked Planning staff to look at a new proposal for a farm zoning district? Did I get that right, Mike?

Mr. Hurd: Yeah, I listened to it.

Ms. Gray: That's right, you were there.

Mr. Hurd: No, I listened . . .

Ms. Gray: Oh, you watched.

Mr. Hurd: I watched after the fact, but yes. Their general concern was that an agricultural use in a residential zoning has the potential of becoming a development kind of backdoor and they were concerned that if someone wants to come in as an agricultural use, that they're in a zoning that requires them to basically stay an agricultural use. And then there would have to be, they would have to go through a rezoning process to become a development, a residential development, as opposed to just saying I'm not going to be agricultural anymore, I'm now going to be residential, if I'm summarizing . . . that seemed to be the nutshell of their concerns. They wanted to kind of lock down that use in a more formal way.

Ms. Gray: So, that's on our list and we're working on it.

Mr. Hurd: Okay.

Ms. Gray: February 3 Council, oh that was last night . . .

Mr. Hurd: Yes.

Ms. Gray: It was a long meeting, but we presented the draft Rental Workgroup recommendations and there was a good discussion. We had almost half of the . . . including Will . . .

Mr. Hurd: Yeah, I was there.

Ms. Gray: To the meeting and most of the, a good portion of the Rental Workgroup members came and supported the draft recommendations. There was a very good discussion, I thought, of Council and the public. And our next step for that is to reconvene the workgroup and talk about . . . so there was some, all the Council commented and had some recommendations and some thoughts on some of the different recommendations. So, we're going to go through those and then tweak them and come back. The next available agenda is in May and then come back to Council in May with a draft of final recommendations. And the next step for that is similar to what we did for the Parking Subcommittee, is for staff, should it get approved, to put together a work plan and technical document. And I foresee that work plan probably being a 1-2-year work plan for those items. Upcoming, February 10, is the second reading of the patio ordinance and a special use permit for Oh-So Cycle on South Main Plaza.

Upcoming meetings, the Green Building Work Group this Thursday, a public forum. Please come, one and all, from 4:00 to 6:00 p.m. And Mike and I will be participating in the State of Delaware Area Census Kick-Off Meeting on Thursday in Wilmington. A couple of cool meetings, just real quickly, that we participated in. I participated in, and Joe Charma, as well, IPA, actually not IPA but some folks working at IPA, UD is, we're partnering with UD to map artwork in Newark in anticipation of applying for, I think, a National Endowment of the Arts grant to do a planning, an art plan of how to submit and take care of art in Newark. So, I think that's pretty cool. We had, the Delaware Planning Association had our first, soon to be annual, retreat where we reviewed our strategic plan and did our review of the work that we did this year, and then put together our work plan for next year. So, that was a very successful endeavor and something that we'll continue.

A couple of cool projects that we're working on and then I'll wrap up, we just signed an agreement and had our first two meetings with, through IPA, we've taken on an intern to work on an economic development plan. The first up is an inventory of our commercial space and businesses. This is a partnership with IPA and we're also working with The Newark Partnership, their economic enhancement committee, and eventually the Delaware Prosperity Partnership. So, it is my hope that we will continue to grow this and to revamp our economic development component of our small yet mighty Planning Department. We're working on updating Unicity, looking at putting on cameras and getting an app for our Unicity riders to increase ridership and do some other things that we're partnering with DART and DelDOT on. Yes, we do have Unicity in Planning. And we're also working on, this is a citywide effort, impact fees. So, we are heading that up in Planning, working with all the departments on it.

Mr. Hurd: Alright, thank you.

8. NEW BUSINESS

Mr. Hurd: Quickly onto new business, I'll just say that based on there was some sort of kerfuffle, for lack of a better word, around the meeting, the January meeting that we were scheduled to have. And part of it was based on how we schedule, when we schedule, and who has authority to cancel meetings. And there are gaps in the Code that don't define some of that clearly. So, I will be drafting some proposed additions to our Rules of Procedure to lay some of that out more clearly so that we have basically a bylaw-type document that we can work against so that everybody knows how we want that to work.

Any other new business people would like to bring forward for consideration? No? Okay.

9. GENERAL PUBLIC COMMENT

Mr. Hurd: General public comment is now open. No? You ready to go home? Okay. That brings us to the end. Do I have a motion to adjourn?

Mr. Drake: So moved.

Mr. Kadar: Second.

Mr. Hurd: So moved and second. Alright, we are in adjournment.

There being no further business, the February 4, 2020 Planning Commission meeting adjourned at 9:37 p.m.

Respectfully submitted,
Tom Wampler
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

- Exhibit A: [Written public comment \(734 Paper Mill Road and 5 and 11 Possum Hollow Road\)](#)
- Exhibit B: [Planning and Development Department report \(118, 126 and 130 New London Road\)](#)
- Exhibit C: [Applicant presentation \(118, 126, and 130 New London Road\)](#)
- Exhibit D: [Planning and Development Department report \(Planning Area 7\)](#)
- Exhibit E: [Planning and Development Department report \(734 Paper Mill Road and 5 and 11 Possum Hollow Road\)](#)
- Exhibit F: [Applicant presentation \(734 Paper Mill Road and 5 and 11 Possum Hollow Road\)](#)