



ALLENTOWN CITY PLANNING COMMISSION  
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## ALLENTOWN CITY PLANNING COMMISSION

PUBLIC MEETING    JUNE 13, 2017

### MINUTES

#### MEMBERS PRESENT:

Oldrich Foucek, III, Esquire, Chairman  
Mark Buchvalt, Vice Chairman  
Richard Button, Secretary  
Christian Brown  
Jeff Glazier  
Damien Brown  
Richard Niesenbaum

#### CITY STAFF PRESENT:

Steve Neratko, Planning Director  
David Kimmerly, Chief Planner  
Frederick Andrayko, Zoning Supervisor  
Craig Messinger, Interim Director of Public Works  
Mark Geosits, P.E. Senior Civil Engineer/Assistant City Engineer  
Nelson Varughese, Traffic Controls Superintendent  
Richard Rasch, Utility Engineer  
Tawanna Whitehead, Deputy City Clerk  
Jeanne Marsteller, Recording Secretary

#### OTHERS PRESENT:

See attached sign in sheet

#### MINUTES:

The minutes of May 9, 2017 were approved as written.

**SIDEWALK POSTPONEMENT REQUESTS:**

**301 N. Jerome Street, S17-3, requested by Mandy J. Rutman**

Ms. Rutman was present.

Atty. Foucek stated it looks like there is street work being done in the area and asked if there is existing curbing on this property. Ms. Rutman confirmed there is existing curbing and this request is for sidewalk only.

Atty. Foucek continued by pointing out one of the photos shows a slope with a tree stump and asked which frontage this tree stump is along. Ms. Rutman answered that it is along E. Chew Street, as there is an existing sidewalk along Jerome Street. Mr. Buchvalt clarified then there is sidewalk along Jerome Street but not on Chew Street and continued by asking which street work is being done on. Mr. Geosits answered they are working on Chew Street.

Atty. Foucek observed it looks like the condition is not suitable without a lot of filling and cutting.

Ms. Rutman stated as represented in the photos there is a steep embankment exists along the property line that abuts Chew Street. In order to construct a sidewalk that would meet all code requirements the area along the embankment would need to be filled with compacted materials capable of supporting the said wall. Due to the sharp change in elevation between street level and yard level, a retaining structure would need to be constructed to contain the compacted materials needed to support the new sidewalk addition. Also, some type of fence would need to be constructed to keep pedestrians from falling over the retaining structure. The magnitude of landscape work needed to accomplish this task would require a large investment which would be a much greater magnitude of any other in the block. This proposed sidewalk would begin and end with the property lines as N. Jay Street has never been finished by the City of Allentown. The uncompleted portion of N. Jay Street would be a steep embankment that would propose a hazard to pedestrians.

Atty. Foucek stated that is a well stated argument that is consistent with the provision of the ordinance that would allow granting relief. Atty. Foucek asked if any of the other Commission members felt otherwise or concurred with the analysis.

Mr. Button made a motion to GRANT postponement of sidewalk along E. Chew Street for ten (10) years. Mr. Glazier seconded the motion. Motion passed unanimously.

**1017 E. Chew Street, S17-4, requested by Anna C. Oleszczuk**

Ms. Rutman represented the applicant.

Ms. Rutman explained this property is located behind her home and has a sidewalk that leads to nowhere. There was talk by the City in 1971 to install an alley between her property and this property and both property owners have maintained the grass.

Atty. Foucek observed the notion of extending the sidewalk, which might be appropriately done from a construction perspective would lead to the property that was just granted a postponement. Ms. Rutman concurred it would just lead to an embankment.

Mr. Buchvalt made a motion to GRANT POSTPONEMENT OF SIDEWALK FOR TEN (10) YEARS. Christian Brown seconded the motion. Motion passed unanimously.

**121 E. Wyoming Street, S17-5, requested by Joseph and Cindy Young**

Mr. Young was present.

Atty. Foucek stated this property is located near an approved proposed development. Mr. Young answered yes, the development is to the south. Atty. Foucek stated the property is as rural as you are going to get in Allentown, particularly behind the property, along Constitution Drive that goes into the woods with a few homes with no sidewalk. Atty. Foucek asked Mr. Young if he had read the ordinance and understand the reasons why relief can be granted. Having been to the side, it is a flat piece of property. Mr. Young noted along Constitution Street it is flat, but along Wyoming, where the sidewalk is being requested it is not flat. Atty. Foucek stated there is an incline, but not level. Mr. Young said as it sits right now, when it rains the neighbor gets flooded out. Atty. Foucek asked if it is the neighbor to the left that is downgrade and are we just talking about Wyoming Street? Mr. Geosits answered yes.

Damien Brown asked if anyone heard from the neighbor on the left, as there is one home without sidewalk and a row of homes with sidewalk.

The property owner of the house to the left, Monica Colon, of 111 E. Wyoming Street was in the audience. Atty. Foucek asked if she has submitted an application for sidewalk postponement? Ms. Colon answered she has not received any paperwork and has called the city to get the paperwork emailed to her. All the water will be running down into the driveway and into the backyard. Atty. Foucek stated not sure if sidewalk is going to make that better or worse. There is more concerned that there is a fair amount of vegetation between the properties and a tree planted in the right of way.

Atty. Foucek noted he is hesitant about taking action on this application without also dealing with the 111 E. Wyoming Street property. It wouldn't make sense to grant one relief and require the other to install sidewalks.

Mr. Button asked why didn't 111 get a letter? Mr. Messinger answered certified letters were sent out and can't say right now if it was received or not, but obviously will be checked when he returns to the office.

Atty. Foucek suggested that a final answer may not be given today and he is reluctant to tell one property owner one thing that would be different with the condition of the neighbor's property and indicated he would like to treat them both equally. Mr. Young concurred.

Atty. Foucek advised Ms. Colon to talk to City Staff to make sure she receives a notice. Ms. Colon answered it was emailed to her today. Atty. Foucek continued by stating she will need to fill out the same type of request that Mr. Young has done, and outline reasons why a postponement is needed and reschedule these cases together in the future and look at both properties at the same time. All parties concurred.

Mr. Buchvalt asked what is the status of the development? Mr. Neratko answered nothing was heard since the last Planning Commission meeting. Atty. Foucek added that is the other variable. At the moment this is a fairly isolated untraveled area. If the development goes through, there will be more traffic.

Mr. Buchvalt made a motion to TABLE this matter for a future meeting. Mr. Glazier seconded. Motion passed.

**801 North Lacrosse Street, S17-6, requested by Maria Castro-Salazar**

Maria Castro-Salazar addressed the Commission.

Atty. Foucek commented this home was the first home in the neighborhood. Ms. Castro-Salazar stated yes that it was built in 1870. Atty. Foucek continued by pointing out it sits up on a slight hill and there is a bank along both sides of the property. Ms. Castro-Salazar explained when she purchased the home ten years ago there was not a sidewalk there and a retaining wall would need to be installed which is out of her budget. Atty. Foucek answered the fact that sidewalks were not there and the cost of installing sidewalks are not factors that are considered. It is more the character of the neighborhood and the peculiarity of the lot. Would it be easy to install, major engineering or beneficial to the neighborhood? Atty. Foucek made a site visit and explained it is interesting the back part of the property does not have the same condition as the front end. The question is what is the utility of the sidewalk going to the back of the house and stops. There is sidewalk across the street and inclined to consider this positively.

Mr. Buchvalt agreed and after looking at the pictures it seemed flatter in the rear but after seeing other pictures there is a considerable pitch.

Damien Brown asked if curbing will be installed. Atty. Foucek answered yes but the Commission has no jurisdiction over the decision, but it is a lot easier to install curbing then sidewalk. Ms. Castro-Salazar interjected then what about the postponement for the curb. Atty. Foucek answered that is not handled by the Commission, it goes to the Engineering Dept. Atty. Foucek stated he doesn't see any reason not to installing curbing. Ms. Castro-Salazar answered ok.

Damien Brown made a motion to GRANT postponement of sidewalk for ten (10) years. Mr. Glazier seconded the motion. Motion passed unanimously.

Ms. Castro-Salazar asked if she would be receiving notice. Atty. Foucek confirmed she will be receiving a notice specifying the length of time of the extension.

### **STREET VACATIONS:**

#### **North Folk Street from East Clair Street to East Westminster Street 16-3 (V) requested by John W. Troxell, Jr. (Tabled at December 13, 2016 meeting)**

Mr. John W. Troxell, Jr. and Mark Bradbury, Martin Bradbury & Griffith Inc. were present.

Atty. Foucek explained this street vacation was heard at a prior meeting. There are a series of parcels that run along North Folk Street and the neighbor on the other side of the alley, objecting to this. Mr. Troxell explained he spoke to this neighbor after the last meeting and he had no objection to closing the alley except he does not want to be reassess for the ten feet. Mr. Troxell told him he doesn't believe he will be reassessed, but if he is worried about it he will buy it from him. The neighbor then mentioned he will be selling in a couple of years. Mr. Troxell pointed out the building is basically on the curb line. The other neighbor to the north, a 20 x 140 lot wrote a letter but was unable to speak with him. Mr. Troxell pointed out he cuts the grass every 2-3 weeks and all he does is pick up bags of junk.

Atty. Foucek asked if there was anyone in the audience that is an objector to the North Folk Street vacation? The record shows there were no objectors present.

Atty. Foucek explained when a street is vacated, both sides obtain the additional land to the center of the alley effectively barring the use of the alley as a thoroughfare.

Damien Brown asked for clarification as to the purpose of having it vacated. Mr. Troxell responded he would like to box it in and build a house in the front and fence it in to prevent the garbage collecting. Mr. Buchvalt asked then you want to redevelop the property and clean up the alley. Mr. Troxell said yes, because the taxes will be peanuts if four or five homes are built. Damien Brown asked would it

make sense to have an alley in the rear. Mr. Troxell explained one house will face Westminster and four houses, 2 sets of twins, will face Fenwick. Atty. Foucek questioned parking will be in the front. Mr. Troxell answered there will be plenty of parking. Christian Brown stated the ordinance calls for parking to be access from the rear.

Mr. Bradbury explained there is an approved subdivision for the lots on Fenwick Street, prior to any ordinance change saying there has to parking in the rear. Already approved for three units along Fenwick Street. The idea is to close the alley so a single family home can be built in the back corner with a drive-in garage. With a single family home there, you don't want cars traversing the alley and there is no need for it.

Damien Brown asked when were those plans approved. Mr. Bradbury answered 2014. Atty. Foucek stated that was a minor subdivision that the Planning Commission would not see, but rather staff approved.

Mr. Troxell stated there is a 20 foot at Westminster and Fenwick that took over two years to buy, due to a lien on the property and this was settled about 2 months ago.

Atty. Foucek summarized the issue is whether the alley is being used and basically you said no except for people to dump garbage and cars there. With respect to the future use of several tracts along Fenwick Street, there is already a staff approved plan that doesn't need the alley, so there is really no reason not to grant this.

Damien Brown recalled that it sounds like there is no consensus with two of the adjoining property owners. The property owner of the building behind the alley wrote a letter that he was not okay with this but then gave a verbal consent to Mr. Troxell and the owner of the property along East Clair Street.

Mr. Bradbury explained the parcel along East Clair Street are parking spaces and the owner owns an auto repair shop across the alley towards Hanover Avenue and they use these spaces to park the cars that are being worked on and if they don't have room they park on Mr. Troxell's lot. Mr. Buchvalt added it doesn't matter whether it's on Mr. Troxell's lot or the city alley they shouldn't have the cars there anyway.

Christian Brown clarified the applicant does not own 223 N. Fenwick Street and asked then it is unclear as to their position on this or is there an objection from them. Mr. Neratko answered no, the staff tried to reach out to them multiple times and unable to reach that owner. The owner of the building on Westminster Street, after speaking with him he did not have an official opinion and wanted to stay out of it.

Atty. Foucek clarified the owner of the building's concern is his assessment would increase and stated the assessment doesn't get increased by these street vacations.

Atty. Foucek continued by stating 223 N. Fenwick Street located at the end of the block, by virtue of this they will get to the center line and this action will not land lock any of the properties. Christian Brown stated the evidence shows they are pulling out directly onto East Clair and not affected by the alley.

Atty. Foucek asked again if anyone in the audience is interested in this street vacation. Hearing nothing, Atty. Foucek asked for a motion.

Mr. Glazier asked from a point of order does it have to be removed from the table and then voted on or the fact that it is on the agenda means it has been removed from the table. Atty. Foucek asked what do you mean removed from the table. Mr. Glazier answered typically in a legislative body if something has to be removed from the table, we don't do this that often, so I am merely asking. Atty.



Foucek replied because it was tabled. Mr. Glazier said yes we took an option to table it. Atty. Foucek continued I don't think we ever have done that, but not saying it's not somewhere in rules of order that it needs to be done. Mr. Glazier said okay and in that case is happy to make a motion.

Mr. Glazier made a MOTION to vacate North Folk Street from East Clair Street to East Westminster Street. Second by Mr. Button. Motion passed.

**North Lawn Street from Andrew Street to Early Street, 17-4 (V) requested by Viliam & Ludmila Choma. (Tabled at April 11, 2017 meeting)**

Atty. Robert Knaurer, representing the neighbor Paul Cope updated the Commission on the progress. Atty. Knaurer said that he has copies of an agreement for the Commission, that will get recorded, but is asking the Commission to approve the agreement and recommend to City Council that the vacation result in an uneven distribution of the paper street. What is being asked for is the stretch of North Lawn Street between Mr. Choma's property and Mr. Cope's property be divided with fifteen feet going to Mr. Choma and five feet going to Mr. Cope. Atty. Foucek asked then to the property line with McDermott, the other neighbor. Atty. Knaurer said yes, between McDermott's property and Choma they are asking for an equal distribution.

Mr. Buchvalt asked if this could be done as part of the vacation or this is a private. Mr. Geosits responded the Commission just vacates the street, but does not make the distribution, it is left up to the parties to do some kind of deed. Atty. Foucek interjected it is more complicated than that. We were not prepared last time to approve this because it was known that it would create a problem. This is a solution to that problem between the neighbors, but the question is because all the Commission does is recommend the vacation. The operation of law states the properties extend to the center of the line. It is unknown if City Council has the right, if there is an agreement in front of them, to modify the operation of law or if it would require a deed, survey, or a plan. Planning Commission is a recommending body and Atty. Foucek thinks we could recommend the vacation based on this agreement. If the vacation doesn't happen with an agreement, then there is not a recommendation.

Atty. Knaurer states the position is by actively saying in the ordinance that they are vacating as follows, I think it will happen that way. If nothing is said, the practice is it is half and half down the center line. If City Council says they want to vacate in accordance with this agreement, there is no reason it can't be approved. Atty. Foucek interjected yes he believes they have the authority if they want to do it, but it may come to them as much as a surprise as it came to us, as this is something that usually does not happen. Atty. Foucek believes that everyone is in agreement, the neighbors who are affected by this, to let this happen based on these conditions and therefore can recommend that the street be vacated so long as these conditions are met.

Mr. Cope asked what if these conditions are not met. Atty. Foucek replied then we are back to square one. Atty. Knaurer stated that is why we are doing it this way. We are agreeing and asking City Council to except our agreement and pass the ordinance in accordance with it.

Damien Brown asked would they have to come back with some type of agreement. Atty. Foucek said I don't think so, this is a legislative act and they are the one vacating the street with a specific notation. We are just a recommending body and are recommending with a little twist because of the nature of the issues on the land.

Atty. Knaurer recalled there is a retaining wall that already exists on the land that is straddling the center line and are doing this in order to avoid future problems this is the agreement. Atty. Foucek answered this is a wise thing to do and can't guarantee what will happen at City Council.

Christian Brown pointed out this seems like a conditional lot line adjustment plan. It seems a potential

course of action would be a lot line adjustment that is conditioned on council vacating the street and council vacates the street conditional on the pending plan that adjusts the lot line. There needs to be some mechanisms at the end of the day that changes the property line in a unique manner as opposed to a straight division.

Atty. Foucek believes this should be recommended conditionally, but may go to the city Solicitor's Office for assistance on how to draft the ordinance. This is not a street that anyone would have the possibility of using because of the in ground pool and retaining wall and well within the jurisdiction to recommend this street be vacated but subject to this agreement.

Mr. Cope questioned there are two lots abutting this property would it be easier if both lots were divided individually. Atty. Foucek stated probably not. Mr. Buchvalt answered once its vacated it gets split and suggested it gets vacated and the lines are corrected and the Chairman is suggesting it goes City Council as one step to see if it gets approved this way.

Atty. Foucek asked if anyone in the audience was interested in this application. No one present.

Mr. Button made a MOTION to recommend to City Council the vacation of North Lawn Street between Andrew Street and Early Street conditioned upon the lot line adjustments as described in the agreement between the parties dated June 8, 2017. Christian Brown seconded. Motion passed unanimously.

#### **LAND DEVELOPMENTS:**

**Family Dollar Store, 1735 & 1745 South 4<sup>th</sup> Street, LMA-2017-00002 & LDC-2017-00001, Preliminary/Final plan approval requested by Moonrise Acquisitions, LLC. (Tabled at April 11, 2017 meeting) The application proposes to construct an 8,320 sq. ft. Family Dollar retail store**

Mark Magrecki, RLA of PennTerra Engineering, Inc. and Gary Winkleman of Moonrise Acquisitions were present.

Atty. Foucek summarized this was discussed at the April meeting and is located on S. 4<sup>th</sup> Street. There were some matters of parking, location of dumpsters and asked the applicant to update the Commission on what modifications were made.

Mr. Magrecki distributed copies of the rendering. The last time they were here was at the same time as the South Jude Street vacation, which has since occurred with Council and is now part of the plan. The existing hedge row between the back of the Family Dollar and the neighboring property there is another ten foot which now has the compliant twenty foot and the landscaping being proposing and the existing landscaping serves as the buffer. Some of the changes made to the plan the dumpster location has been adjusted out of the front yard setback to the maximum point possible where access is available and to use functionally, a good fifteen feet back from where it was.

Atty. Foucek asked it was suggested at the last meeting to determine if Family Dollar could use a compactor. Mr. Magrecki said it was looked into, but they are not allowed to use a compactor in this location.

Mr. Magrecki continued there were a few minor dimensional changes that were made to the access drive that is below the Family Dollar where the loading dock is going. Between there and the dumpsters it is widen from twenty-two feet to twenty-four feet to comply with the zoning. Removed the last three parking spaces adjacent to the Family dollar where the access comes in from S. 4<sup>th</sup> Street, which PennDot requested be removed through the HOP application. There is a total of twenty-four parking spaces as opposed to the twenty-seven that was shown before. Adjustment were made to the location of the sidewalk along 4<sup>th</sup> Street where it crosses and replacement of the

4<sup>th</sup> Street sidewalk. The Zoning Hearing Board meeting for the special exception to reduce the parking will be next week.

Atty. Foucek asked what does the code require. Mr. Magrecki answered the code requires thirty-six spaces, one per two hundred of the sales floor area. Atty. Foucek indicated there were twenty-seven now there are twenty-four. Mr. Magrecki answered twenty-four. The store that was recently opened in Allentown is a 91,000 square foot store and has nineteen spaces. For a Family Dollar having twenty to twenty-five spaces is what they require and if they can get more the better.

Atty. Foucek asked how many employees work in these stores and how many spots are dedicated for the employees. Mr. Magrecki answered when the information was given to the Zoning Hearing Board it is maybe four to five on a shift including the overlap of the shifts. The customer turnover with trip generation about twenty-four customers on average and the turnover every half hour will need about twelve spaces plus five for employees and leave seven for peak period use times. Atty. Foucek reiterated that is a matter for the Zoning Hearing Board to rule on.

Mr. Buchvalt asked if the store could slide more towards W. Montgomery Street. If that is possible the dumpster can be moved back and obtain additional parking. Mr. Magrecki answered the pinch point becomes the end of the Family Dollar that is closest to the Jute Street, which is a fifteen-foot setback. Could look at making that adjustment to see how close it could be brought to the setback line, but that is where the pinch point occurs to Montgomery Street and did some shifting of the building two or three feet, but is close to the setback.

Damien Brown stated last time it was briefly discussed that is not on the plan is a dedicated safe pedestrian point from S. 4<sup>th</sup> Street or Montgomery Street. Mr. Magrecki answered you are exactly right and can be added to the plan, it just got overlooked. Damien Brown continued by stating continuing the sidewalk in the front of the store is an easy solution for Montgomery Street and possibly utilizing the space of one of the parking spaces that was removed toward S. 4<sup>th</sup> Street for a crosswalk. This may help facilitate the parking argument as some customers will be walking. Mr. Magrecki stated there is also a bus stop at 4<sup>th</sup> and Montgomery as well.

Atty. Foucek asked if they reviewed the June 12<sup>th</sup> staff comment letter. Mr. Magrecki answered yes and questioned comment #4 by stating they submitted a waiver for the side property line with Pizza Hut and the staff opinion on Section 1385.11B, requesting encroachment. Atty. Foucek interjected that is during the construction period. Mr. Neratko concurred. Mr. Magrecki stated then we don't need to deal with that right now. Atty. Foucek summarized then all comments are will comply including the Zoning approval and asked if they have a PennDot permit? Mr. Magrecki stated no not yet, just received the second round of comments on Monday the 12<sup>th</sup>. There are a handful a minor notes and notations, but have worked out all the handicap ramps, access issues and all the sidewalk related issues. Plans are to resubmit by the end of the week. Should have the permit in hand thereafter.

Motion was made by Damien Brown to grant CONDITIONAL PRELIMINARY/FINAL plan approval subject to addressing the comments contained in staff's comment letter dated June 12, 2017 to the satisfaction of City staff and the addition of a notation of dedicated pedestrian crosswalk access from West Montgomery Street and from South 4<sup>th</sup> Street. Second by Mr. Glazier. Motion passed unanimously.

**Appel Street Apartments, 2701 Barnes Lane, revised sketch plan review requested by Larken Associates. The application proposes the construction of 5-three story multi-family dwellings.**

Atty. Erich Schock, Fitzpatrick Lentz & Bubba PC, Robert Hoffman of Traffic Planning and Design and Mark Bahnick, Van Cleef Engineering Associates represented the applicant.



Atty. Schock explained the proposal submitted the last time they were in front of the Commission would have required the existing split zone lot in the rear portion needed a zoning designation change. After speaking with staff the thought was to put this in front of the Commission and show what the project would look like if that zoning change were enacted. The feedback received at the last meeting with what was presented was not going to work so it was decided to go a different route. Atty. Schock pointed out the three largest components of concern from the last meeting and what was done. First, there were 216 proposed apartment units on the last plan, which was drastically reduced based upon the feedback from the Planning Commission that it seemed to be too much in that area. The number of apartments has gone from 216 to 130, which is about 40% of a decrease. The second concern was what kind of traffic would be generated if you had a by right plan and how does it compare to the plan that was proposed last time. A by right plan was done and it would have been less than the plan proposed. Atty. Foucek interrupted and asked Atty. Schock to explain what a by right plan is. Atty. Schock explained a by right plan consists of a housing mix that would be permitted on the property with the current zoning and not have to ask the zoning be changed. Atty. Schock asked Rob Hoffman to explain what was changed in terms of the number of units vs. this by right plan that shows what could be built under the existing zoning and how that compares.

Mr. Hoffman handed out a traffic generation summary that compares the by right plan that consists of forty-seven single family residential units and a thirteen-unit mid-rise apartment building. The summary's focus is the forty-seven morning peak hour trips, fifty-eight afternoon/evening peak hour trip generation and five hundred seventy-six daily trips. The proposed plan consists of one hundred thirty mid-rise apartments and the morning trips are forty peak hours, afternoon/evening trips are fifty-one and five hundred and ten trips daily, which are less trips than the by right plan.

Atty. Foucek clarified then it is suggesting that a mid-rise apartment building with one hundred thirty units would generate less trips morning, evening and daily than sixty units of a combined single family and mid-rise apartment. Mr. Hoffman said that is correct, the single family traffic generation is higher than an apartment type use for reasons of a family environment, with dual people going to work, children involved, and numerous errands throughout the day. These numbers come from the trip generation manual of the Institute of Transportation Engineers, a national recognized standard on how trip calculations are generated. Within the ITE there are different calculation classifications of land uses, even within apartments.

Mr. Glazier asked if the classification differentiate between what a one-bedroom apartment will generate and a two-bedroom apartment will generate. Mr. Hoffman replied they don't get that specific. These are studies done at actual complexes that generally have that type of mix. Mr. Glazier assumed then it doesn't break it down to two bedroom or four bedroom houses. Mr. Hoffman answered that is correct. Mr. Glazier stated for the record if there are any children in this development they would have to be bussed to school. Emaus Avenue is a dangerous route so if the children go to Moser, Lehigh Parkway, parochial or charter school, you will have multiple school buses every day and this is clearly not a walking neighborhood for elementary school aged children. There is no requirement for transportation for middle school or high school students.

Atty. Schock continued by stating the third concern was the parcel has plenty of trees and what can be done about that. By showing these two plans it shows what can be done by taking the project off the roadway and getting as much open space as possible if you use a slightly denser center.

Mr. Bahnick explained the rendering for the apartment buildings have not changed. It is a three story building with twenty-four units in each building, a mix of one and two bedroom units. The former plan was for 216 units, nine buildings, a clubhouse and pool. The buildings and parking area covered the entire site except for the retention basin. The current plan goes from nine buildings to five buildings, a clubhouse, a pool, and condensed the buildings to the center of the property away from Appel Street, some environmental sensitive sites and steep slopes. The closest building to Appel Street is one hundred and twelve feet away. The new plan will have 65% open space so 2/3 of the

site will be preserved as lawn and open space, which is unusual for an apartment complex. A question was raised by a neighbor that accesses their home to the rear of the property using the existing Barnes Road and wants to know if they can provide them access as part of this plan. The homeowner has an access easement through the property, which is not defined where it has to be, but does require them access. Their home is at the rear of the property along I-78 and the new plan provides a loop road around the entire property and there are a number of access points that can have a driveway connection. The last thing on the by right plan is a mix of apartments and single families and if done without any ordinance modifications it would enable a developer develop the entire property. Oppose to having 2/3 of the site preserved as open space if you went by right by the ordinance the entire property could be developed with homes and apartments that would extent to Appel Street and no open space.

Atty. Foucek asked the by right depicts the maximum number of lots that could be put on the site and wondered with the cul-de-sacs or they in compliance with the city's SALDO with the length of 500 feet. Mr. Bahnick answered I think they are and when a plan is submitted will reflect this.

Mr. Button asked for clarification on the difference between Engineering's comments #2 and #3, which references the traffic trip generation and onsite detention basins. Mr. Geosits answered in the absence of calculations on the sketch plan, they took it upon themselves to come up with a basis and looked at the ITE condition and using this basis came up with the values included in the review. As part of the review, the calculations were asked for and are willing to entertain a deeper backup. What was provided today, does not show the multipliers and the tables that go along with it. If this advances further, obviously will have to get into more detail.

Mr. Buchvalt asked what is it zoned. Atty. Schock stated R-ML along Appel and R-L to the rear. Mr. Buchvalt asked would you be seeking a variance or seeking a rezoning? Atty. Schock answered they were asking for a rezoning of the R-L to a R-N in this instance. Mr. Buchvalt summarized overall the plan of apartments is a greater improvement to what was here before. The concern if it gets rezoned and it is decided tomorrow to walk away, a developer could come in with another apartment plan that would not be this plan that takes into account all of the comments and not sure how to tie the rezoning into this plan, if we go down that road.

Atty. Schock said he can certainly explore with the city how this was handled in the past to try to contain the risk of things going awry and someone flipping this into something that no one wants. This area of the city has a lot of zoning districts and a lot denser apartments to the west of the residents. The concern is try to preserve some of the physical characteristics of the neighborhood, but from the developer's perspective this is a great location because of the proximity of I-78 and felt this was a need in this area of Allentown.

Mr. Niesenbaum asked about the open space to the exterior what exists there now and what will it be converted into, as currently it looks like a lawn. Mr. Bahnick explained it has to be all lawn. Presently there is a single family house that is located to the south of the property and a driveway/street that extends from the house and around the property and ties into Appel Street. The balance of the property besides those improvements is currently meadow or wooded areas.

Mr. Buchvalt asked then what would it look like when the project is done with the natural features of the area. Mr. Bahnick stated the plan has not yet been designed, but based on this concept the majority of the open space would remain as it is today. If it is meadow today it will stay meadow and if it is wooded today, it will stay wooded.

Atty. Foucek stated testimony was heard last time about a property owner on the top of the hill that donated property to the Lehigh Valley Conservancy or City, is that correct. Susanne Borzak, property owner, pointed out on an aerial photo, the current driveway and the location of the house. The wooded area south of the property, is an overgrown Christmas tree farm. The property to the west is owned by the City, which was purchased through a state grant for water conservation.

Mr. Buchvalt asked how does the city get access to that property. Ms. Borzak answered they use our driveway. Mr. Buchvalt asked if this development goes through is there any easement agreement. Ms. Borzak responded she believes there is a recorded easement through their property, but doesn't really hit a street. PennDot moved the driveway in the 1980's to the current location, when 309/I-78 was widened and when the city needs to access their property they just use the driveway.

Atty. Foucek asked if the property is under agreement of sale. Atty. Schock said yes with Larken the equitable owner and a special purpose entity. Atty. Foucek asked then this recorded easement would become irrelevant because the home is being demolished. Atty. Schock stated no there is an easement to another home (Gehringer). That easement is off the same driveway across this property. Atty. Foucek confirmed then the Gehringer's would continue to have access to their home. Atty. Schock said yes and this might be the same situation with the City would come in the upper road and branch off.

Damien Brown stated traffic was a topic of conversation and the applicant is pretty confident in their numbers presented today. When looking at this property at a higher level between now and the last conversation, has there been any thought given to distributing the access of traffic to this property. At a glance it would be difficult as everybody regardless of the final use of this property will come through the intersection of Randall and Appel Streets. Mr. Bahnick stated yes thought has been given to that and the understanding is access to Appel is as described. There were a few right-of-ways that use to exist that would tie Appel Street back to the streets to the west and believes those right-of-ways have been vacated, but not certain.

Mr. Buchvalt asked if this triggers a traffic study with the amount of trips. Mr. Geosits answered I believe so. Mr. Buchvalt continues by saying then that traffic study would have to evaluate all the intersections and the level of service and if those levels dropped then there would have to be a recommendation for improvements. Atty. Schock stated that would apply if the by right plan was done or the apartment plan. It is the same situation amount and it doesn't matter which way it is developed from the improvement standpoint. Mr. Buchvalt clarified you still have to look at the intersections as far as the traffic being evaluated by the number of trips that are generated, existing volumes and that would determine if any improvements are warranted at those intersections.

Atty. Foucek addressed the audience by asking if there is a representative of the group to step forward, if not, comments will be heard from everyone as long as they are not redundant.

Christian Brown asked the Chairman to recap the Commission's purpose. Atty. Foucek explained this is in the sketch plan review and the Commission is not being asked or cannot make any official action today. We are here at the bequest of the developer, who has certain rights by virtue of ownership, legal or equitable, to the development of their property and we are here on behalf of the city and the neighbors as to how the best to go about this.

Carol Wagner, 2612 Appel Street, addressed the commission. Ms. Wagner explained she lives at the corner of Appel and Randel Streets and was wondering if there has been any study of the current traffic at Appel Street. Currently she sees maybe three to six cars a day. All toll coming down Appel Street there may be twenty cars in a day. Looking at the proposed numbers, this is a significant increase and really does not see how Appel Street, at its current width, is going to be able to handle this traffic. Another question, even with the open space, the wildlife in the area passes through the area and this would be cutting off the path of a great number of wildlife.

Atty. Schock answered the second question by explaining that is why the plan was proposed containing 65% of the property is open space. Mr. Hoffman addressed the traffic question by stating the questions being asked would be part of the traffic study, which has not been done. Ms. Wagner said it would be interesting to see what the actual traffic is on Appel Street. Atty. Foucek commented



nobody is entitled to no traffic, which sounds like what you have now. Six cars a day is like nothing. The question is any development being proposed would impact traffic and developers try to figure out best to cope with this, often time with stop signs, traffic lights, etc. This is a neighborhood that has been tucked away for many years and gotten use to the peaceful bucolic lifestyle and now confronting another property owner who wants to do something that they have the right to do. The Commission's job is to try and work out what is best for everyone concerned.

Terry Erney, 2606 Fernor Street explained he lives adjacent to the entrance of Appel Street and stated he is not here to impede progress but are trying to preserve the neighborhood and what has been established over the years. 26<sup>th</sup> Street sees ten to twenty times more traffic than Appel Street as the way the exit ramp off of I-78 is built. The traffic travels 26<sup>th</sup> Street to get to the apartments to the west or to turn around and this has made it a very congested corner. The question is has anyone visited the neighborhood and taken a good look as to how are the streets going to handle this amount of traffic. Mr. Bahnick and Mr. Hoffman both stated they have been there. Mr. Erney continued by stating he appreciates they reduced the size, but take it somewhere else with better access and all the figures will work out perfectly, but if you stuff this in an area like this, it will become very congested. Some people park their cars half way up the payment just to get off the street and a school bus has a hard time getting through.

Atty. Foucek commented he wondered if a land swap or rights could be obtained from the City to allow the construction of an access road for the cars coming from Emaus Avenue or even further down through the City property. It would not be a funnel but more diffused. Everyone has to have some willingness to do this, and you can't do that without cooperation.

Mr. Erney also addressed the Zoning purposes, the soil content on the hill and questioned what affect would this have on property value with this development. Mr. Buchvalt interjected I am sure someone asked that question when you built your house and that is not something we look at. We look at the requirements of the Zoning and Land Development ordinance. Atty. Schock said as long as they keep submitting plans, the neighbors will be coming to the meetings and voicing their comments.

Mr. Erney also stated safety and traffic are very important issues and sure everyone else would protect their area. Mr. Buchvalt stated that is why we have this process of a sketch plan, where comments are voiced and have taken this plan to where we are now. Mr. Erney also brought up the water run-off coming down the street. Mr. Buchvalt answered these are all valid points and will have to be studied. Atty. Foucek interjected that is considered in the land development process. Mr. Erney asked there is another process involved. Atty. Foucek answered this is just the tip of the iceberg. Mr. Buchvalt said if this goes further, they will have to do the traffic study, soil studies, submit to engineers, other agencies to get approvals.

Daryl Hendricks, Vice President of City Council, addressed the Commission on behalf of another colleague. Mr. Hendricks stated he has the understanding there is some wildlands conservancy or public property protected lands around this area of proposal. Atty. Foucek stated he believes that was his question before that he heard Conservancy property at the last meeting and now city owned property. Mr. Hendricks continued by asking if they have been notified of this possible development.

Mr. Buchvalt asked are we talking about the same property or two different properties, one the city owns and one the Conservancy. Ms. Borzak explained there was a brochure sent out by the Conservancy that stated people could come and walk in the woods by using their driveway to access a trail to enter the conservancy. However, the conservancy does not own the land the trail is on, but they might have some rights from the City to use the path to access Conservancy land. Atty. Schock summarized then the conservancy has property in proximity of the subject property but has the City property in between.



Mr. Hendricks additional comment is this is a significant change to the area and would request an evening meeting held so that all the people working who aren't able to get here during the daytime can attend a meeting in the evening. Atty. Foucek answered generally we resisted in doing that for a lot of reasons, particularly out of respect to the staff. It doesn't look like there is a lack of interest in this as this group is just as large as the group was a couple months ago. Atty. Foucek stated they understand the issues and the size of the group is not going to impact us as we've made decisions based on the impact of one person and sometimes ignored fifty people, depends on the substance and quality of their interest. Mr. Hendricks added as a lifelong resident of this city this is a significant change to the area and he was not aware of this plan until now. Some residents exclaimed they did not receive notice of the meeting. Atty. Schock explained as developers they are not obligated to notify anyone and is not sure what the city does. Atty. Foucek stated generally it is the property owners within a certain radius around the development that are notified by the City.

Jan Keim, member of the conservancy, showed the Commission a map showing the properties. The land adjacent to this property is city owned land and the conservancy property is further to the west and what has been preserved. Ms. Keim continued by making two points about the mountain. First she stated a man does have the right to do with his property what he wants, based on old English law, but as long as he does not harm his neighbor. As far as rezoning is concerned, court precedent in Lehigh County is that if a person buys the property under a zoning, this case R-L, they can't show a hardship and not be grandfathered in and is not titled to a zone change. That case was established a few years ago in Salisbury Township.

Ms. Keim continued by stating the importance of the mountain. This south mountain has for 1.2 billion years been a unique greenbelt that currently is being eaten away. It is just more than the wildlife and wooded area. It is an integral part of the watershed, with many underground and surface springs and streams that feed the watershed to maintain the quality and quantity of the Lehigh creek. Studies show these streams are under attack by upstream development. Atty. Foucek asked what stream are you talking about, the Little Lehigh? Ms. Keim said the west branch of Trout Creek. These hydrological streams or seeps on the mountain side are not shown on any of the maps and this mountain is considered open space according to the Lehigh Valley Planning Commission. Salisbury Township zoning adjacent is C-R, and not sure if the plan needs to be submitted to them. Atty. Foucek clarified it is not required as this property does not abut Salisbury Township and no plan will be submitted.

Ms. Keim wondered why spending all this money to develop center city, in the urban core and at the same time go high density in outer regions. The south side is saturated with apartments and now need to keep the integrity of the watershed. Atty. Foucek answered I don't disagree in principle with a lot of what was said and believes conservation and quality of life is important. This is a classic civic lesson in terms of confluence of interests. Ms. Keim reminded the Commission there is a constitution amendment the Environmental Rights that people have the right to clean air and pure water, even for scenic and historic benefits.

Atty. Foucek stated there was a City Council member here and City Council sets the zoning laws and districts, and a homeowner has the right to do, subject to review, what they want as long as they follow all requirements and ordinances.

William Lee, 2605 26<sup>th</sup> Street SW (corner of Randal & 26<sup>th</sup> Street) stated in regards to traffic, Appel Street is very narrow, but pointed out 26<sup>th</sup> & Randal Street is going to bear the brunt of the traffic and construction equipment, and not be able to support that. Mr. Lee also asked what the price point of the apartments will be. Atty. Foucek stated there was a question at the earlier meeting if it was going to be age restricted or not, but the developer wasn't able to tell us at that point. Atty. Schock answered it was looked into and the age restricted will not work. Mr. Lee then asked he heard about the rights of the developer and the City. What about the rights of the existing homeowners? Mr. Buchvalt answered that is why there are ordinances and laws about how it can be developed and

how it can be done. Mr. Lee answered it doesn't seem to be doing anywhere. Atty. Foucek answered it depends on which side of the street you are on and appreciated everyone for coming out.

Diana Fandl, 2434 26<sup>th</sup> Street SW, addressed the Commission. Ms. Fandl stated she lives on the first block off Emaus Avenue and will have the brunt of all the traffic, even though they can split off onto Appel Street or Randal Street. The street is 24-foot-wide and within an hour there may be 50-60 cars going up the street and doesn't agree with the prediction of the 130 apartments the traffic will double. The water runoff comes from Appel Street and 26<sup>th</sup> Street past our property over the curb sometimes floods out Emaus Avenue. Has there been a EPA hydrological study done because there are wetlands on the mountain. Mr. Buchvalt answered they will have to actually do a wetland study as part of the requirements. Ms. Fandl continued by mentioning there is a creek that runs along the highway, goes under the highway, towards Mack Boulevard, Trout Creek and into the Lehigh. Mr. Buchvalt stated the creek is shown on a topography map, but suggests on future plans submission show and identify the creek.

Ms. Fandl then asked if a sewer lines and drains will be installed in the area and how is the sewer line going to affect the mountain? Atty. Foucek answered it would have to be served by city water and sewer and will not allow on-site. Ms. Fandl asked then there won't be any holding ponds? Atty. Foucek answered no, except for storm water detention has to have a detention pond.

Ms. Fandl also stated they do not want the zoning change to happen as it has been like this for a long time. This is a very large project that will disrupt the neighborhood, not only when it is finished but during its construction. This will increase the population of a small area and the increase in children attending already overcrowded schools. Atty. Foucek answered those are all fair points and need to be considered however the project will move forward. These points have not been lost on the developer and they will need to make some decisions as to what they want to do and how hard they want to push. Developers don't own property to keep them in fields and forest.

Ms. Fandl asked what is the profession of the current land owner as she believes he might be a city engineer. Ms. Borzak answered he is not a city engineer he is a licensed land surveyor who works for the City of Allentown. Atty. Schock stated it was not mentioned because it is irrelevant. Atty. Foucek concurred who every owns the property is irrelevant to the Commission. Ms. Fandl thought it would be a conflict of interest.

Arthur Hinkle, 2649 28<sup>th</sup> Street SW, stated the picture looks nice, but did not see any grading and shows they will be building on a small retention pond that was built for the farm. Atty. Foucek interrupted by saying that is a fair point, but this is in a very early process and no formal plan has been submitted. In the land development process, when a developer comes and says what they intent, it will get engineered in great detail of hydrological, wetlands, slopes, watercourses, etc. are significant in the process. Arthur Hinkle also pointed out they intent to open a road, possibly Klein Street. Mr. Buchvalt interrupted whatever they intent to do they have to show it on the plan and just can't cut the road. Atty. Schock stated he obviously does not know it, but it will certainly nice to know.

Atty. Foucek reiterated he appreciates the comments, but this is a sketch plan to provide comments to the developer and suggest to what they might want to do.

An unidentified member of the Consistory addressed the Commission. She appreciates the opportunity to air concerns about this plan. The residents of the Lehigh Valley have identified the loss of open space and we are here questioning the wisdom and thinking behind yet another housing/apartment development on land identified as worthy of preservation by both federal and state agencies. Research has shown 70% of the water for Allentown and "poop" tanks are being installed on the mountain. A 1976 study by EPA did a study of Allentown's water and declared South Mountain is environmentally sensitive and a major concern and recommended no sewer lines be extended into the mountain. A regional planning study was done in 1978 and states the mountain should be preserved in its natural state. These people don't appreciate the beauty and care of the

mountain, they only care about money. Research shows 100 mature trees can intercept about 100,000 gallons of water by reducing run off, provide cooling and oxygen.

Janet Gehringer, 2524 Barnes Lane, expressed two points. The first concern is neither plan shows access via a driveway to her property and second the properties with multi-use houses, shows zoning is going to be changed. Atty. Foucek interrupted by explaining the by right plan, of single family homes, and stated that is a fair comment. Atty. Schock said that will be addressed. Ms. Gehringer asked if they can build that close to the area of the highway and the current drainage area of the neighborhood. Mr. Buchvalt said there are setbacks that need to be followed.

Aloma Zampell, 2648 Appel Street, stated she is concerned about Klein Street being open as it runs along her property and was told by a City surveyor that it could never be open, because it has been closed over thirty years. Also, she has lived on the street for 48 years and has two sump pumps in her basement that run all the time when it rains due to water running down the mountain. Deer and wildlife comes into her yard and wondered where will they go. It will be sad also to see the beautiful stone home razed, but it is there business. Ms. Zampell continued by saying she believed that South Mountain was part of the conservancy and you can't do anything on it. Atty. Foucek stated some parts are and some parts aren't. People who ran the conservancy raised money to buy people's property for the cause of preserving land. If someone want to approach the property owner and buy it to conserve, they can do that. Ms. Zampell is also concerned about the condition of the narrow roads, in bad condition and where will all the extra traffic go. Many people park on the street as they have no garages. The more apartments the more cars.

Atty. Foucek thanked everyone for their comments. Since this is at the sketch plan level, no action of the Commission is needed.

**Quebec Contractor Warehouse, 1701 Union Boulevard, LMA-2017-00004 preliminary/final plan approval requested by Union Boulevard Development, LLC. The application proposes to construct a 9,280 sq. ft. warehouse/storage building for contractors.**

Mr. Neratko stated the applicant was granted a continuance until the next meeting.

There being no further business, the meeting adjourned at 2:30 p.m.

Respectfully submitted,

  
Jeanne Marsteller, Recording Secretary