

BEFORE THE NEW CASTLE COUNTY DEPARTMENT
OF LAND USE AND PLANNING BOARD
STATE OF DELAWARE

In the matter of

Application 2008-0275-S

Northeast corner of Lancaster Pike and
SR 141. **Major Land Development Exploratory
Plan Review for Barley Mill Plaza** proposes
to redevelop and remove the existing
1,012,149 square feet of gross floor area
(GFA) and construct 2,940,000 GFA in a
mixed use development of residential,
office, and commercial on 95.988 acres.
OR (Office Regional) zoning district, CD 3.

Gilliam Building
New Castle, Delaware

July 1 2008
7:15 p.m.

PRESENT

DEPARTMENT OF PLANNING

VALERIE CARTOLANO
(Co-Chair of Public Hearing)
JOE ABELE
GEORGE HAGGERTY
ANTHONY SEKOWSKI

PLANNING BOARD

VICTOR SINGER
(Co-Chair of Public Hearing)
SANDRA ANDERSON
JOSEPH MALONEY
JUNE MACARTOR
ROBERT MCDOWELL
WILLIAM MCGLINCHEY
MARK WEINBERG
ARTHUR WILSON
VICTOR UDO

MS. CARTOLANO: The applicant please.

MS. SCOTT: Thank you members of the Board. Pam Scott here on behalf of the applicant. This property is located at the intersection of Lancaster Pike and Route 141. It's just under 96 acres in size. Most of you probably know it as what has been called for a number of years the Dupont Barley Mill site. Dupont sold the property late last year and is in the process of consolidating their operations off site. They are still currently leasing some buildings on the property but that is probably shorter term rather than long term. The property is zoned office regional. This particular proposal is a redevelopment plan as we will be demolishing all but one of the buildings on the property and replacing them with new buildings. It is a mixed use project, therefore, it has a residential office and retail component. The mixed use is permitted as a right by the code. We do comply with the various setbacks and height requirements of the code. Per the mixed use requirements of the code the residential needs to be between 25 and 50 percent of the project. In our situation it's about 25 percent. We have about 50 percent office and the remaining 25 percent is retail.

I'd like to have Craig come back from KA just to walk you through the project a little bit. Again this is a project that that firm has designed as a mixed use center and he can talk about the walkability elements of the project and the various uses.

MR. WASSERMAN: Okay with Barley Mill Plaza the approach we took is along 141 is the main frontage and what we wanted to do was create a series of outdoor facing shops. That's one-story retail

along with restaurants. And they are configured in a way where there's these U-shaped areas that provide nice areas for screening of the service facilities. So the frontage all along 141 becomes this very exciting nicely designed retail project that presents itself along 141. And we are holding the same access point by the fields and we are also holding the same access point off of Lancaster Pike. That's what is there today. We are suggesting a right in, right out access right down the center, the heart of the project that feeds right into the middle main street area.

And the real nice thing about this plan is with outward facing shops along 141 we are able to create a double loaded area where now the main street area happens along here. And what we are seeing, you know, we worked with a lot of developers across the country on projects similar to this and there really needs to be the exposure to the tenants that have, you know, from the main access roads but it's also great to create this sense of place within a main street area. So we've done both here. And the view terminates at a larger retailer at the end and then we created this gathering spot in the middle in the core of the project where it ties into theater and restaurants or fountains. It would be, you know, flexible space for the community. All sorts of events could occur here. They can close off some of the streets and, you know, have a nice pedestrian area.

And then as you work your way deeper into the project it starts to get taller. And the taller buildings are on the south side with 11 stories being the tallest building over here with residential. So you have some residential along here. Transitions

with a hotel on the corner. The parking is behind. And then as you work your way down the main street area you have street level retail and then you have your residential buildings and then as you get further back the purple buildings are all office. So we've layered it in that fashion. And the buildings that we have colored over here as yellow they are really supposed to be red so that's indicating that's going to be retail and those are four sided buildings. And as we find out more about who these tenants are going to be we'll work out all the service screening and such and make sure it works for both the community and for the retailer. So that's a brief overview.

MR. SINGER: Ms. Anderson. Oh were you through Ms. Scott?

MS. SCOTT: No go ahead. No that's fine. The project as proposed is just under 3,000,000 square feet. There is 1.4 million square feet approximately of office, 667,000 square feet of commercial, and 700 dwelling units. There also are because of the amount of dwellings and commercial and office space we also are providing parking garages in connection with this project as well. The project is again in a community redevelopment area per the County's Comprehensive Development Plan. Again that's an area where the County is projecting that there will be a development and it is a mixed use proposal as I indicated previously which is again something that is being promoted by the County's Comprehensive Development Plan. We are attempting to do a fairly compact development on the site making it very pedestrian friendly, very walkable. I think Craig indicated that we are the buildings along 141 are maintaining basically the same setback as the current

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buildings that are there now that were owned by Dupont.

We are currently in the process of doing a traffic operational analysis for the project. And when we get those results back we will be determining in discussions with the Department of Transportation what may need to be done in terms of transportation improvements in the area. We also have reviewed the comments we have received from the Land Use Department and are currently going through those comments and seeing whether or not we need to make some further modifications to our plan in connection with those comments.

MR. SINGER: Are there any questions from the Board? Ms. Anderson.

MS. ANDERSON: I have a couple. I'm assuming your going to phase this project.

MS. SCOTT: Correct.

MS. ANDERSON: How many phases are you predicting?

MS. SCOTT: It's so early in the project we don't know that yet but we believe this is probably a 10 year build out project. So it will obviously be built over time. Some of that in terms of how fast it develops is obviously going to depend to some extent on what market conditions are.

MS. ANDERSON: Right. Since you get some building bonuses for the redevelopment area concept if you start this project and then find you can't finish it or don't want finish it or whatever how does the bonus figure into that? If you already built it is it just your luck is that how that works?

MS. SCOTT: I don't know. I think the engineer might be able to

answer that.

MR. DAVIES: Whatever final number is on the approved plan obviously is the maximum that they can build. And if they build so many phases and stop then that's what they have built and not any more. I don't believe that extra square footage would go away. But it's not their intention to ever stop obviously, you know.

MS. ANDERSON: So then if it's not built out, if it should be stopped and then not built out can they come back in and rebuild it without going through the process again or would you have to start over?

MR. DAVIES: If they wanted to continue with the approved plan if they built the first three phases and they wanted to build, you know, the next three phases they could continue with, you know, building permits and whatever would be in effect at that time. If they wanted to revise the plan and it looked any different than the approved plan they would have to go back through the process and get another revised plan.

MS. ANDERSON: And how long does the plan last before it expires?

MR. DAVIES: If nothing is done at all it lasts five years.

MS. ANDERSON: But if you started it and then stopped it.

MR. DAVIES: At present there is no sunset to that.

MS. ANDERSON: Okay. On the code it says that I'm looking under mixed use single use restaurants are not allowed. Are you planning single pad restaurants?

MR. DAVIES: There were some shown on that but we will not be planning that. Yes.

MS. ANDERSON: Okay. And then also under design review standards it says the project must be compatible with surrounding uses in terms of scale. Well there are no other 11-story buildings anywhere around from my view. Do you have to adhere to that?

MR. DAVIES: This is a little bit of uncharted territory as far as the County is concerned. We've had some discussions with them what would be required, what would not be required. To take advantage of that bonus we are talking about roughly a 100,000 square feet. Depending on what the review standards maybe that 100,000 maybe eliminated.

MS. ANDERSON: Thank you.

MR. SINGER: Let me point something out. The formal record of this hearing is typed. It's typed after the hearing occurs by a stenographer who listens to the recording and applause doesn't show up in the record. So it doesn't impress us and it doesn't impress anybody else when you applaud. Similarly, okay, comments that are made unanimously don't show up in the record because the stenographer has no way of knowing who said what. When I ask for public comment you will have your opportunity. Now is not the appropriate time. Okay. We will continue at this point. Are there further questions from the Board? Okay. I have a few. There's been mentioned of an 11-story building in the plan that was distributed to us which is dated May 19th. The tallest building is 10 stories. Okay. The building has grown. There are several buildings on the plan that I couldn't find an identification of. I noticed that the configuration of some of those is different on that plan than it is on what was distributed to us. Now I appreciate that this is at the

exploratory level but you folks are applying for permission to develop a parcel, I appreciate that you may not develop as much floor area as you propose and you may not develop at the same time as you would like it developed but I would like to know if it's within your perception that you will develop more floor area than was indicated and I'd like to know if the plan that's over there differs from the plan that's over here by virtue of more floor area or no?

MR. DAVIES: We don't propose to develop any more floor area for one of your questions. And this plan I believe is really in keeping with what you see there. We did have an error. We did mean label the building as 10 and it was 11. That was our error. But what you are seeing on this plan here is it's just color to try to help accentuate which are the buildings, which are the parking garages, which are the various uses. So and our more crude black and white plan that we submit to the County the shape or the footprint of those buildings overall should match what you have there. There may be some shading and highlighting on this that makes it a little easier to read.

MR. SINGER: On that plan a little beyond the left third point from the left side and a little above the bottom third point there is a circular feature in that circular feature. Immediately to the left of that is a building with a curved corner and below that looks either orange or pink, okay. That isn't what's shown on the plan that's in front of me.

MR. DAVIES: I'll just take a look at our plan real quick sir because I mean our plan was developed from the KA layout so the

footprints should be the same but I'll check that out for you.

MR. SINGER: The building with the curved corner is labeled on the drawings before us as 10 stories which you now say is 11 and then there's sort an L shape in this plan that doesn't appear there. But what you are seeking is authorization to build up to the gross floor area that you proposed but not more?

MR. DAVIES: That is correct.

MR. SINGER: And it may distribute differently among the several shapes on the site but it will not total more?

MR. DAVIES: That's correct.

MR. SINGER: Okay. Thank you. Ms. Anderson.

MS. ANDERSON: I noticed on sheet four it looks an additional access drive. Is that what this is or is that a potential drive? It looks it would go next to the veterinary hospital.

MR. DAVIES: This Barley Mill site that exists there's a strip of land that goes out to Lancaster Pike at that location. We obviously are in the early stages of this. We would like to talk to DelDOT if possible about another location there. The best location for another access to the site on Lancaster Pike would be at the area where the traffic light is and the Pathmark Shopping Center. But that's not our property so we would like to discuss about, you know, if that's a potential. If DelDOT doesn't prefer it, the County doesn't like it, the neighbors don't like it we won't use it. But to have another access point would be helpful.

MS. ANDERSON: Is that what I'm looking at on sheet four? Is that what that is?

MR. DAVIES: What you are seeing on sheet four.

MS. ANDERSON: Is that one right.

MR. DAVIES: And that exists as an access to some of those buildings but it doesn't connect all the way through to.

MS. ANDERSON: That's not the Pathmark's entrance? No.

MR. DAVIES: No. I was just saying in my opinion the best location for another entrance would be at the Pathmark where there is a light already.

MS. ANDERSON: Well the way you have it designated on the plan with the lines it looks like it's part of it. Is that just a fold or is that?

MR. DAVIES: No. What you are seeing on sheet four is part of this development. That is an existing access point on Lancaster Pike there. On Route 48. It doesn't connect all the way through to Barley Mill but the land is connected all the way through to Barley Mill.

MS. ANDERSON: Who owns that land?

MR. DAVIES: The Stoltz. The applicant does.

MS. ANDERSON: Really?

MS. SCOTT: Yes.

MS. ANDERSON: Because it runs right next to the building? Is that correct?

MR. DAVIES: Yes.

MS. ANDERSON: Oh my. Okay thank you.

MR. DAVIES: Your welcome.

MR. SINGER: Further from the Board? How much setback do you need for a building lets say of eight floors height?

MR. DAVIES: The code requires that any building in excess of

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50 feet would need to be set back from the property line the same distance of the height that the building is. So if the building is 100 feet it needs to be setback 100 feet. If it's 110, a 110.

MR. SINGER: Along the northern railroad you have an eight story office, a six story parking building, another six story parking building, and eight story office, five story parking, eight story parking. Are they setback equal to the height?

MR. DAVIES: Yes.

MR. SINGER: From the property line?

MR. DAVIES: Yes.

MR. SINGER: What's the floor to floor height? Three feet?

MR. DAVIES: No. It varies. It's obviously shorter on a parking garage than it is in an office building or apartment buildings.

MR. SINGER: Okay. But you do honor the setback required?

MR. DAVIES: Yes we do.

MR. SINGER: Okay. Thank you.

MR. DAVIES: Your welcome.

MR. SINGER: We'll turn now to the public. Is there anyone who would like to speak in favor of this application? Is there anyone who would like to speak in opposition to this application? It would be helpful if you line up on the side and sign in preferably before you speak and so we'll go down the line. Yes. Mr. Weiner.

MR. WEINER: Thank you. I'm Councilman Bob Weiner, Council District Two. This is the largest proposal in the history of New Castle County. There are community concerns. Can I see the hands of everyone who is here tonight because they have concerns about the Barley Mill Plaza project. Now as big as this crowd is this is just

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a smaller crowd of the 200 folks that we had Wednesday for a community meeting at which time we polled the community and there was near unanimous concern about the magnitude about the largest project in the history of New Castle County. I say Delaware. This is bigger than Christiana Mall. And so when you take a look at the mixed use project definition it talks about community character. The project has more than just one 11-story building. It has one nine-story building, four eight-story buildings, two seven-story buildings, six six-story buildings, two five-story buildings, and a bunch of two and one-story buildings. I would say that that's out of context with community character.

And with that in mind I ask you to be vigorous in applying the principles of new urbanism and of the definition of mixed use. Now why is that important? We are providing here for the first time since we've adopted the Comprehensive Plan and implemented the mixed use ordinance and the redevelopment ordinance. Extra density bonuses in exchange for walkable and mixed use pedestrian villages. In exchange we have asked the developers to provide pedestrian oriented villages where the traffic emanates from people who live in the village essentially. I would say that this project is designed to draw regional traffic by car in incredible numbers. And so I'm going to ask the Land Use Department to carefully take a look at this project because it's auto dominated and intended to draw regional huge amounts of traffic. The pedestrian oriented village like project is a paradigm shift in our community standards. This is your test on how we apply those principles. Whether we fail or succeed.

There are many things that could be done. Yes, height is and compactness is good but we could shift some of that compact components to the pedestrian precinct. If you read the urbanist journals you'll understand that you want to have one, two, and three-story structures in the pedestrian precinct so you can have live/work units, you could have offices on the second floor, residential on the second floor, residential on the third floor, and that could shift some of this height that would be looming over the backyards of Westover Hills, West Haven, West Park, and Westover Hills Woods which are communities that won't consider this to be part of their community character.

The presence of the vehicular traffic in the area could triple because we are going from one million square feet to essentially three million square feet. If you analyze from another perspective maybe half of that Barley Mill Plaza is being used by office right now. Of the three million square feet a million and a half roughly is going to be office. That means the peak hour rush user is going to triple as well. Now that means we need to have and you take a look at the DelDOT scoping letter you'll see in the traffic operational analysis they are calling for a mitigation plan. That mitigation plan needs to also include a certain percentage of traffic emanating from the site. Now the applicant has decided to go with the only minimal residential. It can be anywhere from 25 to 50 percent. By going with the minimal residential component of 25 percent I would argue that we as a County should go to our friends at the State Department of Transportation and say look you have an option under the traffic operational analysis to use either Level

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of Service Level D or Service Level E. We should ask our friends at DelDOT to use LOS D because helps them and us with traffic congestion management. It will encourage the applicant to shift this project to a more pedestrian base.

Another point that I'd like to make deals with the phasing of this project. If it's zoned office and we give an exception to do mixed use where they can do 25 percent commercial and 25 percent residential then this applicant will I suspect ask that the commercial be built first. And the problem is we may never see the other components built so we would end up with a 750,000 square foot commercial center on land that's zoned office and that would defeat the whole zoning category which is by right what this is. Now why is that important? Because we enunciated that standard and we already have a precedent. Charles Baker speaking for the Department enunciated a presidential ruling on this case the first impression which I brought to the Department's attention at the Thomas Hanson's parcel at Naamans and Marsh Road. This construction was 73,000 square foot mixed use, office zoned with retail and residential proposed on 6.49 acres known as Brandywine Pavilion. Todd Brigglie was the builder and Bill Rhodunda is the attorney. And we can't use different standards simply because this project is bigger. That's a slippery slope and those of you who have an understanding of the law realize that you have to apply the law equally. Having said that I do realize that, you know, Dupont Company could be a tenant and it would be very nice for the new owners to have them as a tenant and want to keep that. But we can't allow those sorts of economic pressures to effect the way we

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equally apply the law just because Brigglio was smaller and Stoltz is bigger we can't use a double standard.

We want to use a higher archil grid street system. I see that slightly. I mean that's part of new urbanism. We want to see individual block realistically, walkable. We want to see wide landscaped sidewalks to encourage and accommodate pedestrian activity. We want to see traffic calming devices at internal intersections through the changes and paving materials. We want to see control of building materials, textures, and colors to assure reasonable compatibility with that in reducing monotony. We want to make sure that facades along the internal streets are interesting and just not walls. Blank walls. We want to see central management of the development in its built form via a binding manual of design guidelines. That's very important because we want to insure long term integrity of the design vision and function. My time is up and I'll extend additional remarks in writing. Thank you.

MR. SINGER: Mr. Maloney.

MR. MALONEY: I have a couple of questions. First of all Councilman Weiner if this project meets all the code requirements this is a by right development is it not?

MR. WEINER: I don't like to use the word by right. I did use that earlier. It's by right to the extent that it does conform with the technical requirements of the code. But at this point it's not by right because we have a lot of scoping to do with the State Department of Transportation and we have a lot of analysis still to do by Land Use Department. Having said that I did tell the community and all 200 witnesses that are here to tell everyone that

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this can become a by right plan and that we are not here tonight to stop it. We are here to make it the best project it can be and consistent with community character.

MR. MALONEY: You also understand that this at the exploratory stage? Right.

MR. WEINER: Yes. Yes.

MR. MALONEY: There are a lot of projects. If this plan goes forward there are a lot of things that will happen to this plan before it goes that much further.

MR. WEINER: Your actually saying exactly what I've said to some constituents because they wanted definite answers and I told you exactly what you said Mr. Maloney.

MR. MALONEY: You understand that the Board has no influence on this plan at this stage?

MR. WEINER: And I've told other folks that as well sir.

MR. MALONEY: Okay. You understand.

MR. WEINER: Yes.

MR. MALONEY: You said that we should ask DelDOT meaning that you are addressing this Board I assume?

MR. WEINER: No. I'm addressing the Land Use Department. The DelDOT, the Land Use Department have transportation planners that directly communicate with the State Department of Transportation. This is the first time application of what's called the rather than the traffic impact study use what's called a traffic operational analysis or TOA. Under that DelDOT has exclusive and sole jurisdiction to determine whether or not to use LOS D or LOS E. And I think our planners should ask that LOS D be used since the

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applicant has chosen only to build 25 percent of this project as residential rather than 50 percent.

MR. MALONEY: Just so we understand that it can't be this Planning Board that goes to DelDOT.

MR. WEINER: Absolutely.

MR. MALONEY: This Planning Board has no business with DelDOT whatsoever.

MR. WEINER: Absolutely. And I meant to make that clear and I apologize if that wasn't clear that it's the Land Use Department. Not Planning Board.

MR. MALONEY: Very well. Thank you.

MR. WEINER: Thank you Mr. Maloney.

MR. SCHLARF: Good evening. My name is Jeff Schlarf. And I live in Westover Hills in Section C. A portion of our community is directly behind Barley Mill Plaza. There are two other sections of Westover Hills. I wear three hats today as not only a resident but also I'm the chairman and partner at a downtown law firm the Bayard Firm and I happen to be a bankruptcy lawyer. I've seen several developers not do well in recent times. But thirdly I'm on the board of a service corporation for Westover Hills Section C and this has all happened so fast. It's a tough time right now with people being on vacation. Legislature just ending their session last night or early this morning so I don't proprot tonight to speak for the entire community but I can tell you I've gotten a lot of feedback so far and my comments are very reflective from what I've heard from other people. In fact I'm probably going to be very conservative.

On a personal note I've lived in this community for three years. I moved here for a lot of different reasons including it being a safe neighborhood, quiet, has good location access, natural beauty, but it's not a pod. And I'm very concerned that this project as currently designed is a real threat to the reasons why I and a lot of other people decided to move into the area to begin with. And I'll be frank with you. It's one of the more prominent communities in Delaware. And it's something that I think should be preserved if it all possible the best way possible.

From my very limited opportunity to review this mixed use plan it strikes me as a commercial attorney and also a nearby resident only three or four hundred yards away from the project it's entirely inconsistent with the character of the surrounding community. In fact it is much so it is almost an obvious point. But it also strikes me that this is clearly an investment decision by this developer which is now national in scope and aright which is the primary motivation is maximizing the bottom line for investors who might not know anything about Wilmington, Delaware let alone Barley Mill Plaza. This property was purchased as I understand it for around 90 million dollars last year or the year before for approximately a million square feet of office space that is still 50 percent occupied. As I understand it it appears to be still economically viable but what one investment goal that drives what the press accounts described is a 525 million dollar project is apparently a big return for investors again who might know little about our community. Therefore, rather than simply enhancing the office space or enhancing what they have or increasing the plan is

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to first of all to increase the net office space by 50 percent from one million to 1.5 million square feet. Fifty percent more than current. But that's not it.

In addition as Mr. Weiner as described to the Planning Board there would be another 500,000 square feet of residences representing 700 or more units and also 700,000 square feet of retail. And, of course, what this means considering the size of the current property is that the only way is to go up and way up. And, therefore, as far as I'm concerned as a resident of Westover Hills has to be appearing over some of the nicest homes in an area. If that doesn't give you a sense of change to the character of the area I think we should as a starting point maybe look at the impact on traffic. Just from the office space alone and considering the difference in maximum capacity where we are right now versus what there would be under this plan there is a 50 percent increase. As Mr. Weiner noted if you compare where we are current using half of the current space versus what the maximum would be it could be a three time increase in traffic just on the office space alone but that's not considering the other, the 1.5 million dollar increase in square footage for residence and retail. And although this is called a village and it's somewhat of an intriguing concept to me as somebody that knows very little about it but call me cynical but I would think a retail space planned space that had a movie theater, restaurants, whatever else is planned, the bowling alley, other things, that it is by definition going to draw outsiders into the area besides people living in that village. Therefore, in addition I'm confident that a fair percentage of the 700 new

residents will not be just working in that area but also be commuting in the morning and afternoon. Therefore, from a sheer traffic standpoint alone I think the State through DelDOT should first apply the strictest of standards before this goes any further. From that standpoint should be clear that this is a mitigated disaster from a traffic standpoint even looking at the area the way it stands right now and how it is difficult it is to get through area. Considering the impact that this will have this should start and end, this project should start and end just from a traffic standpoint.

I like to make a request since I'm out of time that if I could reserve the right to submit written materials especially because I have not gotten as much input as I'd like from my neighbors in Westover Hills.

MR. SINGER: Certainly. As I indicated earlier because it's exploratory the record stays open.

MR. SCHLARF: Thank you. Do you have question? Thank you.

MR. SINGER: Is there anyone else? Please come forward.

MR. BECK: Good evening. My name is Richard Beck. I'm appearing this evening on behalf of the Kennett Pike Association for which I am presently acting as president. Kennett Pike Association does not have an institutional bias against development nor I do personally as I'm sure you are aware and I cheerfully confess to be mathematically challenged but I'm sure there are people on the Board and in the Land Use Department and in DelDOT who are not mathematically challenged so I'd like to ask you to help me understand the math of this a little bit. Because when I try to

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apply the required percentages that are clearly applicable under the UDC and then compare the information with which DelDOT has evidently based its scoping letter and I listen to the presentation I get confused. I can't make it add up.

Now just because I'm not good with math if we could assume we have an even three million square feet, I know it's just under but lets take three million square feet. Because this is zoned OR 67 percent of the gross square feet has to be office. So if I just roughly say 67 percent of three million is two million then we have two million of office. Not a million and a half. If we have a minimum 25 percent residential against three million I'm thinking that 750,000 square feet of residential and I'm thinking that leaves 250,000 square feet of retail. Now my math may be off. I may not understand this but I'm pretty sure that the mere fact that the applicant is entitled to some bonuses along the way that doesn't mean we get to depart from the mandatory percentage ratios under the UDC. In other words if we have to have 25 percent residential that percentage should hold regardless of bonus. If we have to have 67 percent office that percentage should hold regardless of bonus. I'm not conceding or commenting on whether or not the application for bonuses is even something we can evaluate in the absence of really seeing all sorts of detail that the Land Use Department report pointed out we haven't seen yet.

But I like some help with the math because when you look at the information in DelDOT's scoping letter you hear things or see things like about a million, four hundred and some square feet of office. You see something about 700 and some square feet of retail,

700,000 square feet of retail. And then you see something like 1,500 residential units. Which if you actually did the math if they were right you'd be ending up with residential units of about 300 square feet. I have nothing against pygmies but I don't see who could live in them. And those kind, even divided go from 1,500 to 700. What do we have? Because these numbers sound great when you are thinking about people walking to work, walking, you know, walking and shopping, and all of that sort of thing but it all has to add up.

So if we have a scoping letter that's based on one set of figures who knows what plan they are looking at. The Planning Board has asked what plan are we looking at compared with whatever. I appreciate that it's exploratory but we all have to have the same starting point to make this meaningful. It's not that we have as an objective to try and stop a party that has purchased real estate from being able to do proper and rightful development. We do encourage the developer to work with the community and with the Land Use Department and DelDOT to make this a project that actually conforms with basic requirements and is an asset to the community and not something that is devastating to the community. Thank you.

MR. SINGER: Just a minute. Mr. Beck. Sorry. Do I understand correctly that you what you are hinting at is that it maybe an appropriate legislative procedure to institute a requirement on mixed use projects that the several uses proceed at approximately the same rate?

MR. BECK: I'm thinking that that's already in the code. But what I mean I was just saying I can't see how all the percentages,

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I'm not able to make the math work based on the plan that's presented.

MR. SINGER: I appreciate that.

MR. BECK: Yes.

MR. SINGER: You see I can appreciate also that it may well be in the intent behind the code but I don't think it's in the words.

MR. BECK: Okay. Well I think a plan has to qualify at every step of the way.

MR. SINGER: And that's an important point and it amounts to a suggestion for legislation.

MR. BECK: I think that's a good suggestion and I commend the Land Use Department for pointing out that a very precise phasing schedule is necessary that will assure that these ratios have a reasonable chance of being of being maintained.

MR. SINGER: Exactly. Thank you.

MR. BECK: Thank you.

MS. ABBOTT: Mr. Chairman, members of the Planning Board, and the Department of Land Use my name is Jill Abbott. I'm here to speak on behalf of my husband Rich Abbott who is unable to be here tonight. Rich previously served as County Councilman for the Greenville area and now serves as a civic leader in the Centerville and Greenville communities. I'll summarize the contents of a letter that he asked me to submit into the record on this application. As a preliminary matter the scope and the size of the proposed development are unprecedented almost three million square feet of what we heard tonight the largest single development project ever proposed in New Castle County. Again it will be almost three times

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the size of the Christiana Mall.

Three major problems exists with this application. Major problem number one the application should never have moved forward in the review process or to this public hearing since it has not been shown to satisfy the redevelopment requirements of the County's Unified Development Code or the UDC. Development of land use exploratory plan report dated June 19, 2008 specifically indicates at paragraph six that the current total percentage of improvements does not achieve the minimum 400 percent requirement to be treated as a redevelopment plan. The application should be rejected for this reason alone.

Major problem number two. The application has not been shown to meet the mixed use requirements of the UDC. Paragraph one of the report specifically states that the plan violates the mixed use requirements in three respects. Number one restaurant pad sites are not permissible or allowed there as well. Number two the percentage of distribution between residential office and commercial use is not established. And thirdly the plan fails to reflect the necessary residential outdoor areas. The plan should be rejected for this second reason.

And third major problem which exists with this application is the applicant should be required to number one perform a traffic impact study or what's called a TIS and satisfy number two. Satisfy the level of service D intersection to lay standard required by DelDOT's regulations. In fact a TIS must be required under the UDC if the application fails to qualify as a redevelopment plan. Regardless state legislators are expected to request that DelDOT

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require a TIS. The application should not move forward until the TIS issue is resolved. Thank you so much.

MS. MCEVILLY: Good evening ladies and gentlemen. My name is Chris McEvilly and I've been a resident of Westover Hills Woods for 30 years so I've seen lots of change. Get my glasses here. I'm going to focus my comments on traffic issues. Three million square feet is immense. It would more than equal the size of the entire King of Prussia Mall Complex which has 2.8 million square feet of gross leasable space according to Forbes in 2007. That's one of the nations largest malls as we are aware. The sheer size of the proposed expansion would completely overwhelm the existing transportation infrastructure. It would draw workers and customers from throughout the region and from out of state. The proposed 731,000 square feet of retail and that number seems to be fluctuating a little bit in discussion tonight but that much would attract out of state customers seeking tax free shopping. Three million square feet of regional commercial should be approached as a local transportation improvement project. Transportation studies should be comprehensive in scope, look beyond nearby intersections, and be done from a regional perspective.

The 141 corridor is mainly a commuter route for local and regional traffic. During the most recent Tyler McConnell Bridge expansion studies it was well documented that 141 attracts users from a wide spread outlying area including Newark, Hockessin, and north Wilmington and the road is essentially a north/south bypass from I-95. Therefore, the study should be, the transportation study should take into account traffic flowing onto 141 from 202 to

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Newport and I-95. Realistically all roads near the complex have undergone recent improvements and funding does not exist for further widenings. Nearby two lane roads are already backed up during peak hours. The two lane Tyler McConnell Bridge is Level of Service F but will not be widened in the near future and has been removed from the WILMAPCO transportation improvement program due to lack of funds. Congested Lancaster Pike into Wilmington has no room for expansion. The SO 141 corridor is currently being improved from Faulkland to Kirkwood and the 100 intersection was recently widened through the Tyler McConnell process. No more expansion work is anticipated for this roadway and there is also little right of way to add capacity.

According to WILMAPCO the segment of 141 between Route 48/Lancaster Pike and Route 52 is at 92 percent of achieving full capacity with about 43,000 cars per day and on the threshold of reaching Level of Service E. This is occurring and this is occurring when about 40 percent, I heard 50 percent tonight also of the existing Barley Mill Plaza buildings are vacant. If the full one million square feet were occupied most likely 141 would reach Level of Service E today. Four thousand additional vehicles per day would reach Level of Service F according to WILMAPCO. Current traffic counts for nearby intersections are not available because they were done in the 80's and 90's and obviously they are going to be redone soon. But recent counts for 48 and Centerville Road intersection were Level of Service E and D during a.m. and p.m. peaks respectively. Given the existing transportation data and the potential addition of huge volumes of traffic from an expanded

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Barley Mill Plaza any review of this proposal should include conduct a TOA and a TIS that reflect the far reaching impacts of the proposed development, determine the carrying capacity of the current 141 corridor, something that will most likely not change. Have the study look regionally beyond local intersections to I-95 in both directions to Hockessin, to Kennett Pike for folks coming for tax free shopping from all over to the heavily traveled 100 and to the two lane Tyler McConnell Bridge bottleneck. Make Level of Service D the benchmark for the 141 corridor before it reaches failing and becomes intolerable. Based on the potential traffic to this project at a minimum keep the scope of the development to what currently exists one million square feet and first fill up the 40 percent vacancy rate so there is a benchmark for the impact of one million square feet. Increase the project's percentage of residential use to mirror adjacent land uses. Provide local not regional retail/office uses that encourage walkable community design. 141 is not I-95. The Christiana Mall is on I-95. We are talking the same size here. 141 is not I-95.

MR. LEVY: Good evening. My name is Max Levy. I live at 47 Harlock Drive in Anglesy which is just about eight-tenths of a mile from the proposed thing that they want to build. I think it's interesting that the owners have never seen fit to meet with the neighbors. You know I find that sort of not very good PR. I've lived in Anglesy now for 40 years. I've seen a lot of changes but I never thought I'd ever see six, seven, eight-story, 10-story buildings. That's like New York City for God's sakes. I don't want to live in New York City. I want to live in Wilmington, Delaware

the rest of my life. Thank you.

MR. CROSS: Good evening. My name is Rick Cross and I'm a resident of the neighborhood of Westhaven which is located directly behind the Barley Mill property. Westhaven as I just said is a neighborhood it backs up to it at the eastern end. Westhaven was built mostly in the 1930's and 40's with a smaller section added later and it's made up mostly of single-family two-story colonial homes. There's about 69 homes in the neighborhood. This right here is the very edge of the project. I'm going to pull this back. This is Westhaven. This is a little bit of a blow up of it. This is my land. That's my house right there and that's the property line with Barley Mill property. My house backs right up against the property line.

I come today because I have a couple of concerns well I have a lot of concerns but I'm going to raise two of them with you today. I'm primarily concerned with the buffer that would exist between Westhaven and the Barley Mill property. I believe for a number of reasons the aesthetics currently we have a wooded area that shields us from the Barley Mill property. I'm concerned with the impact of any if these trees are lost as part of that project. I'm concerned about noise pollution currently with the use as an office project or as an office park there's very little noise pollution and I'm concerned with the noise that would come from a project of the size and the scope that's proposed.

In terms of lights there are very few lights that emanate from this project or the current office use and I'm concerned with the number of lights that would be beaming down on us. Importantly I'll

note that at least the preliminary plans that were shown to us last week by the Councilman there was an eight-story building that was proposed to be right here near the property line to Westhaven and there's a five-story building that's proposed to be right here and so I'm concerned about the lights that are going to be coming down if those tall buildings are built. Foot traffic. Currently we have a little bit of a nuisance that gets created by through the railroad track you can sort of see it here along the line that's the property line. And we get kids and teens and young kids that walk down that railroad track and they throw their cigarette butts and soda cans, they'll paint graffiti sometimes on the trees, and then they'll trespass over to get access back out onto my lane and then onto Dupont Road. I'm concerned that if this becomes a large commercial project we are going to have a lot of people trespassing through and creating problems into there.

I'm also very concerned about the shadows that are going to be cast from these large buildings that are proposed. I performed some basic calculations. I got some reference materials from the U.S. Naval Observatory for sunset calculations and sun angles in the afternoon. And with the eight-story building that's proposed right here near the corner of the Westhaven neighborhood in the fall and I choose the fall because that's when these leaves are going to be gone from these trees and you can see the buildings that are currently in the fall. But with an eight-story building there two hours prior to sunset an eight-story and I assume 80 foot tall building would cast a shadow approximately 431 feet directly into Westhaven. That would actually extend over my house, my neighbor's

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house, the neighbor further down, and almost all the way out Aldridge Road, Aldridge Way. And again that's at a time when the trees are down and this thing is going to be towering over us. I believe the code sections that are applicable in the case would require some consideration. Under Section 40.25.410 of the design review standards and I'll paraphrase in conducting this design review the Department shall evaluate the plan against certain criteria. And the development is supposed to be significantly superior to one that simply meets the code requirements. Among the criteria one and this is very important the project is to be compatible with surrounding uses in terms of scale and adherence to the traditional architectural styles and materials of the County architecture. Thank you. I believe that an eight-story and five-story building is not compatible.

The streetscape and building design reduces it, it should reduce the apparent building mass of large buildings to match nearby residential areas. I don't believe that would be the case here. Also under Section 40.08.130 (B) (6) (e) the County's improvements are to mitigate damage to or enhance protection for existing natural and environmental resources and emphasis shall be placed on improving landscaping and buffers particularly around parking lots and abutting conflicting land uses which is what we have here. I believe based on that it should be required that this building, these buildings be smaller so that we don't have these large shadows cast and I believe that this wooded area should be required to be preserved to maintain a buffer.

MR. MCCONNELL: Good evening ladies and gentlemen. My name is

Ian McConnell. First let me apologize for my attire. I actually forgot about this meeting. My wife had to remind me and as a result I'm not nearly as prepared as Rick Cross is. I live about a block away from Rick Cross in Westhaven. I moved there about three years ago. And I won't be able to as eloquently state my concerns. I echo Rick's concerns. But I did think that it might be important to put on the record we are talking about the character of the community and I thought it might be important to put on the record what kind of community we are talking about. As Rick indicated I don't if you all have been through Westhaven or not but it's a bunch of single-family homes. There are lots of young children. Probably in a four/five block radius there are probably 30, 35 children all about between the ages of zero to six. And it is a wonderful place to live. An example of that I think anecdotally it would be when we close on our house October 31st they had closed off the roads and had somehow cajoled the local marching band to come down and actually do a parade for the kids, do a Halloween parade. And many many families from around the area came in and participated. And we didn't live in Westhaven. We came in just for that one event just because it was such a nice thing to do. And that's the type of community we are talking about. Really a very special place.

So I think when you think of King of Prussia next door to you to say that it's in keeping with the character of the communities stretches the bounds of credibility. And that's all. Thank you.

MR. CHRISTOPHER: Thank you. My name is Richard Christopher, Jr. I'm the current president of Westhaven Civic Association. I live at 8 Vining Lane. I've lived there for about six years. I too

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am not as prepared as Rick was. I just got back from vacation last night. But I just did want to address a couple of the concerns that I've heard from the community and I wanted to make sure that I speak on behalf of literally dozens of people from Westhaven that are here tonight that at the risk of being redundant we didn't want to have everybody come up and address the panel so. Rick and Ian have certainly addressed many of the concerns. One of the things that was voiced earlier though by Mr. Beck which is certainly a concern to us is that the developer will be permitted to build in phases and that that will work on the commercial elements only and then abandon basically the other aspects of the mixed use development. I think it's a stretch personally to think that 700 plus residential units are going to be something that's going to be able to be moved in a timely fashion in today's real estate market.

We also hope that the developer is going to be required specify the quality of the materials that will be used in the construction and provide specifics as to the architectural elements of the building to insure that they be compatible with the surrounding community. And of course it's already been touched on several times tonight but the traffic impact study with the project of this magnitude is obviously something that's of an extreme concern to the entire community. So I appreciate your time tonight. Thank you.

MR. CALABRO: Good evening. My name is Dick Calabro. I am president of Westover Hills Woods Civic Association and I'm also a resident of Westover Hills Woods. Certainly I have not lived there as long as Chris has but I wanted to be sure that I present my

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comments and speaking at this point in the program it's impossible for me to speak about everything new, however, I wanted to focus on a couple of things. First Dupont currently has about 2,000 people at Barley Mill Plaza. What has not been discussed is the fact that these people are not leaving the area. They are moving across the street to Chestnut Run. Therefore, the traffic that is generated by these 2000 employees will continue to be in the same traffic corridors that will serve Barley Mill Plaza. So the addition of 2.9 million square feet at Barley Mill Plaza will certainly bring Route 141, 48, Center Road, Barley Mill Road, Tyler McConnell Bridge, etc., etc. to its knees. The failing traffic corridors were mentioned in the TOA scoping letter that has been referred to already. The north and southbound flow as Chris said on Route 141 will dramatically increase and there will be another member of our association to talk about noise issues which also has not been mentioned yet. Also traffic patterns are going to change as a result of this development. With the addition of retail at Barley Mill Plaza we will have different patterns of traffic than currently exists today. Today obviously morning and evening are the largest concentration of traffic flow and when you consider Barley Mill Road and what goes on there with traffic for Tatnall School, for Barley Mill Court, Fairthorn, Sedgley Farms, and Stonewall much of that traffic is generated through the light at Center Road. Anybody who has used that light at Center Road during these periods will tell you that they can sit there for three traffic lights before they get out if they are trying to make a left turn onto northbound 141. In this traffic light at Center Road and 141 which

