

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

September 1, 2009

7:00 p.m.

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

Vice-Chairman: Ralph Begleiter

Commissioners Present: Peggy Brown
Angela Dressel
Mary Lou McDowell
Kass Sheedy

Commissioners Absent: James Bowman (Chairman)
Rob Osborne

Staff Present: Roy H. Lopata, Planning and Development Director

Vice-Chairman Ralph Begleiter called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE AUGUST 4, 2009 PLANNING COMMISSION MEETING.

Ms. Sheedy: On page 14, the last text that is attributed to me, "You have 259 spaces . . ." that was not me. I think it was Peggy. And then on page 15, also the last text that is attributed to me, "Does this Candlewood Suites have a University nearby?" That was also not me. I think it was Peggy.

Mr. Begleiter: On page 49 about halfway down attributed to me, "While circumstances have been changing significantly, of course, as we have no . . ." I think it should be, "As we know from our past dealings." And then the next paragraph, it starts out Mr. Charma. It is actually, "Mr. Chairman, I am going to suggest . . ."

MOTION BY DRESSEL, SECONDED BY SHEEDY, THE MINUTES OF THE AUGUST 4, 2009 MINUTES WERE ACCEPTED AS AMENDED.

VOTE: 5-0

AYE: BEGLEITER, DRESSEL, BROWN, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

MOTION PASSED UNANIMOUSLY.

2. REVIEW AND CONSIDERATION OF THE REZONING OF THE 1.9959 ACRE PROPERTY AT 601 OGLETOWN RD. FROM BB (CENTRAL BUSINESS DISTRICT) TO BC (GENERAL COMMERCIAL) AND SPECIAL USE PERMITS FOR A WAWA CONVENIENCE STORE WITH MORE THAN 5000 SQ. FT IN FLOOR AREA AND GASOLINE SERVICE PUMPS.

Mr. Lopata summarized his report to the Planning Commissions that reads as follows:

"On June 25, 2009, the Planning and Development Department received applications for the rezoning and special use permits for the redevelopment of the 1.9959

acre property at 601 Ogletown Road. The now vacant “Bennigan’s” restaurant building is located at this site. The applicants and owners of the property – Fusco Enterprises, L.P. – are requesting rezoning from the existing BB (central business district) to BC (general business) to demolish the existing building and replace it with a 5,589 sq. ft. Wawa convenience store with gasoline service station pumps and islands. The applicants have applied for the BC zoning required special use permits for gasoline service and for a retail food store larger than 5,000 sq. ft.

Please see the attached CDA Engineering, Inc. rezoning and special use permit plans, supporting letter, and building elevation drawings.

The Planning and Development Department’s report on the 601 Ogletown Road project follows:

Property Description and Related Data

1. Location:

601 Ogletown Road; at the southwest corner of the intersection of Marrows and Ogletown Roads.

2. Size:

1.9959 acres

3. Existing Land Use:

Vacant one story restaurant building and associated parking area.

4. Physical Condition of the Site:

The 601 Ogletown Road property is a fully developed site. In terms of topography, the site is very level with a slight slope from its highest point at the northwest portion of the property down to the southeast.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service and the development plan, the eastern half of the site contains Elsinboro Silt Loam soil and the western half, Delanco Silt Loam. According to the Natural Resources Conservation Service, these soils have “slight” and “moderate” development limitations respectively.

5. Planning and Zoning:

The 601 Ogletown Road property is zoned BB. BB is our downtown commercial zone that permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

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

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curbside service for other than eating establishments.
- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

The requested BC zoning, our general commercial district, permits the following:

- A. Auction
- B. Automobile, truck, rentals, retail, and wholesale sales with special requirements
- C. Crating service
- D. Frozen food locker
- E. Ice Manufacture
- F. Sign painting and manufacture
- G. Warehousing with special requirements
- H. Wholesale sales with special requirements
- I. Photo developing and finishing
- J. Veterinary hospital
- K. Cleaning and dyeing plants
- L. Commercial laundries/dry cleaners
- M. Laundromats
- N. Outdoor commercial recreational facilities with special requirements
- O. Swimming club, private or commercial
- P. Social club, fraternal, social service, union and civic organizations, except on ground floor locations
- Q. Studio for artists, designers, photographers, musicians, and sculptors
- R. Offices for professional services and administrative activities
- S. Personal service establishments
- T. Finance institutions, banks, loan companies
- U. Retail and specialty stores
- V. Repair and servicing, indoor and off-site, of any article for sale, which is permitted in this district
- W. Related indoor storage facilities are permitted as an accessory use to any of the permitted uses in this district
- X. Accessory uses and accessory buildings
- Y. Restaurants, taverns, bakery-restaurants, and delicatessens
- Z. Public parking garage and parking lot
 - a. Parking off-street
 - b. Public transportation facilities, including bus or transit stops for the loading and unloading of passengers; station and depots
 - c. Street, right-of-way
 - d. Utility transmission and distribution lines
 - e. Water tower, water reservoir, water storage tank, pumping station, and sewer
 - f. Retail food stores up to 5,000 square feet in maximum floor area, limited to bakeries confectionery, candy, gourmet shops, small convenience grocery, and meat sales facilities. Goods produced on the premises shall be sold only on the premises

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

- A. Automobile repair and/or service station, paint and/or body shop with special requirements
- B. Self-service car wash establishment with special requirements
- C. Automobile/motor vehicle repair with special requirements
- D. Automatic car wash establishment with special requirements
- E. Used car lots
- F. Retail food stores
- G. Fast-food and cafeteria style restaurants with special requirements
- H. Drive-in restaurants, with special requirements
- I. Drive-in and curbside service for other than eating establishments.
- J. Substation, electric, gas, and telephone central office with special requirements
- K. Tower, broadcasting and telecommunications with special requirements
- L. Police and fire stations
- M. Library, museum and art gallery
- N. Church, or other place of worship, seminary or convent, parish house, or Sunday school building
- O. Instructional, business or trade schools
- P. Motels and hotels
- Q. Commercial indoor recreation and indoor theaters
- R. Adult bookstore/adult entertainment center with special requirements
- S. Restaurants with alcoholic beverages

Regarding BC zoning area requirements, other than the requirements for off-street parking, the 601 Ogletown Road plan meets all the applicable BC zoning requirements. Regarding parking, the applicants applied to the Board of Adjustment for the necessary variance, which will be required to be issued prior to the City Council's consideration of this project.

Regarding nearby and adjacent properties, the property immediately adjacent to the 601 Ogletown Road site on the south is zoned BB and contains a Kentucky Fried Chicken fast food restaurant. The BB zoned College Square Shopping Center lies further to the south. The BB zoned Floyd I. Hudson State Service Center and the U.S. Post Office are located west of the 601 Ogletown Road site, fronting on Ogletown Road. The land north of the site, across Ogletown Road, is zoned BC and contains the Porter Ford/Mitsubishi auto dealership and the 84 Lumber Company supply store. A "CN" (commercial neighborhood) zoned Shell Service Station with a convenience store is located east of the site across Marrows Road, in New Castle County.

Regarding comprehensive planning, the recently updated Comprehensive Development Plan IV calls for "commercial (auto oriented)" uses at the 601 Ogletown Road Location.

Departmental Comments

1. The Planning and Development Department notes that the proposed use conforms to the City's comprehensive planning for the location and does not conflict with the land use pattern in the vicinity of the site.
2. The Planning and Development Department suggests to limit future intense commercial development at this location, the Planning Commission consider as a condition of special use permit approval that the applicant voluntarily agree to deed restrict the 601 Ogletown Road parcel so as not to permit the following uses:
 - A. Cleaning and dyeing plants
 - B. Laundromat/commercial laundry/dry cleaners
 - C. Automobile paint or body shops
 - D. Self-service and/or automatic car wash establishments
 - E. Used car lots
 - F. Adult bookstore/adult entertainment center
 - G. Outdoor commercial recreational facilities

3. The Planning and Development Department suggests that the Planning Commission consider the following conditions of special use permit approval:
 - That mechanical equipment and utility hardware be screened from public view with materials harmonious with the proposed architectural design or such equipment shall be located so as not to be visible from adjoining public rights-of-way;
 - That refuse storage bins be screened from public view with materials harmonious with the proposed architectural design.
4. Regarding stormwater management, the Public Works Department indicates that through the building permit review process more information may be necessary and additional stormwater management facilities required, if the proposed infiltration system does not meet City requirements.
5. The Water and Wastewater Department indicates, regarding water and sanitary sewer, service that several technical requirements should be reviewed with the Department prior to the plan's consideration by City Council.
6. The Police Department indicates that the proposed Wawa will generate increased vehicular and pedestrian traffic at the adjoining Ogletown and Marrows Roadways. In this regard, the Department notes that vehicles exiting the site onto the shared access way with the Floyd I. Hudson Center (labeled "College Avenue" on the plan), are directed with a median to turn eastbound onto Ogletown Road. Unfortunately, the Department notes that frequently motorists disregarded this median configuration and cross eastbound traffic on Ogletown Road to head westbound on that roadway. The Department, therefore, suggests that the applicant should be required to install improvements to the median to channelize vehicles to more effectively turn eastbound onto Ogletown Road. Please note, in this regard, that patrons can also exit the Wawa site by heading south on "College Avenue," and then may use the College Square service road access way at Marrows Road to make left and right turns onto that roadway.
7. The Building Department indicates the following:
 - The new building on the site must be designed in accordance with the 2006 International Building Code.
 - The proposed building will be required to be sprinklered.
 - A demolition permit for the existing structure will be required.
 - A 24 ft. wide fire lane for the site should be provided for appropriate fire equipment access.
 - The minimum height of a canopy across the fire lane must be at least 14 ft. in height.
 - The underground waterline for the sprinkler system must be a minimum size of six inches.
8. The Parks and Recreation Department indicates that prior to the plan's consideration by City Council, the applicant should review landscape planting material selection with the Department. In addition, the Department notes that the landscape strip on the west side of the site needs to be increased to 10 ft. in width.

Recommendation

Because the proposed 601 Ogletown Road rezoning from BB to BC conforms to the land use guidelines in Comprehensive Development Plan IV, because the proposed Wawa convenience store conforms to the development pattern in the immediate vicinity of this site, and because, with the Departmental suggested conditions, the proposed facility will not have a negative impact on adjoining and nearby properties, the Planning and Development Department suggests that **the Planning Commission make the following recommendations:**

- A. That City Council approve the rezoning of the 1.995 acre 601 Ogletown Road property from BB (central business district) to BC (general business), as shown on the attached Planning and Development Department Exhibit A, dated September 1, 2009; and,**
- B. That City Council approve the special use permits for the sale for gasoline service and for a retail food store greater than 5,000 sq. ft. floor area as shown on the CDA Engineering, Inc. plan, dated July 30, 2009, with the conditions in this report.”**

Ms. Angela Dressel: Who actually maintains “College Avenue,” if that is a private road?

Mr. Lopata: We don’t. It is either College Square or the Hudson Center?

Ms. Dressel: When you are talking about the channelization, they have that on Paper Mill Road as well going towards Timothy’s. That one does not work.

Mr. Lopata: That is not channelized well enough. That is not effective.

Ms. Dressel: Is there some wording we could use?

Mr. Lopata: Effectively channelized or some word like that. It is never 100% effective. In this particular case, they have a very easy alternative access for westbound traffic to the rear of the property behind the College Square Shopping Center out onto Marrows Road with a signalized intersection. That is the way to go west from this facility.

Ms. Dressel: Signage would help.

Mr. Ralph Begleiter: The zoning definitions you listed, which are part of the Code under which this property would fall include:

- A. Automobile repair and/or service station, paint and/or body shop with special requirements

That is the chapter or paragraph that covers this type of development. Right? It is not one of the others.

Mr. Lopata: Correct. No, it is not one of the others.

Mr. Begleiter: Is there somewhere a definition of what a “service station” is? Does that include gasoline pumps?

Mr. Lopata: That is why this becomes a service station. If you sell gasoline, the closest permitted use is a service station which has other accessory uses. We are approving a , in effect, a gasoline service station.

Mr. Begleiter: There isn’t service there. We will talk to the developer about this. The point I want to raise is to make it clear, if we approve this proposal, that we are not approving a gasoline station which back in the day used to actually include service such as where you would bring a car for repairs or where they would actually wash your windows or have a car wash or any of those other kinds of things. But, the definition of this does include gasoline pumps.

Mr. Lopata: Yes. We don’t have a convenience store with gasoline pumps category. That is why they are asking for that permit. The 7-11 on Delaware Avenue did the same thing.

Mr. Begleiter: I would also like to echo Angela’s comment that we need to find out who owns the street that will become the major thoroughfare for this development if it is proposed and determine whose responsibility it is to make sure that street actually can accommodate.

Mr. Lopata: If you put that as a condition as we are recommending, it is their responsibility to do it. If they have a problem with the ownership, they will come back to us or to Council and say we can't do it and this is why.

Mr. Begleiter: The developers are invited to make a presentation if they wish. Anyone who speaks, please identify yourself by name and your organization, and address.

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

Mr. Thomas Mammarella: I am an attorney with the law firm of Gordon, Fournaris & Mammarella and represent the applicant.

As has already been indicated, the proposal tonight before you is for a Wawa Convenience Store with gasoline pumps at 601 Ogletown Road. The store is proposed to have approximately 5,589 square feet gross floor area of which approximately 2,300 square feet will be devoted to retail sales. There will be six multiple product dispensers having 12 fueling positions for dispensing gasoline motor fuel. The property contains just under two acres, has frontage on both Marrows Road and Ogletown-Stanton Road as well as this private road referred to as "College Avenue," and it is part of the larger College Square Shopping Center. I assume you are familiar with that. When the Center was approved in the early 1980s, it included Section One, which was this property and the adjoining KFC and a little strip next to that, a Section Two and Section Three. The entire Center contains about 385,000 square feet of building area and about 50 acres.

What is being requested tonight, again, to restate it, is seeking a rezoning from the BB to the BC zoning district, a special use permit for a retail food store of more than 5,000 square feet. I want to note that a retail food store of up to 5,000 square feet is permitted as matter of right, but because this proposed store has 589 square feet more than that a special use permit is needed. Even though the store size is just less than 5,600 square feet only 2,300 square feet are being devoted to retail sales. The third thing that is being requested is a special use permit for an automobile service station, but the proposed use involves only the sale of motor fuels and it does not involve automobile repair, painting or body shop uses.

With us tonight as part of our development team is Com DeAscanis with CDA Engineering, Gregory Harvey with Wawa and Frank Vassallo representing the property owner.

Colm DeAscanis: The engineer with CDA Engineering. We developed the site plan. Basically, what we tried to do is keep as much of the characteristics of the site as possible utilizing the existing circulation drives and parking, so when we brought the Wawa in it would work with the existing circulation to keep things going the way they are right now since the Wawa is part of a multi-parcel unit that is shares access and circulation drives.

Regarding the access way referred to as "College Avenue" for reference, the subdivision plan to break off the KFC parcel, that showed as a public road with variable width right-of-way, but the previous Bennigan's plan and the College Square plan, the County parcel data all show it as private on the Floyd Hudson parcel. We are still working on that, and we will get that squared away.

Mr. Lopata: It is private from our perspective meaning it is not a State or City roadway.

Mr. DeAscanis: One other issue is that the existing Bennigan's wasn't sprinklered. The new building, as with all new buildings, must be sprinklered. So, I spoke with Roy Simonson to make sure that we have adequate fire and water service to service the sprinklers. There is an eight inch loop system that connects to the system in Ogletown/Stanton Road and also the system that services College Square. The system runs down Marrows. We have good flow. We will work during the construction improvement stage to make sure we have all of that squared away. There are two hydrants on site near the building so that won't be a problem with the Fire Code.

Regarding stormwater management, like I said before we tried to mimic the predevelopment. There is very little change in the impervious, but we are going to try to do the best we can with what is there. We will work with the Public Works Department.

In terms of the channelization of the traffic, that is a concern all over the State right now. DelDOT has kind of honed down their balance of making it channelized enough to prevent the movements but not too channelized where you actually restrict the right out. We have done several projects with them recently where I think they have got that down. We have already made contact with DelDOT, and as part of the process we need to get a “no objection” We will work with them on those issues.

The other issues are electric service and sanitary service. The existing services that are already there should be adequate.

Mr. Greg Harvey: I am a project engineer employed by Wawa Incorporated. I am here tonight to say on behalf of Wawa we are excited to become part of the community. First and foremost, there are several things that when Wawa looked at this property interested us; the site design, or characteristics, or the potential of Wawa to be a part of the community. This is an ideal site in our scenario. We do have several challenges to overcome as far as zoning and the requirements from the City itself. We feel that on behalf of the team and the property owner that we can substantiate some of the requests that we are making tonight and answer any of your questions. But, more importantly, what you can when Wawa comes into the community is a good corporate citizen.

In addition to 40 to 50 potential job opportunities for local residents, we anticipate that we will be a big participant as far as local civic groups, organizations, and charity events. Our corporation does support all local type charities. We enable not only the managers as part of the business, but we enable employees to become a substantial citizen in that regard. So, I am here tonight to answer any questions you have about our business, our operation, our experience not only in this area but this state as well. We feel that part of having the corporation run a business and control the operation of the store, we also have good experience when it comes to development. So, a lot of the concerns that you may have, we feel that there is a need to listen to them, understand them, but more importantly, to tell you that we have probably experienced them in other places and we can help you with some of the concerns you might have with our use at this specific location.

Mr. Mammarella: Special use permits are basically part of the Zoning Code to allow the government the opportunity to impose specific requirements, if necessary, to make sure the use is in keeping with the intent of the Code. The specific requirements for a special use permit in the City of Newark are three.

1. That the use does not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.
2. That the proposed use not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. That it not be in conflict with the purposes of the Comprehensive Development Plan of the City.

We believe that the approvals requested should be approved and some of the reasons for the support of that request follow.

With respect to the rezoning, we note, as Mr. Lopata did, that the use is consistent with the City’s Comprehensive Plan. The property is designated for commercial auto oriented, and that is exactly the use that is being proposed. The rezoning is necessary because the current zoning does not support the sale of motor fuels. And, the proposed use is consistent with other nearby uses all of which are commercial.

With respect to the two special use permits that are being requested, the first being a retail store with more than 5,000 square feet of floor area, we note that this store has only 5,5089 square feet, which is only 12% more than the threshold amount. Of that amount only 2,300 square feet is actually being used for retail sales. And lastly, a request for an automotive service station use limited to the sale of motor fuels, we believe is supported on

the basis that the project will comply with all of the requirements of Section 32-19(b)(1) which is a list of about ten specific requirements that have to be satisfied in connection with this particular approval. The only requirement that we do not satisfy is the parking requirement, and for that we have an application before the City of Newark Board of Adjustment to be heard on Thursday for a parking variance. That parking variance, basically, is to satisfy a Code requirement that the parking provided is far in excess of the amount that Wawa normally has and far in excess of what is actually needed to for proposed use.

Lastly, I note that the uses for which the special use permits are sought satisfy the requirements of the Code in that they are consistent with the Comprehensive Plan, that a convenience store selling gasoline will not adversely affect the health or safety of persons in the neighborhood and the uses provide conveniences and options that are detrimental to public welfare. Thank you for your time. All the members of the team are available for any questions you may have.

Ms. Peggy Brown: Does the parking variance move with the property, for instance, if somebody decided to tear down the Wawa in the future and put housing in there?

Mr. Lopata: Not with a change in use. It continues to run with the land for a same or similar use. I will be at the Board of Adjustment meeting Thursday. I will, for the record, state that from the Planning and Development Department standpoint there is more than enough parking. It is a quirk in our Code. They and the 7- Eleven that I mentioned before had to go through the same process. There are acres of parking out there. If the Board of Adjustment does not give the variance, the applicants will have various options including making the business a little bit smaller. The variance is 10 to 15 spaces as I recall. Based on the past track record of the Board my sense is that it is more than likely they will get the variance.

Ms. Dressel: 92 is required and they have 89?

Mr. Mammarella: The variance from the required 109 parking spaces to permit the development with 89 parking spaces.

Ms. Sheedy: What is the size of the existing Bennigan's building in terms of square feet?

Mr. Lopata: It is over 6,000 square feet.

Ms. Dressel: You said 2,300 square feet will be used for retail service. I am assuming that some of that other space is going to be office space. What else?

Mr. Harvey: Significant change in design as far as how our buildings evolve in that the retail space over the history convenience store has increased slightly. What has increased most is the backroom space; storage, operations, public restrooms, trash rooms, we have three different types of interior trash rooms that are now housed all within the gross floor area of the building. So, it is the guts of the building and the operations that have grown. So, when you look at the square footage and then you look at the gross floor area and you subtract out the retail area, it is really the operation of the store itself. So, there is a manager's room, break rooms for employees, locker room spaces -- things before that were disregarded and continue to be disregarded as far as the way other people run their business. But, it is something that we have done. When we invest in our employees and operation is to give those people the room that is needed to operate efficiently.

Ms. Dressel: Obviously you are tearing down the present building and constructing a new building all together. I guess this is not Planning Commission related, but is there going to be any recycling of the products of the existing building? Are you going to be reusing those existing materials or find a way to dispose of them in an environmentally friendly way?

Mr. Harvey: We are going to try to do both. So, what we typically do if we are lucky enough to get to that point and we are actually staring construction at the site, we do hire general contractors who evaluate demolition of existing structures. So, if we can use that and if it is of a material that we can use for a sub-base or for something on the site, we will.

If it is material that we can't use, obviously, the next step is to dispose of it in an environmentally friendly way.

Mr. DeAscanis: Another big thing is the actual site. What we try to do is look at it as an overall site. We use it is by planning the building location and the circulation that is the existing pattern. So, we will be using the parking and drives to minimize that development.

Ms. Mary Lou McDowell: I haven't been out there to look at it since I looked at this, but one thing that I noticed that I am not sure exists already is the entrance in the front.

Mr. Dressel: It does.

Ms. McDowell: The thinking is not only because it seems like it is a difficult property to get in and out of but also if we don't know about this access road, you don't have a lot of other ways into or out of it.

Mr. Lopata: They have a right to use that access road. They have had that right since College Square was originally approved back in the early 80s. They are okay to get in and out of there.

Ms. McDowell: But, that entrance does exist. I just didn't remember it.

Mr. Lopata: Typically, you wouldn't wait to turn off this because it is like a right turn lane onto Marrows Road, but there is a curb cut there.

Ms. Dressel: If we were to go forward, would Wawa be willing to put in rather large and obvious signage to direct people to use College Avenue to come out to Marrows Road rather than trying to go College Avenue and then taking a left onto Ogletown Road? That seems to be a concern, I think, for DelDOT, the City of Newark and for residents of this area. I go past there numerous times a week and it can be very dangerous.

Mr. Harvey: Yes, we would be willing to work on signs. I will tell you that safety and access, when we talk about the success of our business, are top of the priorities that we have. When we talk about the existing entrance off of Rt. 273, the existing in only entrance, I would say that is extremely important for the convenience aspect for our businesses. We try to simplify it and say people ought to be able to get in and out safely and easily. Otherwise, there is going to be somewhere along the way that they are going to shop instead of this location. We understand the concerns with this left out maneuver and, again, I don't think that is something we haven't heard on other projects and we are willing to work with DelDOT and the City on it with signage and so forth. We would tell you that it is important that we maintain the right in and right out and left in safely. We can work with modifications and signage so we can maintain that.

Ms. Dressel: I believe that the Wawa that is at Route 4 and Rt. 72 has a one way access in and then a two way out onto Route 4. I know you have experience locally with that theme setup, so I believe if you have a similar setup in this situation. I have to say shopping at Wawa regularly, I am in favor of the business because the properties are always kept beautifully and I think that this would be a positive addition to the City of Newark because everything is always maintained in a very professional manner.

Ms. Sheedy: I am curious why you are not proposing an entrance or an exit on Marrows Road.

Mr. Lopata: There is one there now. It is further away from the intersection. You don't want it closer.

Ms. Sheedy: It is down below Kentucky Fried Chicken.

Mr. Lopata: Yes, the further away from the intersection, the better. I don't know if they are thinking that, but that is how we would think.

Mr. Harvey: We would say, if it can be done safely and securely, we would prefer a right in or a right out entrance along there. At this point, we are not proposing it. We still know there is a process we go through on all of our projects with DelDOT and we anticipate doing the same here also.

Ms. Sheedy: My concern is, and I have very mixed feelings about the possibility of a cut onto Marrows Road because Marrows Road is pretty busy, but based on my driving experience, a lot of people who go to Wawa are people who are in transit. It is not an entirely locally patronized business. This seems fairly complex into it, if you have never been there before. For a local who has been to Bennigan's or to College Square, it is obvious what you would do to get out to Marrows Road to go west on Rt. 273, but it seems fairly complex into it if you have never been there.

Mr. Lopata: Kass, let me give you a local example that I was involved with. What is now a Boston Market was a Ginos originally on Rt. 896. You can right turn in. It's almost identical to this. If you want to get out and you want to make a left, you have to go onto Welsh Tract Road where it is two ways and use the Rt. 896 traffic signal. When they had a drive-in window we made them put a curb in it. So, you had to circulate around to go back out. That facility was used by a lot more out-of-towners than this one will be because it was right near the turnpike. It worked wonderfully and it still works to this day. People go out and have to make a left, they do not get on Rt. 896 directly to go left, which is just what we wanted to avoid. I think that is what we are trying to replicate here.

Ms. Sheedy: The primary reason why it concerns me is because you are not just going around Wawa, you are going down past Kentucky Fried Chicken. Maybe I am sensitive to it because I recently had an experience up on Rt. 30 outside of Lancaster in the shopping center parking lot where I had to ask a pedestrian how to get out of the parking lot.

Ms. Brown: Down on Rt. 40, you have a Wawa where you have to go in an access road and come out the access road. On Rt. 13 there is also a Wawa and it is the same deal, and it works. My suggestion is, if you can work it out, is that you have one way in and one way out. My feeling is, having it that close to the intersection, you are going to create a problem with people not realizing that people are going to turn – people don't always use their blinkers – and they will be zooming through the green light. I am concerned with that. I really think you would do better to have one entrance, one exit off of College Avenue. I know of two local Wawas where that works and it works well.

Mr. Harvey: We are talking about examples and I am not sure this is appropriate or not, the one you brought up on Rt. 40, it is an issue. We have an access out the back through the nursery, so it is not the only access out of that parcel. I would say that that is a difficult maneuver. Rt. 40 is the main corridor. We have two corridors that we are getting traffic off of. So, to say this site is similar to Rt. 40 or this site is similar to Rt. 13, probably is not entirely accurate. I think each site has its own characteristics. Here are two roads with traffic on them that we are trying to capture safely and effectively. That is first and foremost for us. We have an existing entrance that does have a (inaudible) lane for people to turn off. There is a turn before it and a turn after it. I am not a traffic engineer. I am just telling you my experience on how we do other projects. There is opportunity for people to turn a several other locations in addition to the one specifically for the entrance into the Wawa. I will tell you from a customer standpoint or a traveling standpoint, that based off my experience and based off our experience with DelDOT, we think we can do this safely. I am not saying they will agree 100%, but we are going to go through that process. Again, there is no direct access into our pad here, which is different. We need to get our customers in quickly and safely. We do agree that there probably needs to be some channelization on that pork chop or curb cut that should help people turn only right out there. We would agree with that. But, I would say that that entrance is extremely important for us to get the customers in. We do have issues at some other sites when we limit people as far as the ability to get into our sites. Most of our business is that we are capturing people that are on the road network already. We are not a destination type of a business. People are going to work. People are coming home from work or traveling this road network. We capture that business in what we call the peak hours of the day. So, we are going to go through the DelDOT process, we are going to go through the analysis that is needed to get our curb cuts. They are going to look at that and also either agree or disagree with what we typically would

submit as far as how our traffic is generated. We are not asking for something that is atypical either. We don't want to come in with a scenario that, upfront, would say, here is the access directly in off Marrows Road because we are not sure that that is the best way to do it. But, I would tell you that using that existing entrance we think that as we go through the process we can show that that can be done safely.

Ms. Brown: I disagree with you. I see it from your retail point of view about capturing the customer, but I think because it is a deceleration lane for the turn and there is a light there (not your turn, the turn to go onto Marrows Road), I think we are going to have a traffic issue there.

You said something about jobs. How many people do you employee fulltime and how many do you employ part-time?

Mr. Harvey: That depends on the store. We hire anywhere from 40 to 65 employees. I said 40 tonight, but there are store in the area that have as many as 65 employees, anywhere from 10 to 20 fulltime employees and that can range on the success of the store or how the store is operated. We do offer benefits. We have an exceptional package when it comes to the employees. And, when you compare us as far as industries are concerns, I think it is pretty well known that Wawa is a first class corporation when it comes to treatment of our employees, retention of employees, maintenance of the properties, how we maintain our facilities with the systems that are in place, and civic responsibility. That is something that is extremely important to Wawa, not only to operate a successful business but to be a significant part of the community also.

Ms. Brown: Security inside and outside the building? What do you do?

Mr. Harvey: We have a camera system inside and outside. We have monitoring systems on the exterior of the building for the fueling positions as well as the perimeter of the property; and, without question, on the inside. You go into any of our facilities, we have a first class LCD type monitoring system there so customers see them as they first enter. Different than most, we have three types of systems inside out stores. We have our management office facility that has monitoring going on of all the different cameras that are on a rotating basis where all the equipment is housed. Then we also have a 24 hour monitoring system from our corporate office. So, all 570 stores in the company are monitored 24 hours, seven days a week. Then we also have a third party local consultant alarm company that we tie into. So, there are three types of systems that deal specifically with security of our facilities.

Ms. Brown: How do you manage the bathrooms as far as security goes because sometimes people tend to go into bathrooms for less than legitimate reasons?

Mr. Harvey: We have a program in place where we have requirements for how often they are checked throughout the shifts of the different workers. We have check lists whether it is for the bathroom facilities, whether it is for maintaining the exterior facilities from a visual and trash maintenance issue through the interior of the building as well. So, there are programs and policies in place. From the store level, whether it is through management of different areas inside the store to management outside the store from store manager up through an area manager who has a series of stores to a director who has a larger grasp also. I would say one of the good things that happen if a corporation runs this type of facility. We do have checks and balances in place for those types of concerns.

Ms. Brown: So, your bathrooms are just monitored on a time check policy.

Mr. Harvey: Correct. In addition to that, if there are concerns or if something is going on in the bathroom, we have a good group of customers and based on my experience of any issues of concern, no matter what we do, the best way is for people to tell management of a problem. That is one of the nice things about a Wawa, there is a consistency in the customers. They get to know the employees and the employees get to know the customers. That helps in a lot of different ways.

Mr. Begleiter: Mr. Harvey, you have made a point a couple of times in talking about Wawa's civic involvement. You mentioned contributions to charities and activities with the

communities. Does Wawa have any record of supporting the burial of power lines in other municipalities and local communities?

Mr. Harvey: The corporate level is supportive. They are offered budgets as far as how that should take place. I will tell you that that would be very exciting for us if the grand opening would (inaudible)

Mr. Begleiter: The ownership of the adjacent street, obviously, you have said that you are looking into that and I certainly would expect that that be looked into and determined before this project moves forward, not just because of the technicality of the ownership, although I think that is significant, but I think from your point of view that is going to be your major exit route and might be your major in route as well, if customers do discover that it is somehow difficult to get in that Rt. 273 entrance because people are rushing to the light, they can just turn right 100 to 50 feet before that and come in safely on what the plan calls College Avenue. So, I think Wawa will have a strong interest, almost vital interest, in making sure that roadway is properly designed and well maintained so that your customers can get in and out of the facility well. So, I would like to ask you about that. What are your plans for that? You have driven on that road. You know what it is like now. Is that adequate for your customers to get in and out of Wawa the way you want them to get in and out of Wawa?

Mr. Harvey: I think you stated very clearly that we are going to make sure we have the ability to legally enter and exit through that road. So, not only is this entrance important for Wawa, yes this is important also. Is it designed safely? What we think we can do is we can maintain a right in, right out, left in maneuver at this entrance. Will it require modifications? (inaudible) Do I think that it can be done safely? Yes. I think, again, that is one of the reasons why we are here at this proposed location is that we think that we need to capture in order for us to be successful here -- business off of Rt. 273 traveling eastbound. business customers off of Marrows Road in both directions. We also would like to have that additional entrance off of Rt. 273 because that also helps us for people who are fueling. It also gives them another opportunity to have not all the maneuvers coming in off of one entrance. So, it gives people multiple options to enter and exit our site which helps during the peak hours, when is when we have our business.

Mr. Begleiter: I was getting at a slightly different point. I appreciate your answer. Sorry I didn't make myself clear. If the ownership of what we are tonight calling College Avenue is unclear -- and it certainly is at this moment anyway; I think it is even unclear to you at this moment -- who is going to be responsible for making sure that the potholes aren't what they are now, that Wawa's customers are able to get in and out, not just at the intersection but all the way along the western edge of your property in a safe and proper manner. I guess I am a little concerned that because this is such an important access roadway you can't just say that someone else will take care of it. It has potholes. So, I am just asking about that aspect of it.

Mr. Mammarella: You have raised an excellent point, and the first thing I am doing tomorrow is to check the title records to see what the documentation is concerning the ownership, use and duty to repair and maintain the road. I do agree that that is a point that everyone in this room knows needs to be answered specifically. It simply has not come up in the past, which is kind of interesting. The site has been developed and used for many, many years without an issue. That is not an answer. That is just to say it hasn't come up and is something we have to investigate.

Mr. Begleiter: I know and everybody in this room knows why it hasn't come up in the past. It hasn't come up in the past because none of the uses on that site to date, including the State Hudson facility, has had the level of in and out traffic that any Wawa needs to have. You wouldn't put a Wawa there if you didn't think it was going to have that level of traffic. You don't need the occasional customer driving in there. You are expecting a fairly constant stream of in and out traffic there. That roadway hasn't been a problem because hardly anybody ever uses it. Wawa is a convenience store. It is intended as you have said to bring in customers on a fairly continuous basis. You would like nothing more than to have the customers pulling in there all the time. The roadway has never been tasked with the nature of intense use that it is very likely to experience in this development. That is why I am

raising the concern. I certainly would not be willing to support a proposal like this unless whoever owns the street is going to maintain it in a way that will support the kind of traffic that Wawa needs to have in order to have a successful operation.

Mr. Mammarella: We will investigate that and report back with our findings.

Mr. Begleiter: I think that is as important an issue for you as it is for us. I notice in the plan that the underground tanks are located at that intersection that we were just talking about of Rt. 273 and College Avenue, and I also notice on the plan that there is a special stone barrier of some sort, but is there any issue about putting those tanks that close to a heavily trafficked intersection, which means that the refill tankers will be parking right there presumably when they load up those tanks?

Mr. Harvey: When we designed our layouts internally and then have our outside consultants handle the requirements for the City, we do look at our location of underground storage tanks. So, there are a couple of things we look at as far location; proximity to a road is not an issue as far as either construction or maintenance or fueling. What we do is we have requirements that can show how the delivery can be made so that they can circulate through the site, we can minimize turns and so forth, we can stay out of the circulation of our customers, and we are able to remain circulation around our fueling facility and our parking facility.

Mr. Begleiter: Can you, with your hand, show me the circulation of an incoming delivery tanker delivering fuel to your three tanks?

Mr. Harvey: He can do it through any of the entrances on this location. He was on Rt. 273, he could come in the main entrance here and turn.

Mr. Begleiter: Can he make that turn?

Mr. Harvey: Absolutely. A WV50 type of vehicle, he would be able to circulate. The space of that drive isle is 30 feet from the curb line to the front of the canopy. He wouldn't have to go underneath that canopy. He would be able to make that maneuver and then what he would do is sit on top of the fueling positions and then he would be able to circulate through any of the other entrance or exits for the facility.

Mr. Begleiter: I have this vision of him having to go all the way around the building and come back up the other side in order to get to that.

I know you have your stormwater filtration system planned on the plan. Have you done an analysis of the amount of asphalt on this site by comparison to the existing asphalt on the site and how it compares, and how are you handling the runoff?

Mr. DeAscanis: The existing asphalt is 1.53 acres and the asphalt proposed is 1.58 acres. There is a .05 acre difference. When we get to the final construction plan, it may shift .10 or so, but it is relatively minor. I don't expect any major increase. Typically, it will get lost in the calculations when you are that close. It is basically less than 1%. I am trying to reuse existing area. We didn't want to change it all around especially since people are used to the circulation. We wanted to keep it simple, minimize how far we go out in any direction. We are going to do the best we can with what is there. We can't expand out too much because of parking. We are trying to respect the existing parking that is there on the other side. We did a quick analysis and as I said there is no increase. We would still like to do what we can for quality. If we don't significantly change the quantity of stormwater, we want to at least try to improve the quality as best we can.

Mr. Begleiter: Do you have with you the numbers on a comparably sized Wawa with the same number of pumps and the approximate same sized convenience store with number of trips in and out of the facility per day or hour?

Mr. DeAscanis: We did in general look at that and we will work that through with DelDOT, but we looked at the ITE Manuals which are standardized throughout the country. We started doing the calculations. We have not gotten all the way through that. We have

looked at what a Wawa generates, what the overall site is for all the areas that access there. I can go over what we have done to this point, but I don't have all the detailed information.

Mr. Begleiter: Do you have an approximate number of trips per day, hour?

Mr. DeAscanis: I have some numbers. I just haven't done a comprehensive analysis.

Mr. Begleiter: Again, I am asking because we are going to be stressing the three streets, College Avenue, access road from College Square and Marrows Road. We are going to be stressing those in ways they have never been stressed before at this property. The reason I am the question is both because of traffic volume issues but also because of the physical condition of the roadways there. Currently, it is a shopping center roadway. I don't know what the construction of that roadway is. What happens if a gasoline tanker drives in on one of those roads. It might be that the underlayment under those roads is not up to that level.

Mr. DeAscanis: The Wawa at the p.m. peak hours based on fueling stations is 163 trips. Their chart in the ITE Code is a convenience store with pumps so we do match that.

Mr. Begleiter: Afternoon is customarily your major peak time. It's not the morning, it is the afternoon?

Mr. DeAscanis: The way that DelDOT will look at it is an a.m. peak hour and a p.m. peak hour. So, they will look at it both ways.

Mr. Lopata: Ralph, as we move forward if Colm is going to bring this to Council at some point, you need to recall that Bennigan's was a so-called high turnover sit-down restaurant. That is what they need to compare it to, as opposed to a "fancy" sit-down restaurant.

Mr. Begleiter: I would be willing to bet my salary that Bennigan's never had even eighty trips.

Mr. DeAscanis: There are 133 trips on the ITE.

Mr. Begleiter: Peak hour for Bennigan's? In that connection, the Marrows Road exit is going to turn out to be the place that after a few trips into this location where they try to go out to Rt. 273 and make the left turn and then curse the fact that they can't do that, after a couple of times of doing that, people will learn that Marrows Road is the right way to do it. So, the Marrows Road exit is going to turn out to be the big exit from this property. There is no traffic light at that location now, making a right turn to head south on Marrows Road is a piece of cake -- plenty of room there including an acceleration lane and low traffic volume from the shopping center and that is fine. I am concerned about the left turn for those who used to curse at not being able to turn onto Rt. 273 and now they need to get out of Rt. 273 and are late for work in Newark and they have to make that left turn onto Marrows, they are not sitting patiently at the intersection and figuring out when the light turns red and can I make that left turn. So, I am going to say that I will be concerned about the possible need for a traffic signal at that intersection to handle 163 trips per hour in the peak. This is a DelDOT issue. Maybe it is a demand driven signal. There has got to be a way for your customers to get out or they are going to be very angry and they are going to be angry at the City of Newark if it doesn't work.

Mr. Harvey: I would agree. They are either going to be angry or not shop with us any more or they are going to be angry and do what they need to do. Again, what I will tell you is that as we go through the process with Delaware Department of Transportation the analysis, I am sure, will be looked at. Access for getting people in and out is most important for our business. I don't know what else I can say other than that. Getting people in and out, doing it quickly and safely is how we are going to be most successful when we talk about the design of this.

Mr. Begleiter: The whole piece of property including the KFC is not going to be under Wawa's jurisdiction, right?

Mr. Harvey: They are separate parcels.

Mr. Begleiter: Wawa is not purchasing this parcel, they are just developing this parcel. So, there is nothing about Wawa's responsibility for the overall development of that parcel.

Mr. Lopata: They are just a tenant like all the businesses in College Square Shopping Center.

Mr. Begleiter: Of course you are putting a major investment on that piece of property, you aren't going to be a tenant for five minutes and then pull out of there.

Mr. Lopata: A tenant like the Pathmark.

Mr. Begleiter: If I am traveling inbound to Newark on Rt. 273 -- west bound toward Newark on Rt. 273, and I want to get into the Wawa to pick up my cup of coffee in the morning on my way to work, what is your vision for how your customers ideally would make that transaction take place? Where would they enter your facility?

Mr. Harvey: There are two current options which we hope to maintain which is either left at Marrows Road and then circle around the property.

Mr. Begleiter: Where there is a left turn traffic signal in that location?

Mr. Harvey: I will tell you from personal experience. I have shopped at many different places, that is not the quickest way to get into the facility. If there is a green light, the customer will travel through the intersection and look to make a left, which is legal, and we hope to maintain it, then make a left into the store. That is the quickest route and that is what people will try to do if that is the quickest way to get into the facility.

Mr. Begleiter: So, your vision and your preference and request is to maintain the ability for up to 163 cars per hour making left turns into College Avenue in the afternoon while the traffic is coming outbound from Newark in peak hour without a traffic light.

Mr. Lopata: They are not all coming from that direction. Let me tell you a little history just so you know. This piece of Ogletown Road was widened to provide the turn lanes in both directions in part financed by Fusco Enterprises – the owner of this site and College Square. They have already paid for this, in a sense, once. Now, Wawa may have to pay again with the traffic signal. In fact, they will pay again if it is required. But, I think you have to know that those improvements on Ogletown Road, which go back now several decades. That middle lane was put in there, in part, for the Hudson Center, the Post Office, but also for this shopping center, not to mention other improvements on Library Avenue and Marrows Road.

Mr. Harvey: I think we give a lot of credit to customers and their knowledge. If it is not convenient and safe, they are not going to shop here. So, if they are coming through the intersection at a peak hour and one or two can't get through the intersection, if it isn't safe for them, they have already passed two other users who were on their path right in and right out. That is quicker for them. So, when we look at how we place our site, it may not come from that direction. It may be coming from this direction or it may be coming from folks in a different direction that is safer and easier for them to do. It is a very different type of use and it is not a destination type use. We are going to capture people on the road network in their normal traffic patterns.

Mr. Begleiter: I am just going to say this for the record just so it is there for the Council if they choose to read our record. I have looked at this and I am concerned about the possible need for some kind of physical median barrier outside your right in only entrance, which I know you intend to be only for eastbound traffic on Rt. 273 to enter your facility, but I am concerned about people pulling into that "suicide" lane, heading westbound on Rt. 273 and thinking, man I can just pull right into that front entrance there. Of course, you wouldn't say you would endorse that. I'm sure you wouldn't, but you are not going to turn customers away if they make that route. So, I am going to raise that possibility of the idea of some kind of a physical barrier in the median added to that "suicide" lane so that people making the left turn from the left turn lane on Ogletown Road do it only at places where the left turn is legal and appropriate.

Mrs. White: 103 Radcliffe Road and a resident of Newark. Looking at an aerial view of the developed property and the blue print, it looked to me that one could go from the back of the property of the proposed Wawa into the Kentucky Fried Chicken on either side of the Wawa building. Am I correct in assuming that is the case? Therefore, it does enable people to try to get out, not by going out to the so-called College Avenue, but by going through the KFC parking lot area and possibly getting out faster because it seems to me it has an exit down toward that road that is perpendicular to College Avenue. So, I raise it as something, where people will try to get there faster by either coming in or going out through the KFC.

Then I wanted to ask, since one, indeed, can go into the KFC area or out from it to the Wawa, will those entrance/exits to that neighboring property be a design of Wawa, a design of KFC, a design of the owner of the College Square or something that the Planning and Development Department wanted?

Mr. Begleiter: The subject parcel is the Wawa parcel.

Mrs. White: But it has a divided line between it and KFC and so now it is connected.

Ms. Dressel: It has always been connected.

Mrs. White: So, it is actually maintaining what is already there.

Mr. Begleiter: I don't know if the design is any different than what is there, but there has always been a connection.

Mrs. White: The only difference now is there will be many more people will be using the Wawa, it may create a lot more traffic going through but not stopping at the KFC.

Ms. Dressel: The KFC might be really happy.

Mrs. White: I was surprised in the color depiction of the proposed Wawa that the roof was flat, and I was thinking it might be like the Wawa that is over on Airport Road where one has modernistic slopes which I actually thought was a nice change from the usual flat roofs. I wondered, if indeed, you are going to have these curved up roofs and if not, why are you going back to the flat roofs. The final question is, will Wawa be running an electronic variable message sign?

Mr. Lopata: It is not permitted Mrs. White.

Mrs. White: That is so, but one can go to the Board of Adjustment and try to get it so I am interested to know if they are going to try to do it.

Mr. Lopata: The Planning and Development Department would strongly oppose it because they are not safe at a location like that.

Mr. Harvey: With regard to the design of the canopy, we have had a lot of discussion around that. All the different areas we have looked to develop sites, there has been mixed opinions about architectural designs, specifically canopy designs, lighting of the canopy, so what we have proposed is our latest design with regard to the architecture of our canopy. It meets full cutoff criteria. We have had specific lighting consultant take a look at the lighting of our building exterior facility as well as the canopy, and we feel that this has minimized any impact as far as lighting on surrounding properties, streets or road networks. So, we talk about safety. It goes much further than just access. We look at internal lighting levels. My point in general is that we have taken a significant look at many aspects of our facility and that being one of them.

With regard to the variable message board, the only thing we do at our facility is we have our gas pricing signs which are LED type of lighting, which I think the example that was given is for New Castle County where that wasn't permitted. We went through the process of trying to get our gas pricing signs approved with the County with LED type of lighting so that within our stores we can change without having to go out to change the manual type of gas price signs. The County at the time made a decision an interpretation of

that – no scrolling of messages. We don't have any of that, don't plan any of that and have never done any of that. So, we are using the technology as far as how to get the best pricing for our customers.

Mr. Begleiter: Before you leave the microphone, just a light moment here. Among the things that I would like to make sure that we get on the record here is that your beautiful color drawings indicate that in the future when Wawa develops this property the Shell station competing with you across the street on Marrows Road will become magically blue sky and clouds, and the KFC with its deteriorating parking lot also will magically become blue sky and clouds. So, we are counting on Wawa for blue sky and puffy white clouds immediately on the adjacencies of these properties.

Mr. Harvey: At the grand opening.

Ms. Brown: Jean started talking about signage. Your pictures don't have any signage in here and every Wawa I know has a big Wawa sign.

Mr. Harvey: We are not looking to obtain variances for signage. We will work with the City in obtaining the sign code. We have done various types of signs. We are not trying to not show it because we are going to come back later and exempt these large highway types of signage. We will work within your Code to develop the signage package that fits this type of property.

Ms. Brown: The other comment I had, and this we just brought up, evidently the owner of the KFC property owns your property. Is that correct?

Mr. Harvey: Correct.

Ms. Brown: The KFC parking lot is not necessarily in the best shape. There were some lumps and bumps. Who is responsible for maintaining the parking lots? Is it the tenant or the owner?

Mr. Frank Vassallo: President of Fusco Enterprises. There are three parcels there. Bennigan's had to maintain their own parking lot, KFC has to maintain their own parking lot. KFC as of last month has renewed their lease for another five years. I would assume that it is in need of repair and they are going to repair it shortly.

Ms. Brown: Do you have some type of requirement in the lease that says the tenant have to maintain this to an acceptable level?

Mr. Vassallo: Yes we do.

Ms. Brown: What kind of punitive things do you have available to you?

Mr. Vassallo: Anything that would be in the lease in reference to a violation would be in violation of the lease. It would be in default of the lease if they didn't cure it within a certain period of time.

Ms. Brown: And you have that in your lease?

Mr. Vassallo: Yes.

Mr. Begleiter: Mr. Vassallo, what is your view of the ownership of College Avenue?

Mr. Vassallo: I don't remember. I go back as far as Roy does.

Mr. Lopata: Neither of us can remember.

Mr. Vassallo: I go back 35 years and I don't remember us maintaining it. For some reason I think it is Floyd I. Hudson.

Mr. Begleiter: It is clear that nobody is maintaining it. That is obvious.

Mr. Vassallo: In 25 years it has been fixed.

Mr. Begleiter: But, that wasn't your job.

Mr. Lopata: I know you have redone the service road in the back so I think you would have done the other if it was yours.

MOTION BY DRESSEL, SECONDED BY SHEEDY THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

- A. THAT CITY COUNCIL APPROVE THE REZONING OF THE 1.995 ACRE 601 OGLETOWN ROAD PROPERTY FROM BB (CENTRAL BUSINESS DISTRICT) TO BC (GENERAL BUSINESS), AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED SEPTEMBER 1, 2009; AND,
- B. THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMITS FOR GASOLINE SERVICE AND FOR A RETAIL FOOD STORE GREATER THAN 5,000 SQ. FT. FLOOR AREA AS SHOWN ON THE CDA ENGINEERING, INC. PLAN, DATED JULY 30, 2009, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT; INCLUDING THE CONDITION FOR THE EFFECTIVE CHANNELIZATION OF TRAFFIC FROM "COLLEGE AVENUE" AT THE SITE EASTBOUND ONTO OGLETOWN ROAD.

AMENDMENT TO MOTION BY BEGLEITER, SECONDED BY BROWN, THAT OWNERSHIP OF THE ACCESSWAY LABELED "COLLEGE AVENUE" BE CLARIFIED AND THAT THIS ROADWAY'S ABILITY TO HANDLE THE TRAFFIC EXPECTED TO BE GENERATED BY THE PROPOSED WAWA BE EVALUATED.

Ms. Dressel: What I heard Mr. Harvey say is that they would not go through with this project if they don't have access to that road. That is kind of what I am hearing. I just want to clarify. Mr. Harvey, is that what you were saying?

Mr. Begleiter: I don't question Wawa's commitment to this. I think it is in their strong interest to make this work. I am not suggesting anything to the contrary, but I am worried about whose job it is to maintain College Avenue, so I think that has to be in there.

VOTE: 5-0

AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

AMENDMENT TO MOTION PASSED UNANIMOUSLY

AMENDMENT TO THE MOTION BY BEGLEITER, SECONDED BY DRESSEL, TO REQUIRE THAT THE APPLICANT PERFORM A TRAFFIC ANALYSIS OF THE TRIPS EXPECTED TO BE GENERATED FROM WAWA TO THE "COLLEGE AVENUE"/OGLETOWN ROAD, OGLETOWN ROAD ACCESSWAY ENTRANCE, AND MARROWS ROAD/COLLEGE SQUARE SERVICE ROADWAY INTERSECTIONS; AND THAT THIS ANALYSIS BE CONSIDERED BY DELDOT WHEN EVALUATING REQUIRED ROAD, ACCESSWAY, AND SIGNAL IMPROVEMENTS AND MODIFICATIONS FOR ACCESS APPROVAL.

Ms. McDowell: If a traffic analysis is done now, isn't it based on what is happening now at those locations?

Mr. Lopata: Now and projected traffic. It is a less sophisticated analysis.

Ms. McDowell: Because now I don't expect that there are a lot of left turns into the site.

Mr. Lopata: They use the ITE 8th addition now.

VOTE: 5-0

AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

AMENDMENT TO MOTION PASSED UNANIMOUSLY

AMENDMENT TO MOTION BY BEGLEITER, SECONDED BY DRESSEL TO REQUIRE APPROPRIATE WAWA SITE ACCESSWAY DIRECTIONAL SIGNAGE.

VOTE: 5-0

AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

AMENDMENT TO MOTION PASSED UNANIMOUSLY

VOTE ON MOTION AS AMENDED: 5-0

AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

VOTE ON MOTION AS AMENDED PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF THE ANNEXATION WITH RT (SINGLE FAMILY, DETACHED) ZONING OF THE .6536 ACRE PROPERTY AT 911 CHURCH RD.

Mr. Roy summarized his report to the Planning Commission which reads as follows:

"On July 22, 2009, the Planning and Development Department received an application from Dorothy Scardellette and Chris Canning for the annexation of their .6536 acre property at 911 Church Road. The property is surrounded on all four sides by lands within the City. The applicants are requesting annexation primarily to make sanitary sewer service available to the existing home on the site. To correspond to the development pattern in the area and the proposed single family development, the property should be zoned RT (single family, detached) - the City's 15,000 square foot minimum lot size zoning category.

Please see the attached annexation site plan, applicants' letter, and Planning and Development Department Exhibit A, dated September 1, 2009.

The Planning and Development Department's report on this annexation follows:

Development Proposal

No change is proposed to the existing single family home site at 911 Church Road.

Existing Conditions in the Area

The 911 Church Road property is zoned NC21 in New Castle County. NC21 is a single family residential zone calling for lots with a minimum size of 21,000 square feet.

The adjacent property immediately to the west on Church Road is zoned RT in the City and contains a single family dwelling. The RT zoned single family Stone Spring development lies northwest of the 911 Church Road site, across Church Road. The RS (single family, detached) zoned Woodmere single family home subdivision lies north and northeast of the site, also across Church Road. RS zoned single family homes are located immediate east and south of the property.

Planning Studies

The recently updated Newark Comprehensive Development Plan IV calls for “single family residential (low density)” land uses at the 911 Church Road location. The Planning and Development Department’s proposed RT zoning for this parcel, therefore, conforms to the City’s land use recommendations for the area.

Zoning

The NC21 zoning at 911 Church Road is a residential New Castle County zone intended to preserve the character of “existing neighborhoods.” The proposed RT Newark zoning for this property permits the following:

- A. One-family detached dwelling.
- B. The taking of non-transient boarders or roomers in a one-family dwelling by an owner-occupant family resident on the premises.
- C. The taking of nontransient boarders or roomers in a one-family dwelling by a non-owner occupant family resident on the premises.
- D. Churches or other places of worship, with special requirements.
- E. Public and Private Schools.
- F. Municipal Parks and Playgrounds; non-profit community centers for recreational purposes.
- G. Municipal utilities; street rights-of-way.
- H. Public and private swimming pools.
- I. Temporary construction and real estate buildings.
- J. Private garages as accessory uses.
- K. Other accessory uses and accessory buildings, excluding semi-trailers and similar vehicles for storage of property.
- L. Cluster development subject to Site Plan Approval as provided in Article XXVII.
- M. Public transportation bus stops.
- N. Bed and breakfast, with special requirements
- O. Student Homes, with special requirements

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

- A. Police, fire stations, library, museum, and art gallery.
- B. Country club, golf course, with special requirements.
- C. Professional offices in residential dwellings for the resident-owner of single-family dwellings, with special requirements.
- D. Customary home occupations, with special requirements.
- E. Electric and gas substations, with special requirements.
- F. Day care centers, kindergartens, preschools, with special requirements.
- G. Public transportation bus or transit shelters.
- H. Swimming club, private (nonprofit).

Providing Services

The Electric Department indicates that City electric service can be provided to the site. The applicant will be required to pay a connection fee of \$200 and fee to Delmarva Power for their estimated lost revenue and the cost to change to City service. The Department has contacted Delmarva Power and is in the process of ascertaining the amount of the latter fee.

The Water and Waste Water Department indicates that water service can be provided if requested by the applicant. Sanitary sewer service can be provided by gravity feed through a side yard easement connecting south of the site or through a “grinder pump,” to the sewer main on Church Road.

All other City services can be provided to the site.

Departmental Comments:

1. The Public Works Department indicates that because the deed and survey for the property shows a portion of the Church Road right of way within the confines of the property, as a condition of the annexation, and prior to Council’s review of this matter, the a revised survey should be submitted indicating that the Church Road right of way shall be dedicated to the State of Delaware.
2. Any construction on the site, of course, will require Building Permits, issued through the Building department.
3. There were no other Departmental comments.

Recommendation

Because the proposed annexation of 911 Church Road does not conflict with the purposes and land use recommendations of Newark Comprehensive Development Plan IV, because the continuation of single family zoning and the construction of a single family dwelling will not have a negative impact upon adjoining properties and the nearby community, and in light of the request to provide sanitary sewer service to this location, the Planning and Development Department suggests that **the Planning Commission recommend that City Council approve the annexation of the .6536 acre 99 Church Road property RT zoning, as shown on the attached Planning and Development Department Exhibit A, dated September 1, 2009, with the conditions in this report.”**

Mr. Begleiter: Roy, why did this property end up being out of the City of Newark?

Mr. Lopata: The people around it annexed. We only take people in that request it including where you live now. We moved around to Stone Spring; Woodmere was annexed decades ago; the properties below it and the little house to the west were annexed 10 to 12 years ago.

Ms. Dressel: The City line was further to the east.

Mr. Lopata: It used to be much further. It used to be Casho Mill Road. All of this was annexed over the last 20 to 25 years. Why wasn’t this property in the City? They didn’t need sanitary sewer service. That’s why. Once the septic system starts to go, people in these older properties come to the City and ask for annexation. As I said, in this case we can provide all the services, which is great. So, it is a clean easy property to annex.

Mr. Begleiter: Presumably this does not set any precedent of any kind, nor does it for other annexations of similar nature? What I have in my head right now is old Cover Bridge Farms, which I know has been dickering with the City for years on this. This doesn’t set any precedent that would affect those negotiations?

Mr. Lopata: Just like the other houses in Christine Manor. We have annexed around these properties to provide sewer service. We already go past it with our trucks. We have electric lines.

Mr. Begleiter: The owner of the property appears not to be present. Are there any members of the public that wish to comment on this item?

MOTION BY DRESSEL, SECONDED BY MCDOWELL THAT THE PLANNING COMMISSION RECOMMENDS THAT CITY COUNCIL APPROVE THE ANNEXATION OF THE .6536 ACRE 911 CHURCH ROAD PROPERTY WITH RT

ZONING, AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED SEPTEMBER 1, 2009, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT.

VOTE: 5-0

AYE: BEGLEITER, BROWN, DRESSEL, McDOWELL, SHEEDY

NAY: NONE

ABSENT: BOWMAN, OSBORNE

MOTION PASSED UNANIMOUSLY

4. REVIEW AND CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE THAT WOULD REQUIRE SIGN POSTINGS OF SITES PROVIDING NOTIFICATION OF PLANNING COMMISSION PUBLIC HEARINGS FOR REZONINGS AND ANNEXATIONS.

Mr. Lopata summarized his report for the Planning Commission which reads as follows. [Please note that the report has been revised to reflect the changes discussed at the Planning Commission meeting].

As suggested by Councilman Ezra Temko, and under the direction of City Manager Kyle Sonnenberg, the Planning and Development Department has prepared the following report regarding a Zoning Code amendment that would require sign posting on properties for which rezonings and annexations are requested notifying the public of upcoming Planning Commission public hearings.

Other Jurisdictions

The Planning and Development Department consulted ordinances and related information from the following jurisdictions to assist in preparing this report and Zoning Code amendment recommendation:

City of Bartlesville, Oklahoma, Site Posting Requirements, 2006

Village of Bartlett, Illinois, Rezoning Application Packet, n.d.

City of Catoosa, Oklahoma, Rezoning Application, n.d.

City of Farmington Hills, Michigan, Rezoning Sign Requirement, n.d.

City of Fayetteville, North Carolina, Rezoning Requests, n.d.

City of Lenexa, Kansas, Rezoning Your Property, 2008

City of McKinney, Texas, Rezoning Request Process, n.d.

City of O'Fallon, Missouri, Zoning/Rezoning Application, n.d.

New Castle County, Delaware, Unified Development Code, 2007

City of Phoenix, Arizona, Site Posting Requirements, 2008

City of Richmond, British Columbia, Canada, Rezoning Guide, n.d.

City of South Haven, Mississippi, Application for Rezoning, n.d.

Proposed Amendment

In order to require site postings prior to Planning Commission public hearings for all rezonings and annexations (which, by definition, are rezonings), the Planning and Development Department suggests the Zoning Code amendment below for the

Commission's review and consideration. Please note that the new language will add to the City's current Code notification requirements for newspaper ads for Commission and Council public hearings and direct mailings to property owners within 300 feet of the parcel under consideration for a rezoning. The City also now places all Planning Commission and Council agendas on the City website. The proposed amendment is as follows:

Amend Article XXI, Section 32-79, Amendment Procedure, by adding a new subsection (c), as follows, and by relettering the subsequent subsections:

“(c) In addition to the notification and advertising requirements herein, in the case of proposals to amend the zoning map, notice shall also be by posting on the property by the applicant with a sign, at least 15 days prior to the Planning Commission public hearing, subject to the following requirements:

- (1) Location. The sign shall be placed in an unobstructed view on the property in a manner fully visible from a public right-of-way; preferably near the front property line in the midpoint of the parcel's width.
- (2) Size and Design. The sign shall be double faced with each side consisting of a four foot by four foot laminated structure, with yellow background, and 2 inch high block letters, except for the heading which shall be at least 2.5 inch high lettering. All lettering shall be black in color and bold face, in an Arial font.
- (3) Content. The sign shall contain only the following information:
 - a. Heading – the requested action – “Rezoning” or “Annexation,” with the words “Public Notice.”
 - b. Existing and proposed zoning; proposed new use.
 - c. Acreage of property.
 - d. Name and Phone Number of Applicant.
 - e. Date, Time and Location of Planning Commission Public Hearing.
 - f. The words: “Information: Newark Planning and Development Dept. at (302) 366-7030.”
- (4) Maintenance. The applicant shall be responsible for maintaining the sign until after the final City Council public hearing.
- (5) Sign Removal. The applicant shall remove the sign within five days of the final Council public hearing.”

Recommendation

The Planning Commission should review this report, receive public comment, and the Planning and Development Department suggests **that the Commission should recommend to City Council the approval of the amendment described above regarding sign posting requirements for rezonings and annexations.**

Mr. Begleiter: Are there any questions for the Planning and Development Director?

Ms. Dressel: 4' X 4' laminated structure -- I take it that that is going to be a pretty significant and sturdy sign.

Mr. Lopata: It has to last for a while. We will go out and check it.

Ms. Dressel: Will it be like the ones that New Castle County is using?

Mr. Lopata: Very similar. In fact, some of this language comes from New Castle County.

Ms. Dressel: Because in Bethany, the signs that they are using are horrendous. They are too small. The cost of the sign is going to be covered by the applicant?

Mr. Lopata: Yes.

Ms. Dressel: The sign removal, how will that be monitored?

Mr. Lopata: Once again, that is something that will be the responsibility of the Planning and Development Department. That isn't too much of a problem in other jurisdictions. If they are turned down, quite frankly, they are less likely to take the sign down because they don't give a darn. There is still a property owner who would ultimately be responsible. And frankly, we could remove the sign and bill them if we had to. We have a handful of rezonings a year. It is not like we have hundreds of these.

Ms. Dressel: Personally I think that these are a great tool.

Mr. Lopata: Because people see it that are beyond 300 feet or are away, or for a variety of reasons they also know about it.

Ms. Dressel: I find that I am not reading all the public notices every week. I think the idea behind this very useful for the whole community to find out what is going on in the community and what things are being planned. I believe that it says, what is proposed on that the sign?

Mr. Lopata: Under content, heading, existing and proposed zoning, acreage, name and phone number, date and time of Planning Commission public hearing. The reason it says that is because the rezoning sometimes is not accompanied by anything else like the Armed Forces project. This tells people this is a rezoning. Believe me the key thing on here is item F: "Call the Planning and Development Department," because that is what people who see the sign who are the least bit interested in it call.

Ms. Dressel: Because the signs in Bethany do say what is proposed, not just the zoning change.

Mr. Lopata: That is my point. It is not always something being proposed. If you want to add that, we can add it, but it gets into a grey area when the applicant doesn't know what they are proposing. In other words, they are asking for a zoning. I think you are missing the point.

Ms. Dressel: No, because if another sign goes up on the Acierno property at Possum Park Road and Kirkwood Highway, you bet your bottom dollar that I am going to go and find out what is on that sign, but I don't have to call, I can look at the sign and say, they are proposing 200,000 feet of retail space.

Mr. Lopata: We could add language something like, proposed new use, if you would like.

Ms. Dressel: I would like to see that.

Mr. Lopata: Under b., existing and proposed zoning, " and proposed new use if any." How is that?

Mr. Begleiter: If there is no determined proposed use, it can say undetermined future use and that would be another red flag for a lot of people because I don't want them putting just anything there.

Mr. Lopata: A proposed new use if any, would be added to b. How's that? If they are not proposing a new use, they can't put it on there.

Mr. Begleiter: No, but they could say undetermined or unknown.

Ms. Dressel: I would just say, and proposed new use.

Mr. Begleiter: If you say, if any, then they have the option of not putting it there.

Ms. Brown: Is it applicable to the University?

Mr. Lopata: Absolutely not. They are exempt.

Ms. Brown: Even for zoning?

Mr. Lopata: Not ‘even;’ that is the thing they are exempt from.

Mr. Begleiter: The City is also exempt.

Mr. Brown: Shouldn’t we make the City abide by the same law?

Mr. Lopata: By and large we do, actually. The University is exempt by Court decision. Not only do they not abide, they don’t have to abide and they don’t come anywhere near abiding. We, by and large, do. I would be hard pressed to find a case where we didn’t.

Mr. Begleiter: How many days in advance of the City Planning Commission meetings does a citizen or developer have to apply or notify you that they would like to have a proposal come before the Planning Commission?

Mr. Lopata: Ten weeks for major subdivision, seven weeks for minor subdivision. This is geared to your agenda. You don’t want to monkey around with this because this says at least 15 days prior, they can put it up earlier.

Mr. Begleiter: What I was getting at is I think it should say at least 30 days prior.

Mr. Lopata: We don’t know that the public hearing is going to occur then.

Ms. Dressel: Our agenda is only out two weeks prior.

Mr. Begleiter: You only determine within 15 days what is coming up.

Mr. Lopata: We require so many changes, like the Wawa plan you just saw. The agenda goes in the Thursday before the Tuesday public date.

Mr. Begleiter: So, would it be better instead of keying the 15 days to the date of the hearing, to key it to X days following the submission to the Planning and Development Department of a proposed rezoning?

Mr. Lopata: Every other city in the nation that I looked at is doing it this way.

Mr. Begleiter: They do 15 days.

Mr. Lopata: They do different days, linked to their hearing date.

Mr. Begleiter: My point is that if Wawa had come before us – I shouldn’t be saying this because it is not about Wawa. It has nothing to do with Wawa. If any proposal comes before us and it comes before us on August 1st, then the sign goes up on August 15th for a September 1st meeting, the likelihood is that people aren’t going to be around for those 15 days to see it.

Mr. Lopata: What you are missing is that, remember, it stays up all the way through the process. The process typically with a large development, which is often tabled, is much longer. We would use this with the letters and the newspaper.

Ms. Sheedy: I think it is important to keep in mind that our meetings are the first step in the public part process. They are not the final step. I think that is another argument in favor of the 15 days.

Mr. Begleiter: In Section 2, Size and Design, I would like to suggest that you don't say the yellow background unless you have a particular yellow in mind. You want to say a yellow background in line two. You don't have to say you agree to that but I suggest that you make that change.

I think we should say that the letters should be black and that they be bold because the problem in Bethany and a number of other places is that just like cigarette manufacturers did for many many years until they were required to do it in a certain size and thickness of type, they put them in a narrow font and it was impossible to see from a ten foot distance, never mind from the roadway. I think the lettering should be black and bold. You specified 2 ½" lettering, you mean 2 ½" high, I presume. I don't want to overdo this but I don't think it would hurt to choose a very standard font like Arial or something like that.

Mr. Lopata: Some ordinances do that.

Mr. Begleiter: Because they can't find the thinnest or most difficult to read font. I would suggest Arial. It is standard font.

Mr. Lopata: They use that and others.

Mr. Begleiter: It would be Arial, bold, black, and that would mean it would be readable from the road.

Ms. Dressel: While we are on #2, can I suggest changing the "For More Information" size to 2" tall instead of the 1 ½" tall.

Mr. Begleiter: And start crossing out words in letter f., for, more, put a colon after information, cross out the call, and change "Department" to "Dept.," cross out the word "at." So it will say, "Information: Newark Planning and Development Dept. and then the phone number. You save a lot of characters on the sign that way and they will be able to be larger and clearer. The two things that people need to know about that is, what agency is it that I need to call and what is the phone number. It is a small thing but it will save some space.

Are there any members of the public that would like to comment on this proposal?

Mr. Joe Charma: 711 Harvard Lane. I am here to speak in opposition to this change. I don't agree with the sign posting. First of all, the signs are expensive. They cost around \$1,500 to do them in a proper manner with a laminated background in a 4X4 size. It is going to add an unnecessary level of expense and another layer of bureaucracy and maintenance that this City government doesn't need chasing around after to find out if they are up or down. My experience in other jurisdictions is that the signs get vandalized because they are there for awhile. They get knocked down, they get stolen, and they get graffitied. I think that in the City there is more of that behavior than in other jurisdictions. The City sends letters to the affected property owners, so you are notified that there is something going on, and it is within 300 feet of the property. If you have a sign up with a date of the hearing and the hearing is postponed or the application is delayed for any reason, you have to do a new sign or hang a template on it, as is done in some other jurisdictions. I just believe that the information is available in newspapers, online at the City website. You can always find out what is going on by calling the Planning and Development Office. I firmly believe that any citizen who is active in civic affairs, it is their civic duty to stay informed and call the city and find out what is going on.

I am going to speak from a different jurisdiction. I deal with this all the time. It is a requirement. Some of the planning groups in this particular jurisdiction are actually thinking about not posting sign any more because it is kind of a hassle. When they post the documentation, they have to photograph it, the affidavit has to be notarized and sent to the Planning Office.

Mr. Lopata: I didn't include any of that because I thought that was overly bureaucratic.

Mr. Charma: That is the only proof that the sign has been posted.

Mr. Lopata: We will go look. I understand. I want to make sure you understand that that is not part of this.

Mr. Charma: You say that the sign has to be 10 days or 15 days, pretty much 10 days is the normal time before the hearing. I think it is going to be a hassle. If you don't give them something like that, the signed affidavit with photographs, I think you are going to be chasing around and there are going to be people that aren't going to do it. They are going to find all kinds of reasons why they couldn't get the sign up. That is my opinion.

Mr. Begleiter: Joe, you would be in agreement then to save the funds in taking down all those signs at your properties that say, offices for lease, prime restaurant location, those very cheap signs that fall down after five days. You could get rid of those. You could save the money there, too.

Mr. Charma: Absolutely. I am just saying that there is cost in everything. I'm just saying it adds another cost, in some jurisdictions, to an already very expensive process.

Mr. Begleiter: Some kinds of signs are not a problem in your view, right.

Mr. Charma: I'm not paying for them, so it doesn't matter to me.

Mr. Begleiter: Your clients are going to end up paying for this sign, too, just like they would pay for a "for rent" sign..

Mr. Charma: Again, when you look at any business, the costs are passed on to the consumers. Developers will do anything you want them to do. Somebody is going to pay for it. They're not, not at the bottom line. It is going to get passed on.

Mrs. White: 103 Radcliffe Drive. I am strongly in favor of this ordinance. This is one thing I had wanted to bring up quite a while back. Periodically, I have been taking pictures around the County. I love the County signs. I probably have stopped and read those big yellow signs at least 30 times in different parts of the County. In some of those cases it has caused me to actually go in and get more information on whatever the development project was. It was a surprise to me that it was on the agenda and I have to really recognize and credit Councilman Temko for being the impetus for this kind of ordinance.

I would like it to be expanded. In New Castle County in addition to rezonings those yellow signs are also put up for major subdivisions, minor subdivisions and Board of Adjustment. If you have ever stopped to look at one for a subdivision, they don't just say what is proposed but there is a drawing that shows the basis of where the buildings would be, where the housing development is laid out. It is very useful all together. Furthermore, most of the time if not all of the time, the City of Newark does not make an annexation or rezoning unless there is an actual project. An annexation usually gets coupled with a plan of what is coming in.

Basically, people cannot be expected, without expecting that something will happen, to be constantly checking websites. In this case, the website of the City. The legal notices in the paper are useful and some people do check them. If you are not doing it regularly every single day, you can miss things. I think legal notices are still important as long as newspapers continue. The best way is to put something under somebody's nose. Those who go most frequently by a particular property are the ones that will be most interested in what will happen at that property. The signs are hard to ignore. It makes you stop nearby and walk back and look at it. I am very much for this.

I would like to give you an example of one that I copied – as I said, occasionally I have been taking pictures but I never got around to suggesting this change. Here is one that I took of a Board of Adjustment one in the County that is actually is within the City limits. This was last March. As you may know, an Australian company has bought both

Park Place Apartments and Town Court and has renamed it Studio Green and was putting signs all over it. Most of this came to the City of Newark because 95% of everything was in the City and they came to the City's Board of Adjustment, but there is a little part of the original Town Court on Casho Mill Road that is in the County. So, that had to come to the County Board of Adjustment. As you see, it shows the date and all that kind of thing. There are a lot of situations where residents of Newark would be very interested to know what is coming to a Board of Adjustment meeting. I attend Board of Adjustment meetings regularly and I must say with more exceptions very few people come to them. Again, I think this would be a very useful way of letting people know that something is coming up.

Mr. Lopata: People are also notified by mail for Board of Adjustment meetings.

Mrs. White: That is true.

Mr. Lopata: I just want to make sure the Commission understands that.

Mrs. White: I think in the residential areas somebody wants a deck and it goes into the setback by three feet, the people who really care about that are the neighbors on either side and within the 300 feet or less. I think when we are talking about commercial properties and areas downtown, that all residents can potentially have an interest in it, not just those within the 300 feet because it has to do with what we might consider are common interest in our city that it be a certain way or look a certain way.

Secondly, to only do it with rezonings. There are a lot of projects that aren't a rezoning but are a major subdivision. I can think of some downtown. If you want me to, I can name them such as the CVS building project which was not a rezoning, and the diner project which was not a rezoning and then the Country Club project which was not a rezoning. I think all of those and many others that could be named, it would be useful to let the public know. I will say in the County, they don't go up just before the Planning Commission, they go up at the point of the submission. So, I would like for this to be extended to major subdivisions and to Board of Adjustment. I think it is very important.

Ms. McDowell: The sign would be at the applicant's expense?

Mr. Lopata: Absolutely.

Ms. McDowell: Are the current newspaper ads and the mailings at the applicant's expense?

Mr. Lopata: No. When I say no, they do pay an application fee that is intended, in theory, to help offset some of that cost, but it doesn't really. We talked about that a few years ago, and we will be making some suggested changes in those fees. As some of you may recall, we said we would be back every few years, and we will be back. They do not pay directly for it.

Mr. Begleiter: If they are City residents, of course, they pay in taxes for anything the City does – taxes or electricity fee.

Ms. McDowell: How would this be enforced? And, if they didn't do it, would there be a penalty?

Mr. Lopata: If they didn't do it, it would be delayed. The Planning Commission hearing wouldn't be held. I understand Joe's point. Many of the larger cities had this affidavit system which looked like another bureaucratic nightmare to me of forms and paperwork. There is nowhere in the City that isn't 15 minutes from anywhere else except going through Ralph's favorite intersection – Cleveland Avenue and Chapel Street. So, that is what we would do, and then we notify the applicant that their sign is not up and give them a deadline, and tell them we are sorry but they have missed the deadline and you lost a month. We will put a little notice in the Planning Commissioners' packet that the project was postponed because they missed the deadline unless they have a good excuse.

Ms. Sheedy: I disagree with Mrs. White about the Board of Adjustment because based on my experience since I have been on the Planning Commission and living in Newark, an awful lot of the Board of Adjustment actions that are only Board of Adjustment actions refer to things that are going to have really only very local impact on the neighbors, and they are relatively small. I think something like having the sign for somebody who wants to widen their deck is extremely burdensome. What I have seen is anything that is significant that goes to the Board of Adjustment also has something (inaudible).

Mr. Lopata: Again, the Wawa that we were just dealing with. Any major development project, and I know there are some counter examples that Jean could cite. My answer to that, I'll say it, three things. 1) This is a first step. We don't have this now. I think I would like to see myself how it works as an administrator. How does it work? 2) They get to the issue, from my view, of sign pollution. It is a small city. We start spreading signs all over the place for everything that is on our agenda, sometimes we have a very lengthy agenda, and then the signs will stay there until we are done at Council. You are talking about annexations, Mrs. White mentioned just about every development process we have. Frankly, based on her logic we ought to do special use permits, too. You might as well do them all. So, I think that this is an important step, and most importantly, the rezonings and annexations are where you are actually changing the category of land use in that area. And, that is something that the community really needs to know. This is a very good way of informing them. 3) Here is where I agree with Joe. This can get to be quite burdensome -- minor subdivisions, that is a homeowner dividing their property in two, going out and spending \$1,200 or \$1,500 on a sign, I don't think is something we need to do. But, my main point is that this is a change in what we do now and I would like to know how it works for us. I don't think on any major controversial project (large projects) we ever have trouble filling the room. This community is very active. Look at the hotel project. I think some of us were surprised at how many people showed. The word gets out.

Ms. Dressel: I was going to ask for the Commission's opinion on adding major subdivisions.

Mr. Lopata: Major subdivisions are advertised. That is how people know about them. Of major subdivisions, the most recent ones that we have had are up and down Elkton Road, up and down Main Street. Mrs. White mentioned a few. That is up to you. You can make that recommendation. I think you are beginning to get to the point where that becomes a burden.

Ms. Dressel: On a major subdivision?

Mr. Lopata: On the City staff to monitor them and also on the applicants. But, that is up to you. I have made my recommendation. Typically, cities that do this, the County is unusual, and I don't think we ought to model ourselves necessarily on New Castle County for many reasons, but typically, cities do postings for rezonings. That is the standard. A major subdivision in Newark is a development with six or more units, 20,000 square feet commercial. Pretty much every project other than the very small ones are major subdivisions. Really, the point I'm making is any project that has broader impact it gets commentary in the newspaper. People know about it. The word gets out.

Ms. Dressel: Then I won't suggest including major subdivisions at this point.

Mr. Lopata: We can always come back. We change the Code every few months.

Ms. Dressel: The other question I have for the Commission is, should we recommend that there be a penalty for #6?

Mr. Lopata: I think a penalty of not having a hearing is a heck of a penalty.

Mr. Begleiter: Roy already addressed that.

Mr. Lopata: That is the worst penalty of all.

Ms. Dressel: I just didn't know if that should be a separate bullet.

Mr. Lopata: It is a requirement that they have it 15 days prior to the hearing, so it is implicit. If it is 14 days, you don't make it.

Mr. Begleiter: Roy, I am going to ask you what you think of this. Bullet #3 says "Content. The sign shall contain the following information:" All of a sudden when Angela was talking about the major subdivisions I had this nightmare of a big yellow sign that's bigger than 4' X 4' that says, coming soon in 48 point type, sex shop and belly dancing and then in the 2" type required all the required stuff at the bottom.

Mr. Lopata: Then all of our prayers will be answered!

Mr. Begleiter: Should we say, shall contain only the following information, so that we don't allow that sign to be used as advertising.

Mr. Lopata: That is fine.

Mr. Begleiter: The sign shall contain only the following information.

Mr. Lopata: I have made all the other changes as you described them; change the word height, the lettering shall be black in color and bold, Arial font, adding proposed new use, changing section f. to shorten it.

MOTION BY DRESSEL, SECONDED BY BROWN THAT THE PLANNING COMMISSION RECOMMENDS THAT CITY COUNCIL APPROVE THE SITE POSTING FOR REZONINGS AND ANNEXATIONS AS DESCRIBED IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AS FURTHER REVISED BY THE COMMISSION.

VOTE: 4-1

AYE: BEGLEITER, BROWN, DRESSEL, SHEEDY

NAY: McDOWELL

ABSENT: BOWMAN, OSBORNE

MOTION PASSED

As there was no other business, the Planning Commission meeting adjourned at 9:25 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission