CITY OF BLUE ASH

CITY COUNCIL MEETING

THURSDAY, JANUARY 10, 2013

7:00 P.M.

MUNICIPAL & SAFETY CENTER

4343 COOPER ROAD, BLUE ASH, OHIO

CITY COUNCIL CHAMBERS

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PUBLIC HEARING -- Appeal of the Board of Zoning Appeals' decision regarding 4900 Hunt Road development plans proposed by Hills Land & Development Company: 1) an appeal by Charleston Apartments, LLC to a decision upholding a development plan that was approved by the Downtown Design Review Committee; and 2) an appeal by Timothy Lomison to a decision upholding a development plan that was approved by the Downtown Design Review Committee

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MAYOR WEBER: I would like to call tonight's meeting to order. Would you please stand for the Pledge of Allegiance.

(Pledge of Allegiance)

MAYOR WEBER: Jamie, will you please call the roll.

CLERK OF COUNCIL: Councilman Tom Adamec.

MR. ADAMEC: Here.

CLERK OF COUNCIL: Councilman Rick Bryan.

MR. BRYAN: Here.

CLERK OF COUNCIL: Councilman Robert Beckman.

MR. BECKMAN: Here.

CLERK OF COUNCIL: Vice Mayor Lee Czerwonka.

MR. CZERWONKA: Here.

CLERK OF COUNCIL: Councilwoman Stephanie Stoller.

MS. STOLLER: Here.

CLERK OF COUNCIL: Councilman James Sumner.

MR. SUMNER: Here.

CLERK OF COUNCIL: Mayor Mark Weber.

MAYOR WEBER: Here.

CLERK OF COUNCIL: Seven present.

MAYOR WEBER: Thank you, Jamie.

At this time I will convene a public hearing on the appeal from the decision of the Board of Zoning Appeals regarding development of 4900 Hunt Road. There are two appellants, Charleston Apartments, LLC and Timothy Lomison. By agreement of the appellants, Mr. Lomison will go first.

All of the testimony that we will hear tonight will be by sworn testimony. So all witnesses will be sworn in. What we will do is, I'm not going to adhere to strict Rules of Evidence like we have in a courtroom, but we're going to try to stay fairly close to the Rules of Evidence.

After the appellants are done presenting their case, the appellee, which is Hills Land & Development Company, will have the opportunity to cross-examine their witnesses. After Mr. Lomison and Charleston Apartments are completed with their part of the case, then we'll turn this over to Hills Land & Development Company to present their case. When they are finished, each of the parties will have a chance to give closing statements.

It is likely after that that we will go into executive session to deliberate. We fully anticipate a decision being made tonight after we're done. So just so you understand that.

With that said, Mr. Lomison, if you would like to -- if everyone who intends to testify tonight would please stand and please raise your right hands.

(Witnesses sworn.)

MAYOR WEBER: Mr. Lomison, the floor is yours.

MR. LOMISON: Good evening, everyone. My name is Tim Lomison. I live at 9490 Wynnecrest Drive in Blue Ash. I'm a resident of the Barwyn Acres neighborhood.

The proposal before you today should not have been approved by the Downtown Design Review Committee and the appeal should not have been affirmed by the Board of Zoning Appeals. The proposal does not comply with the Zoning Code, the plan documents adopted by the city, the orders of the Board of Zoning Appeals in the code or the restrictions in the sewer easement on that property. We are asking that City Council overturn these approvals by

affirming our appeal.

Regarding the D-1 Zoning Code, the DDRC and the Board of Zoning acknowledged that the proposal violated the Zoning Code, but they approved it with conditions anyway. Those conditions still only covered some of the code violations. Their job is to ensure that the proposal complies with the code, but they deferred their obligations to city staff members in the future. They said that approving with conditions was standard practice. That only means that they are regularly not doing their duty.

Per the code, the purpose of the D-1 district includes developing an addition of a massive plan and concept redevelopment plan, create pedestrian oriented development by integrating mixture of uses, ensure that development is compatible with surrounding neighborhoods. The proposal does not meet the purpose of the D-1 district and should not be allowed there.

Regarding the Zoning Code violations, in the D-1 code there are setback requirements. Those setback requirements require that the

building be built to the back of the sidewalk. This proposal only touches the sidewalk on a couple of points, and it does not appear like the 2007 streetscape plan illustrates.

The D-1 code also has building design requirements. In there it says that all buildings have four front elevations. The plan shows building maximums were met on Hunt Road, but it does not show the requirements met on the other sides.

In the D-1 code there's also landscape requirements. The plan shows that the trees used in the buffer yard do not meet the minimum requirements. The quality of the trees being used in the buffered yard do not meet the grade requirements either. There's an inadequate number of plants along Hunt Road and missing hedges needed near deciduous trees. The number of plants in landscaped areas that are required around the surface parking lots is not meeting the minimum either.

In the D-1 code there's also lighting requirements. In there it requires specific range of lighting covering all parking areas and walkways, which is not being met by the

lighting plan in this proposal. In addition, the type of lighting is not compatible with the city lighting in that area as required. Even the revised plan that was properly submitted directly to the Board of Zoning Appeals, which was never reviewed or approved by the Downtown Design Review Committee, still includes incompatible lighting and doesn't meet the pole lighting requirements.

The D-1 code also has parking structure requirements. In this plan the parking structure is not located to the rear of the building. The parking structure is not visually similar in character to the adjacent homes or the retail buildings next to that site. The parking structure has a different facade from the other parts of this building, yet it is so oriented towards primary street frontage, which it should not be according to the code.

In addition, there's only one exit, which was a concern the police department had in case there was an accident. Hills Properties has also said that they would use the entrance for garbage services to access a dumpster, which

would cause additional blockages at times.

The D-1 code also has sign requirements. In Hills Properties' proposal it said there would be a kiosk sign, but they did not include any details for the sign to ensure that it complied with the code prior to it initially being approved.

Regarding the lot area and density, this plan doesn't meet the setback and other zoning design requirements, so a maximum density should be applied. I'll cover more on that density in just a minute.

Conformity with the plans. D-1 says that all development in D-1 shall be consistent with the Master Plan and Concept Redevelopment Plan. The DDRC was to ensure proper conformity in its approval, and the Board of Zoning Appeals should have assured that they did, but they failed to do so.

Hills Properties has said that the Master Plan and Comprehensive Plan don't need to be referenced. They think that these plans are aspirational documents. They have claimed that since the D-1 code was updated in 2006, that it already incorporates all of the intent of those

documents into the Zoning Code. I took a look at the Planning Commission's documents and their minutes from around that time. There was no mention that the code changes incorporated all division intent from those documents. If the Zoning Code did incorporate everything from those plan documents, why wouldn't they include text stating that these documents must be used in reassigning new proposals. There would be no need for language like that if the code already included everything.

Hills Properties is also focused on the line in the D-1 code that says "unless otherwise permitted herein" to mean that the plans don't need to be followed. That line means that if the Zoning Code specifically says something is required but the plans do not, the Zoning Code wins. But the Zoning Code doesn't say you can have a negative impact on the welfare and quality of life for neighborhood residents.

The Zoning Code references the plan documents in multiple places. The Board of Zoning Appeals orders references the plan documents in multiple places. It is very clear

that these plan documents brought in by you all, City Council, are supposed to play an essential part in these approvals, but the DDRC and Board of Zoning Appeals did not follow the intent of these plans as they should have.

In the 1982 Master Plan it says that development at that site should not create a visual intrusion into the single-family neighborhood to the east. There's even an illustration that shows the residents should not have a line of sight to see any commercial properties. This document may be outdated, but the principles it outlines for how commercial interest should not impact residents is not something that has an expiration date.

This plan also includes design criteria. Part of the purpose of the criteria is to help developers foster harmony between their building and their particular sites and neighboring structures. This proposal does not accomplish these intentions.

In the 2005 Comprehensive Plan there were recommendations for this specific site as well. It recommends a compact building form with open spaces. It also has a recommendation for the

residential density, which is 14 to 18 units per acre. The proposal before you has 41 units per acre. That's over double the top end of that range.

The 2005 Comprehensive Plan also includes recommendations for the floor area ratio. The floor area ratio measures the intensity of a building on the site. In that document it says for high intensity downtown the recommendation is a floor area ratio of 0.5. This proposal has a floor area ratio of almost 1.9. That's almost four times the recommended amount.

The Board of Zoning Appeals comments from the first proposal that was submitted by Hills Properties, which they overturned the DDRC approval of, concluded that Plan 1 was too big and too dense and it does have an impact to the neighbors there. This proposal has an even bigger floor area ratio and just about as dense as that first plan. This should not have been approved by the Board of Zoning Appeals either.

The 2005 plan says the project should have broad community support. It is pretty clear that this project does not have broad community support.

The Board of Zoning Appeals also has orders and powers defined for them in Section 1133 of the code. In their powers it includes, I quote, "to interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the Master Plan." The Board of Zoning Appeals didn't enforce the Zoning Code and certainly not by using the intent of the Master Plan.

This proposal does not comply with the orders of the Board of Zoning Appeals either. In those orders it says that the proposal will not increase the congestion of public streets, which that high a concentration of units will certainly cause more traffic. It says nor materially diminish or impair established property values within the surrounding area, which I don't think anyone could successfully argue that someone will pay more for a home with a wall behind it with balconies overlooking the property and noise from a parking garage poring over it than they would pay for a home without that because people don't want to live next to an overwhelming apartment complex.

The Board has also said, nor in any other respect impair the public health, safety, comfort, morals, and welfare of the city, which I think my neighbors and I would argue that the massive, imposing structure being proposed would impact our comfort.

Nor go against the intent of the Master Plan of the city, where again the code references the intent of the Master Plan.

Will not impair adequate supply of light and air to adjacent property, which this building certainly would impact the adequate supply of light and air to adjacent properties.

One Board of Zoning Appeals member said that the 10-foot buffer and the 50-foot height in the Zoning Code already ensured that light and air were not impacted. Folks, I believe I'm more than 10 feet away from you right now, and I would say this room is maybe 30 feet high or so. Now, imagine if this were a wall in front of you going along the entire height of this building, which doesn't even come close to that 50-foot height, can you imagine that that would most likely block some light to your property. I think it's impossible to say that

it would not.

By assuming that the Zoning Code covered light and air in the setback and lighting requirements, the Board of Zoning Appeals failed to take this impact into consideration in their decision, thereby failing to satisfy their orders in 1133. They had said there was an impact on light and air when considering the first plan that was submitted, but failed to consider that for this plan.

For the first plan submitted by Hills Properties we had a shade study done to find out how much this development would impact the neighborhood residents' access to light. While this proposal has different dimensions, I think that it still effectively shows that the large structure will have a significant impact on the basic human right of access to sunlight. Hills claims that there's no credible evidence of an impact to light and air and our shade study was "not prepared professionally. It was a makeshift study in every respect."

Our shade study was prepared by Renee Martin, who is a Master of Architecture who visited the location prior to putting the study

together. This detailed study shows a shadow that would be created by this massive building during different times of year, different times of day. You could see a dramatic difference from the shadow created by the current Thriftway building and the proposed structure. During the winter we have as little as 9.2 hours of sunlight. This shading study shows that the neighboring properties would lose two hours of sunlight at that time of year. That's over 20 percent of the natural light taken away. Now, this proposal on the east side is a little bit lower than the first plan, they made the parking garage about 8 feet lower, but that's just a couple of degrees and doesn't significantly impact the amount of light that's been taken away.

Now, Ms. Martin did prepare a statement in response to the attack on the credibility of her work, so I would like to read that for you here. "The study was produced with concepts and software which I was trained during my career as both a graduate student and assistant adjunct professor of architecture at the University of Cincinnati. To the best of my

knowledge it is accurate and repeatable. It is based on calculable and measurable data, the dimensions of the houses and proposed development, and movement of the sun. The trees along the property will affect the quantity of daylight that reaches the rear yards, but I did not include true shading in the study because of the lack of observable data during the winter months, the critical period during which the tree foliage would be lessened and the daylight more precious. Not only is it impossible to accurately and precisely demonstrate the quantity of foliage, but the irregular shift in shade from trees cannot be compared to the uniform shade from a building. The photos below illustrates the open shade from bordering trees in the spring. The discrepancy between building shade and tree shade would be greatest in the winter months, when many of the trees lose their leaves. Having more reliable photographic evidence of winter tree shading conditions, I did not include the trees in my study.

On the software, this shading study was modeled in Rhinoceros and analyzed in Ecotect,

using location and weather data from Lunken Airport. The digital model was created from an 11 by 17-inch copy of the Hills Properties' proposal drawings. The Rhinoceros model and local weather data were imported to Ecotect, which produced an interactive solar projection for the given hours and dates. So the time, date, latitude and longitude along the top ribbon of each image."

There was also a shadow study submitted by Hills Properties, which is based on overhead image of the current trees. Many of the conifer trees between the proposal and the adjacent homes are in poor condition with limbs at the top that are bare, which allows a lot of light and air through today. During winter all the deciduous trees lose their leaves, which allows even more sunlight. The trees will eventually die but the building will still be there. Mr. Guttman of Hills Properties said that he would replace those trees, but that they were required by code, which would increase the impact to neighbors as time goes on. The impact of these massive walls that face the neighboring properties is much greater

than a row of unhealthy trees.

The Board of Zoning Appeals' orders also require a written finding of fact. Mr. Kirby asked no questions and had no comments during the appeals hearing, so nothing was captured in the hearing minutes to satisfy the requirement for a written finding of fact for why he voted to deny our appeal.

The 2003 Master Plan says, and I quote, "The quality of the residential areas of the city should be maintained, protected, and improved as the primary policy of the city. All other land use policies and plans should recognize this residential policy as a primary interest of the community."

This proposal also covers multiple plats. It is my belief that the lot should have had to be replatted before the proposal should have even been reviewed.

Lastly, on that site there's an easement, and in that easement there are restrictions. Part of the Blue Ash Code 1123.05 says that the Zoning Code does not waive restrictions in that easement. The easement on this site says that no structure can be built over the basin. The

city must have access through and over the easement and only a surface parking lot or playground is permitted above. This is to allow community access should the sewer fail to mitigate the damage to neighboring homes and properties. Delays, such as waiting for people to get 200-plus cars out of the garage or not being able to easily access portions of the basin without compromising the structure would cause increased damages and costs to the City of Blue Ash. The restrictions in easement are supported by similar restrictions from the Hamilton County Public Works and Metropolitan Sewer District of Greater Cincinnati.

This building should not be built. I can appreciate that it's a challenging site for a high-density apartment building and that the property has a high valuation, but it is not the responsibility of the City of Blue Ash or its residents to sacrifice their interest or quality of life for a business interest. If the developer is not willing to comply with the standards set by the City of Blue Ash, then maybe the project just isn't a good fit for that site.

The D-1 code says that its purpose is to ensure that redevelopment follows the plan documents and to ensure compatibility with the surrounding neighborhood. The footprint of this proposed building is over 100,000 square feet. That is 20 times the size of the footprint of the existing retail that would remain on that site. It is over a hundred times the size of the footprint of most of the homes in our neighborhood. Then there's four times the height on top of that. I don't see how anybody can say that a hundred times the footprint is compatible.

I'm sure there are other developers that are looking at this as a big opportunity for themselves because if for some reason you decide to overlook the code issues, the plan conflicts, the compatibility issues, the impact to the residents, and all the other concerns, this would set a precedent for them that they can cause this same harm to any other neighborhoods that abut a different zone district just to make a few bucks for themselves. This is a slippery slope and I don't want to see other residents have to go

through this same ordeal or worse. No one wanted to live next to Target of Blue Ash.

The Board of Zoning Appeals failed to ensure that the proposal complied with the Zoning Code, they failed to ensure that the proposal met the intent of the Master Plan and Concept Redevelopment Plan, as their orders and Zoning Code dictates. They failed to follow their mandate of the code, and they failed to ensure that the well-being and quality of life for the residents of Blue Ash was protected. We are thankful that there's an appeals process which allows this wrong to be righted. We ask that you overturn the erroneous approval by the Board of Zoning Appeals.

I would now like to turn it over to Jean Staubach for a few additional comments.

(Applause.)

MAYOR WEBER: Jean, before you start, ladies and gentlemen, we're trying to keep outbursts of support or nonsupport to a minimum. I would really appreciate if you would show everybody the courtesy of not clapping or anything like that when someone is finished. All right, thank you.

MR. TRAUTH: Mr. Mayor, a point of procedure. Will cross-examination be allowed?
MAYOR WEBER: Yes, yes.
MS. STAUBACH: Good evening.
MAYOR WEBER: As a matter of fact, Jean, why don't we bring Tim back and let Mr. Trauth cross-examine him right now.
MS. STAUBACH: Okay.
MR. TRAUTH: Mr. Lomison, what year did you buy your home?
MR. LOMISON: I did not purchase my home. My wife had purchased it prior to us meeting.
MR. TRAUTH: When did she purchase it?
MR. LOMISON: I believe it was 2009.
MR. TRAUTH: And you were aware of the zoning next to you at the time, the zoning of that property?
MR. LOMISON: Yes. I was aware that it was downtown district. I was glad because I was hoping there would be more opportunities to help keep me in Blue Ash.
MR. TRAUTH: And are you an engineer?
MR. LOMISON: No, I'm not.
MR. TRAUTH: Are you a land planner or a Zoning Code expert?

MR. LOMISON: No, I'm not.
MR. TRAUTH: What is your occupation?
MR. LOMISON: Currently I'm a senior manager/assistant administration.
MR. TRAUTH: And Renee Martin, the person that did the shading study, she's not here tonight; is that right?
MR. LOMISON: No, she's not. Not to my knowledge.
MR. TRAUTH: Did she ever look at or compare her study with the Hills study on shading?
UNIDENTIFIED SPEAKER: Can we get him to speak into the mike more?
MR. TRAUTH: Did Ms. Martin ever compare the Hills shade study with the one that was done by her?
MR. LOMISON: I can't answer, I can't speak for her on that.
MR. TRAUTH: You did not ask her to make that comparison?
MR. LOMISON: No, I personally did not.
MR. TRAUTH: Okay. And you've been at all the hearings on this matter?
MR. LOMISON: That is correct.

MR. TRAUTH: And you heard the deliberations of the Board of Zoning Appeals in approving the Hills' plan?
MR. LOMISON: Yes.
MR. TRAUTH: And you also heard the Downtown Design Review Committee deliberations approving this matter?
MR. LOMISON: Yes, I did.
MR. TRAUTH: Thank you. No further questions.
MS. STAUBACH: Thank you. My name is Jean Staubach. I'm a 24-year member of the community. I'm one of the newest residents of Barwyn Acres, and I moved to 9495 Wynnecrest Drive. Tonight I'm speaking solely as a resident of Barwyn Acres.
I want to talk to you about the community and the neighborhood and the special place that Barwyn Acres is. I know about the neighborhoods in Montgomery and Blue Ash through my years of residence in those neighborhoods. Over the years for various reasons I have walked every single street and neighborhood in those two cities, and I can tell you that Barwyn Acres is unique and

special.
I shopped for housing twice in the last five years, both times looking for modest, affordable housing in a top-quality school district and a top-quality neighborhood. The first time I was assisting and advising my daughter, who was a first-time home buyer. The second time was earlier this year for myself as I downsized from a larger home in Montgomery. In both cases Wynnecrest Drive in Barwyn Acres was the solution.
I could see the map of the Blue Ash Master Plan, I knew that the old Thriftway property was zoned D-1, and I was very excited about the mixed use plan for this property. It would bring additional retail and restaurants to the area and would attract more permanent residents to Blue Ash.
You're well aware of the problem that first-time buyers and downsizing retirees and empty nesters have in finding high-quality, modestly sized and priced housing in this area, and especially Blue Ash. The Barwyn Acres neighborhood is this type of neighborhood. The homes are modest in size, built in an era where

craftmanship was valued. The neighborhood currently has a mixture of age groups, ranging from older retirees, some of them are even in their 90s, to young people who are thinking of starting their families. The neighborhood takes pride in their homes. Just drive down the street and look at the yards and you will see that we care about our neighborhood. We're close to downtown Blue Ash, we have easy access to the Blue Ash services and easy interstate access. We tolerate the congestion in traffic when we leave our neighborhood, but we enjoy the peacefulness and privacy of our backyards.

I'm asking you to protect the quality of life that we have in this neighborhood. The Blue Ash Master Plan requires that business development must be compatible with the neighborhoods. I believe that this project, Mr. Ian Guttman and the Hills Development Group are not compatible with this vibrant and unique neighborhood. They are not community focused and have not been good partners with the residents.

Aside from the fact that downtown Blue Ash already has abundant housing vacancies,

Mr. Guttman has not behaved as a good neighbor to us or to the City of Blue Ash during this process. He has presented misleading information in his presentations to the Downtown Design Review Council and to the Board of Zoning Appeals. For example, he compared traffic from his complex to a thriving grocery store, then compared the taxes generated to an empty grocery store.

He has said this development is unique, but it is not as he has pitched almost identical models in many cities, including Lexington, Dayton, West Chester, Montgomery, and Madeira. He has tried to influence you, Blue Ash City Council, to get favorable treatment, and at one point tried to bargain his Plan 1 for favorable timing for his appeal. Each time Mr. Guttman presented a plan, he emphatically stated it met all the codes and then would put forth another plan and another plan with adjustments and at that point would say that really met the code.

Mr. Guttman has threatened our residents and your Board of Zoning Appeals. He threatened one woman in the neighborhood that

he would cut down every tree and replace it with the minimum size permitted. He also threatened Blue Ash Board of Zoning Appeals that he would come back with another plan that would be worse than the current one and they would have to approve it because again it would completely meet the code. On top of that he's worked to split up our neighborhood by asking to meet with us individually and in one case inappropriately asked for a hug from one of our female neighbors. He offered another neighbor unspecified compensation and offered another one some shrubs for their backyard.

The neighbors initially asked Mr. Guttman to reduce the height of the building, and he insisted the only way to make it work was for it to be four stories tall. And when this plan was denied by the Board of Zoning Appeals, he submitted a modified plan with some three story tall sections. It was only when his initial plan was denied by the Board of Zoning Appeals that his staff approached and invited the neighbors to discuss possible solutions.

The results of these meetings are the plan you're looking at tonight with so-called

short and basic concerns of the neighborhood, including noise, density, balconies overlooking the homes, the opposing nature that the size, height, and proximity to our homes creates and the earlier sunsets we will experience. This massive apartment complex is not compatible with the residences adjoining the property and will drastically degrade the quality of life that our residents have at Barwyn Acres.

We're asking you to follow the City's Master Plan documents and make sure the residential areas of the city are maintained, protected, and improved as the primary policy of the City. Thank you.

MAYOR WEBER: Mr. Trauth.

MR. TRAUTH: Yes, just a couple questions.

Other than the attack that you just made on Mr. Guttman, do you have any substantive matters to bring before City Council with regard to this appeal and the record that they have to review to determine if there's anything erroneous in the record?

MS. STAUBACH: I was not speaking to the record, I was speaking to the quality of the

neighborhood and how we've been treated in the neighborhood.
MR. TRAUTH: Okay. So you have nothing specific on the appeal?
MS. STAUBACH: Yes, this is related to the appeal.
MR. TRAUTH: Well, I'm talking about the record on the appeal, is there anything that you believe that the Board of Zoning Appeals did incorrectly in accordance with the Zoning Code of the City of Blue Ash?
MS. STAUBACH: Yes, they did not adhere to the Master Plan documents that says that the residential areas of the city come first and should be maintained, protected, and improved as the primary policy of the city.
MR. TRAUTH: And that's it?
MS. STAUBACH: Yes.
MR. TRAUTH: Thank you.
MR. TERAUDS: I would like to have an opportunity to cross.
MAYOR WEBER: You may.
MR. TERAUDS: My name is Alex Terauds. I represent Charleston Apartments. I am the director of finance for the management company

that oversees Charleston.
Do you believe the value of your home will be impaired if they build this structure?
MS. STAUBACH: I believe it could be impaired.
MR. TERAUDS: That's all.
MAYOR WEBER: Mr. Trauth.
MR. RAHE: Good evening. My name is Tim Rahe. I live at 4981 Ridgecrest Drive.
MS. STOLLER: Tim, hold on a second.
MAYOR WEBER: Sorry.
MR. RAHE: My name is Tim Rahe. My property is the closest property to the proposed apartment complex. I've addressed each of the council members directly and multiple times over for some of you. I've been in front of the Board of Zoning Appeals up here and in front of the Council several times, so I'm going to be brief. I'm more the emotional part of the puzzle because my property value I feel is going to be the most negatively impacted.
I have four major concerns, and they just -- really from Tim's presentation. The very first one and the major one is the

retention basin that he pointed out. That easement, I have very strong feelings, being the closest property to the proposed development, that the danger, the potential danger of something happening to that basin would impact my house as well as the downtown and my neighborhood. The safety concerns I have are great. I feel very strongly, and I'm sure a lot of my neighbors do, we do not want something built over that basin for safety factors, and we do not want the city to give up the right that you have to say nothing should be built on that per the plat and very strongly want to voice that.
The second item is density. The density, and you can see in two different things where one figure was double and one figure was four times. The other part of the Master Plan that wasn't brought up was about the sustainability of projects in the city, and as has been brought up over and over with the zoning Appeals or the zoning Board that I think they overlooked and incorrectly is that the area is saturated with transient housing. As Charleston jumped into the mix as far as

against this, Park Manor, not being fully filled up and half of it is a field, it just lends itself -- we don't need more. And we do want, from the very beginning, we do want development but it's just too much.
So the density is a big factor for me, especially because I'm right up against, and as Tim mentioned, a building that is football fields long and it is so high that for me, and that's the third thing, is that the quality of life for me and my property, I'm the one that's -- I don't have no light, no air, diminished air and light and people looking down into my backyard. The quality of my life would be, it would be just crazily negative.
With those four things, my major, major concern is the negative impact on my property values and how it will affect me personally, being the closest one, and my neighbors in different increments probably from that, but very strongly with the safety and the property values are my two biggest concerns that I think you should take under consideration. Thank you.
MR. TRAUTH: Mr. Mayor, I really don't

have any cross-examination.
I do have a couple of procedural matters to bring before the Council. One is this issue of the detention basin, number one, was not brought to the attention of Council until December 26, which I believe your attorneys will tell you is beyond the appeal period.
Secondly, it was not a matter that either the staff, the Design Review Committee, Downtown Design Review Committee or the Board of Zoning Appeals considered because it's outside of the scope of zoning. Thirdly, it's a matter that is a plat matter that deals with construction issues that would be determined when Hills comes in with a plan and construction plans to be approved. And so it's premature even to consider that particular issue. It's not part of the appeal at all and it was not raised until after the appeal period had already run.
If you recall, the appeal period ran probably a month before the December 26 date, and I can give you the exact date. I believe the minutes were completed somewhere around October 12th -- I'm sorry, November 12th, or

before that, I'm sorry. We have those dates, but it's beyond the appeal period, and I've brought that to the attention of your Council.
MAYOR WEBER: From my perspective, I would like to hear from Council, but it just seems to me you can't hear this case in a vacuum that doesn't involve factors that will affect whether or not this is grantable or not, and I think the idea that there are options that you have as the developer here, but we can't just erase the fact that there is currently an easement on a recorded plat that states certain things that have to be adhered to or waived. And, you know, that may be a process that may even make this hearing tonight premature, but, nevertheless, I'm not, from my chair, I'm not going to ignore the fact that there is a detention basin underneath that parking lot and there is an easement that the city has across that property for the purpose of maintaining that detention basin.
MR. TRAUTH: Right, and we'll address that. All I'm saying is that it's not part of the appeal and it is for a process later.
MAYOR WEBER: Well, obviously it's been

addressed by a number of people prior to this hearing from Hills, and I'm not prepared to say that it isn't part of our deliberation. We can decide it isn't, but I'm not going to just make that call right here. When we deliberate, we can talk about that.
MR. TRAUTH: We'll get into this in our case in chief, but just for reference, on February 24th we sent a letter requesting City Council consider that matter. It wasn't considered at that time, but the city engineer, who sat in on all the hearings, was well aware of that issue, the staff was well aware of that issue, the city engineer was well aware of that issue. So we'll get into that in our case in chief. I just didn't want to make it an appeal issue from the determination of the Board of Zoning Appeals since it was brought late, number one, and, number two, it's not relevant to this particular --
MAYOR WEBER: You have to understand one thing though. We're deciding tonight whether to permit the construction of this project, and a large factor that we are obligated to look into would be that detention basin and the

things that could be done to make building over it appropriate or inappropriate.
MR. TRAUTH: Right, and again we'll address some of that, but what I'm saying is that's not part of this appeal, and I think the record will reflect that it's not part of this appeal.
MAYOR WEBER: I'm going to hold my decision in abeyance and let's hear what you have to say.
MR. TRAUTH: Thank you.
MR. RAHE: With all due respect, sir, with all due respect, it is part of the process. The zoning Commission --
MAYOR WEBER: Tim, we're not going to argue that right now.
MR. RAHE: Okay, yes, sir. Thank you.
MAYOR WEBER: Mr. Lomison, are you finished?
MR. LOMISON: Yes.
MAYOR WEBER: Mr. Trauth. Oh, wait a minute, we have Charleston.
MR. TERAUDS: Good evening. Again, my name is Alex Terauds. I'm the Director of Finance for the Connor Group. We manage

Charleston Apartments. We are appealing the October 8th, 2012 Board of Zoning Appeals' decision to uphold the DDRC's approval of the third iteration of the proposed development at 4900 Hunt Road.

Charleston abuts the proposed project, and it is used for multi-family residential use. The reason for the appeal is that the decision of the DDRC and the BZA is arbitrary, capricious, and unlawful. The development as approved by the DDRC does not comply with the Blue Ash Town Center Concept Redevelopment Plan as Section 1159.02(a) of the Blue Ash Planning and Zoning Code requires. That section requires the DDRC to review all plans for development in the D-1 district in which the 4900 is located to make sure that the development is consistent with such redevelopment plans and assure proper conformity with it.

The proposed 4900 plan calls for 235 apartments and 235 parking spaces. The density is 40.69 units per acre, which is more than double that prescribed by the Concept Redevelopment Plan. The proposed 4900 does not

meet the prescribed number of parking spots, which is two for every unit.

Without limiting the foregoing discussion on 1159.02, Section 1159.05(d) of the Zoning Code states there's no maximum residential density in the district provided the residential uses meet the setback, height, and other site design requirements. The proposed plan conditionally accepted by the DDRC and upheld by the BZA does not meet all site design requirements. The proposed plan violates landscaping requirements, lighting requirements, and signage requirements.

According to Dan Johnson's testimony at the BZA hearing on October 8, the conditional approval required corrections to the landscaping and lighting requirements, but there was no condition put on the signage. Thus the plan that was conditionally approved violates the design requirements, meaning there is a maximum density requirement under the section of the code and the plan must meet the prescribed density of the Concept Redevelopment Plan. It does not, and again actually is double what is prescribed.

Section 1133.05, Orders, mandates that in considering all appeals the Board shall, before making any finding in a specific case, first determine that the proposed change will not materially diminish or impair established property values within the surrounding area. Charleston is aggrieved because Charleston's value will diminish significantly as a result of the project being built with a density higher than prescribed.

How? The proposed project will bring excess supply to the area that has an anemic demand for the resident profile being targeted by the project. This anemic demand is evidenced by the high vacancy levels at Charleston, 8 percent since we purchased the property and 13 percent today. I believe Hills testified at the BZA hearing that the submarket vacancy is 5 percent. They also mentioned Palmera Apartments, one of the recent developments, is a hundred percent leased. I would like to make a note that being leased doesn't mean occupied. There can be vacant units that are leased.

They said 4900 and Palmera are the same

submarket. I'm assuming they were trying to suggest that the supply and demand dynamic is the same as the 4900 site. What they did not say is that Palmera is over 15 miles away or a 25-minute drive from the 4900 site. The demand and supply characteristics are completely different. Do not be fooled. When professionals value a property, they primarily look at the demand and supply in a one to three-mile radius, not 15 miles. Also, Palmera is likely leased up due to them offering promotions during lease-up to absorb the unoccupied units at rental rates well below market levels. Development usually takes two years to stabilize after construction is completed.

The best barometer of the demand level is Charleston. We share the same resident profile as that proposed by Hills. Charleston offers the same amenities mentioned by Hills in the BZA hearing, a resort style swimming pool, a residential clubhouse, a fitness center, a private parking garage, and an elevator. Charleston has high-end upgraded units, which we will even upgrade further. Young

professionals and empty nesters live in our community.

The significant excess supply will create even higher vacancies at Charleston, lower rents, and since we will be targeting the same residents, a less desirable resident with a higher delinquency risk will be allowed into our community. Multi-family properties are valued based on the income they generate. Our income level will decrease and the value of our property will decrease as a direct result. We will rent our apartments to less qualified residents that are uncharacteristic of the City of Blue Ash. The proposed plan was passed despite not meeting code and Charleston is aggrieved.

Lastly, as far as it relates to residential value, I was recently searching for a home myself. I was searching up in the Liberty Township/Mason area. I looked in Heritage Point. I saw this amazing house in Heritage Point online, great pictures, great house, and it was at a great price. When I met the Realtor at the house, we realized it abutted Palmera, Hills' development that they

just built out there. The landscaping mound and the trees that were put there to obstruct the view of the apartments were not satisfactory. We quickly left. It was not even an option, regardless of the low price.

Along with the legal reasons why 4900 should not be built, I ask each of you to think about this when you make your decision tonight. There's been a housing bust in our country, home values have declined. Everyone has suffered from that. Putting a permanent -- we have a hope that there will be a housing rebound in the future. When you put up this apartment complex, there will be no hope for these neighbors. That will directly lower their value. Thank you.

MR. TRAUTH: Mr. Terauds, are you an attorney?

MR. TERAUDS: I am not.

MR. TRAUTH: I thought you said that you were the attorney for --

MR. TERAUDS: I do not believe I said attorney.

MR. TRAUTH: When we went back in the room --

MR. TERAUDS: No, I never mentioned I was an attorney.

MR. TRAUTH: Okay. You're familiar with the appeal letter, are you not?

MR. TERAUDS: Our appeal letter?

MR. TRAUTH: Yes.

MR. TERAUDS: Yes.

MR. TRAUTH: And you said there were 235 units in this plan?

MR. TERAUDS: About that.

MR. TRAUTH: Are you aware that it's 218?

MR. TERAUDS: It's still a high density.

MR. TRAUTH: Are you aware that it's 218?

MR. TERAUDS: No.

MR. TRAUTH: Are you aware that it's three and four stories and not four stories overall?

MR. TERAUDS: Sure.

MR. TRAUTH: Except your appeal letter says four stories, it doesn't say three and four, correct?

MR. TERAUDS: Correct.

MR. TRAUTH: And are you aware that the number of units has the same density as Charleston?

MR. TERAUDS: It is. I do not know actually what our density is.

MR. TRAUTH: All right. In your appeal letter you said 40 for the Hills development. It's really 37.74, correct?

MR. TERAUDS: I trust your math.

MR. TRAUTH: And your density is approximately 37.4, correct?

MR. TERAUDS: I'm unsure.

MR. TRAUTH: Okay. Now, you're concerned about the competition, correct?

MR. TERAUDS: Incorrect.

MR. TRAUTH: It sounds like you are. It says --

MR. TERAUDS: I am not.

MAYOR WEBER: Let the man finish his question, please.

MR. TRAUTH: It sounded in this appeal letter like you were concerned about competition.

MR. TERAUDS: We are not.

MR. TRAUTH: Do you have granite countertops in your units?

MR. TERAUDS: We do not.

MR. TRAUTH: Are you familiar with the

expression that rising tide rises all ships?
MR. TERAUDS: Yes.
MR. TRAUTH: And if the Hills luxury units were built, do you not believe that it would be an asset to Charleston to bring more people into the community?
MR. TERAUDS: We do not.
MR. TRAUTH: Why, because of competition?
MR. TERAUDS: No.
MR. TRAUTH: Why?
MR. TERAUDS: Excess supply.
MR. TRAUTH: Isn't that competition?
MR. TERAUDS: No.
MAYOR WEBER: Please, I don't want to hear any outbursts from the audience.
MR. TRAUTH: Thank you. Nothing further.
MR. LOMISON: I have just one question. What year was the Charleston Apartments built?
MR. TERAUDS: 1991 or 1992.
MR. LOMISON: I just want to confirm that it was well before the 2005 plan that has those residential requirements.
MR. TERAUDS: Correct.
MAYOR WEBER: Are both appellants now finished with their cases?

MR. TRAUTH: Thank you, Mr. Mayor, Members of Council. Good evening. My name is Joe Trauth. I'm with the law firm of Keating, Muething & Klekamp, 1 East Fourth Street, Cincinnati, Ohio 45202.
MAYOR WEBER: Please speak into the microphone.
MR. TRAUTH: I represent Hills Land & Development Company with regard to their proposal to redevelop property which they own at 4900 Hunt Road, known as the former Thriftway site. I've had considerable history with this particular site in that our firm represented Thriftway when they originally developed their corporate offices in this particular Thriftway store as a high density retail use.
I am sure that your very competent legal counsel has informed you that City Council, the seven of you, is reviewing tonight the record and the decision of the Board of Zoning Appeals, who voted to approve the Hills development as being totally in accordance with the Blue Ash Zoning Code and specifically the D-1 zoning, that personal opinions about what

you think should go on this site are not part of this, these legal findings this evening. All of you members of Council, I believe with the exception of one, were here in 2005 when the 2005 Concept Plan was passed with no objection from the abutting neighbors, and were here in 2006 when the D-1 development section of Blue Ash Zoning Code was amended to implement this particular Concept Plan.
A key section of the D-1 Zoning Code is 1159.02(a) which states, "Unless otherwise permitted herein, all development in the D-1 district shall be consistent with the plan approved in 2005 and adopted by ordinance 2006-20."
The Planning Commission staff through Mr. Dan Johnson testified that he believed that this particular plan you're reviewing tonight meets your D-1 Zoning Code in all respects. The Downtown Design Review Committee and the Board of Zoning Appeals all, all three have found that Hills with its proposed plan is totally compliant with the D-1 Zoning Code and other sections of the Blue Ash Zoning Code. Again, when the D-1 zoning was adopted in 2006

by this Council, there was no neighborhood objection to that zoning, and as a matter of fact, the D-1, being the implementing organ in the code for the plan, is what controls. In other words, the D-1 Zoning Code and the overall Zoning Code trumps the plan.
Hills started this process over a year ago, and the plan that has been approved by the Downtown Design Review Committee and the BZA is the third iteration -- it's actually the fourth iteration but the third iteration of the plan that we asked the city to review. And that was only after Hills carefully listened to the concerns of the neighbors, the concern of the DDRC members, and the BZA.
The D-1 Zoning Code at 1159.05(b) requires a minimum of a 10-foot setback. This plan provides for four and a half to five times that required setback. It's 46.6 feet from the property line to Building A; it's 54.8 feet from Building B to the property line, and 46.6 feet from the garage. And this was done after careful planning and iterations and loss of units. In addition, 1159.05(b) clearly states that there is no maximum residential

density in the downtown district. That goes without saying. It's very clear in the code. The density is consistent with Charleston Apartments, as you just heard from Mr. Terauds. The density is consistent with other units in the downtown area.

The proposed development will not only give the downtown area a shot in the arm, but the entire City of Blue Ash, with increased real estate taxes, increased income taxes, both short-term for construction and long-term by the residents of the apartment complex, and it will more importantly give increased population to support the local retail.

This site has sat relatively vacant for I believe somewhere in the vicinity of 12 years, and the whole reason you all undertook the 2005 planning and the 2006 D-1 Zoning Code revision was to revitalize. This plan does that.

The plan proposed meets the D-1 Zoning Code as has been recognized by staff, DDRC, and BZA. The developers reduced the height of the building from the 50 feet allowed by the code and again, like I said, increased the setback on the east by four and a half to five and a

half times the required 10 feet in the code. These voluntary concessions substantially reduced the number of units and consequently rental revenue to the tune of $3 million over ten years.

The appellants have raised issues that are not part of this appeal and have been raised after the appeal time had run, which I previously mentioned. The recently raised issue about the detention basin has been on the table throughout this entire process and has been favorably voted upon by the city engineer on three separate occasions. The detention basin access on the east side of the detention basin will remain just as it is today, open for access, and instead of entering through a grassy area, you'll now enter through a paved area. So actually access to the detention basin is improved. It is open for access and open for maintenance. In the 30 years plus that the detention basin has been there, it has required very, very little maintenance, if any, and there will be no increase in the cost of maintenance and no decrease in the access.

The proposed garage will not be supported

by the detention structure in any way. No part of the garage will be supported by this detention basin structure. As a matter of fact, the detention basin was designed, I believe, for a 500-year flood, I recall that from my Thriftway days when I represented them, and upon recent inspection, the water level had never reached above about 4 feet, and that's even with some silt inside the detention basin. In addition to that, the detention basin I believe is maybe 10 or more feet high, and we'll show some photos of that in our presentation.

The final design of the garage has yet to be determined and will be reviewed by the city at the construction drawing phase of the project. That's where we believe this issue has to be addressed. The detention basin issue should not be part of this particular appeal and it is an issue that the city will address once the construction drawings are submitted.

Michael Copfer of Hills and other witnesses will present a PowerPoint to address any other concerns or questions that you might have. We believe that you will see the

overwhelming evidence in the record from the BZA and in the DDRC clearly supports that this project is 100 percent compliant with Blue Ash zoning regulations and that the DDRC and the Board of Zoning Appeals were correct in their decision and should be upheld. Thank you.

MR. LOMISON: Excuse me, Mr. Mayor, as a point of order, will I have the opportunity to cross-examine their attorney?

MAYOR WEBER: No. He is not a witness.

MR. LOMISON: Okay.

MR. COPFER: Good evening. Thank you for having this meeting for us tonight. My name is Michael Copfer, and I'm the Land Acquisition and Development Manager for Hills Properties. Also here tonight for Hills Properties is Mr. Glenn Brehm, our Vice President of Land Planning. Hills' principals in attendance are Mr. Ian Guttman, Mr. Louis Guttman, and Mr. Brandon Guttman. Also here this evening are Mr. Greg Dale of McBride Dale Clarion and Mr. Jim Watson with McGill Smith Punshon.

The subject of these proceedings tonight is the property known as the former Thriftway location right here in downtown Blue Ash at

4920 Hunt Road. As we can see, it's within D-1 zoning within the City of Blue Ash. Now, when I say D-1, what does that mean? That means downtown. And when I say the word downtown, what do people think of? You think of lots of people walking on streets, you think of vibrancy, you think of taller than normal buildings, you think of a lot of activity, and that's exactly what our concept plan was designed to create and the D-1 Zoning Code is designed to implement.

As you can see from the D-1 map, that the properties both to the north, to the south, and to the west are all within the D-1. However, the properties located in Barwyn Acres to the east are all within R-3 zoning. So what do we do when we have a property that's within D-1 that is next to R-3? Luckily as we go through this presentation, you'll see the code tells us how to address these issues.

We presented Plan 1 on April 11, 2012 to the DDRC, and on June 11th it went to the BZA. The DDRC passed it. However, the BZA had some issues with it. So we listened to their feedback and what they said.

Now, while this is the plan we would like to build because it contains 235 residential homes and will create a greater economic impact for downtown, we've listened to the feedback that they've given us, as well as myself and Clint Green on three separate occasions have met with residents of the Barwyn neighborhood, on July 3rd, on August 1st, and on August 14th. We offered to meet them wherever they wanted, and they suggested our headquarters, which is located right across the street from the subject property on the west side of Hunt Road. So that's where we met, and all three times we listened to their feedback and we were able to incorporate portions of their feedback into the plan which I will show you.

Currently we're here tonight with Plan 3. Plan 3 was approved by the DDRC on August 22nd, and the BZA affirmed the plan on October 8th of 2012.

Again, this plan is representative of impact from both these boards as well as from the neighborhood. It's important to mention that we believe that this Plan 3 is a hundred percent compliant with the D-1 code. It is our

intent that it is such. If not, show us where it's not and we will make it compliant because that is our intent with Plan 3, to be compliant with your code. And I think we'll see as we go along where we've made changes to it in both the DDRC, which had previously rejected a plan, approved this plan because it's now compliant, as well as the BZA, which had previously rejected this plan, approved Plan 3 or held it up on appeal.

Now, this is a rendering of Plan 3 as seen driving down Hunt Road. What you notice about this is that 4900 will be a high-quality, top-of-the-market rental home community within the City of Blue Ash. Now, while it's true we are a successful apartment developer and we do own apartments in Kentucky, Ohio, Indiana, we own apartments in Texas, we've done things all over in multiple states, this particular design has never been built by us. We brought in architects from Chicago to specifically capture the unique characteristics of this site, both in shape and its location within the downtown area, which is slightly different from other communities we've also successfully developed.

I'd also like to point out the high-quality finishes on the exteriors here. You can see that this represents brick and this represents cementitious fiber and stucco panels, and that's the predominance of the exterior elevations. That breeds downtown and it breeds of urban style community when you look at it, just what downtowns need such as Blue Ash.

Now, what has not changed between Plan 1 and Plan 3 is that this will be a high-end rental community. As such, it will have a resort-style swimming pool, it will have a residential clubhouse, it will have a fitness center, it will have a private parking garage. What is unique about this parking garage is that all the buildings are positioned in a way so that people from each building can walk into the garage without having to first go down steps and then walk along the parking lot to go up into the garage. While some communities within Blue Ash do have garages to some of the units, all of the units do not offer you the ability to be able to walk directly from the garage to the residence without going outside first. This development will do that based

upon the central location of the garage and both A and B buildings connected to the garage itself. That is a unique attribute that we think will be very successful in making this project community very successful.

Also elevators, our elevators are strategically positioned so again all the buildings, all the residential homes in all the buildings have access to the elevators, not just a few limited number of residential units. Every single unit can walk to the elevator and go up and down. I think this is extremely important. Given the fact that this is located in the downtown area, we envision a lot of foot traffic coming in and out of here and making it very accessible to people going in and out of these buildings and walking around downtown and shopping in the businesses and restaurants.

Also we're projecting, we've done it successfully in other communities that we've recently developed, that this is going to be predominantly a young, professional demographic and empty nester demographic. Therefore, we think that the elevators and garages will be key for that empty-nester demographic and also,

since this will be higher-end young professionals, a lot of times they have cars that they really care about and they want garages to park them in instead of being outside.

The interior finishes of these rental units will be higher than any interiors currently available within the Blue Ash submarket. We're going to have crown molding in all the residential homes. All of the homes on all the floors will have 9-foot ceilings. They will all have tall cabinets, they will all have granite countertops, they will all have stainless steel appliances, not a few scattered here and there, they will all be built to the top end.

What do I mean by top end? These are pictures of a community we currently built at Palmera. These are actual pictures of our community center there and another community center within it as well as a fitness center. These are the same high-quality, high-end finishes that we're proposing for 4900. Also, you can see a depiction of what our interiors will look like within the residential homes

themselves in both of the bottom pictures.

So this will be a unique product offering that is not offered in Blue Ash. It is hard to find close by probably for miles within this demographic area. It will appeal to both young professional and empty nesters. So we think we are going to be highly successful with these high-end amenities.

Now, who's the expert on the apartment market within Greater Cincinnati? The premier multi-family housing advisory and brokerage within the Central Midwest is CB Richard Ellis, and they will continually calculate supply and demand measurements within the Greater Cincinnati/Kentucky marketplace. And Blue Ash at 4900 is located within this northeastern submarket of Greater Cincinnati and Northern Kentucky. Recently we did complete Palmera, which is also located within the central submarket, but it's located to the north.

Now, Palmera is 360 residential units, and it's been an amazing success for us. There are great specials on this. If you go up and try to rent an apartment within this area right around it, you'll see this is the top of the

line, the most expensive units you can find in this marketplace. In fact, apartment community owners down the street from us are happy we've come in because we're bringing more traffic to the area and bringing more people. The issue that we have at Palmera is that it's 98.3 percent occupied. That's occupied, that means people living in there. Why is it not a hundred percent occupied? Because it's been -- the original units have been there for a year, and we have professionals moving out, transfers to different cities for their jobs and things like that. So you always have some people moving in and out of apartment communities once you've gone through the first cycle. We were still in the middle of the first cycle last time, so we had not come to these expirations which we have come to now. So, again, we're 98.3 percent occupied. We also have 122 people on a waiting list waiting to move into Palmera.

We believe we can build and bring the same high-end community, which I challenge you to find within this area, to Blue Ash and we will have the same success that we have had at Palmera.

Now, CB Richard Ellis numbers, they indicate that the overall marketplace is 94.7 percent occupied as of July, the most recent figures we have from them. However, this northeastern quadrant that we're talking about is 96.6 percent occupied. What you see is that of all the submarkets, this is the highest occupied. Also historically that was true going back a number of years. What that tells us is that there's a high demand for apartment rental homes within this northeastern submarket. Now, why somebody would be performing underneath that, I'm not here to discuss that tonight, but this tells us the marketplace that we surveyed, all the apartment markets in the northeast quadrant, which is what CB Richard Ellis does, they're 96.6 percent occupied, indicating a high demand.

Well, maybe they're giving stuff away, right? Well, what does the rent tell us. They also track rents, and we see the overall rent in July was 81 cents per square foot per month. However, if you notice, the northeastern submarket is at 91 cents per month. And again

historically it's the highest going back multiple years. So what we see is not only is there a big demand, but they're also paying a premium price, again showing us that there is a demand within this submarket for rental homes. And as Palmera has showed us, if you provide a newer product with the higher amenities that are demanded today, you will capture a greater share of that because that's what people are looking for. If they're not finding that here, they're going other places, they're not settling for less.

We also see from the CB Richard Ellis figures, from 2011 to 2012 the highest increase in rental rates was in this northeastern submarket by 7.7 percent. So not only is it the most occupied, it also brings increase in rents, showing us a strong vibrant demand within this marketplace. Why somebody would be under the 96.6 percent, I can't explain that because our communities are at that or above. Our portfolio right now as a company is at 96 percent, and obviously our newer higher-end ones such as Palmera are at a higher rate than that.

What this slide shows us is that there's approximately 1,351 total rental apartment homes within the Blue Ash submarket currently today, and if we construct 4900 with 218, that number will go up to 1,569. What this shows is that when 4900 is built, it will be just under 14 percent of the total share of the apartment marketplace. As a result, naturally other communities would lose potentially their share if it was apples to apples.

The worst case of this would be less than 3.5 percent by Deercross Apartments. You can see individually the loss of market share is pretty insignificant, and we believe that it doesn't exist because people were after a different demographic than is typically currently living here. Why can I say that, because the last community built was in 1995. Charleston was built in 1992. That's, what, 20 years ago. Now, is a house built 20 years ago the same as a house that is built today? No. Things have been increased and things are going to be nicer. It's not going to compete. It's going to bring a different demographic and residents to this marketplace. In fact, we

believe it will be a spinoff because people will come to 4900. They will be excited to see what's offered in downtown Blue Ash. They will see the new restaurants and different retail will be coming about because we've brought another 350-plus residents to live within the downtown area, and they'll say, gee, I can't get in 4900, there's a waiting list, so, all right, let's go see what else is available. So we think there will be an influence similar that we've seen in Palmera in that marketplace with the apartment communities around here due to 4900.

Now, that's great, CB Richard Ellis, but why are you going to attract this higher demographic and have a high occupancy? Part of that is because we're members in good standing with the Northern Kentucky, Greater Cincinnati Northern Kentucky Apartment Association, with The National Apartment Association, and with the National Multi-Family Housing Council. Now, why is that important? That's important because all of these agencies put out best practices. We follow those best practices. They also have and require standards of ethics

of how you run and conduct your business. We follow those standards of ethics. If a company doesn't follow the standards of ethics, they're not allowed to belong to these organizations.

In addition to that, in 2005 we were awarded, voted by our peers as the best property management company in Greater Cincinnati and Northern Kentucky. That's quite a statement that our peers vocally voted us the best. We also have won national awards. In 2006 Hills was ranked as the best in its industry for its size of companies on customer service throughout the whole country.

So we take property management serious. The communities that we build and that we own we continue to manage, and the same will happen at 4900. In fact, I would argue that 4900 will be run at an extremely high level because it's right across the street from our corporate headquarters, and owners of the company and the decision-makers will be driving by it every day making sure that it's top-notch.

Now, we talked about what's been the same, it's the same high quality. So what did we work on to change that got people to agree

that this meets it. Plan 1, the front of it was set back from the road to allow additional parking. What we've done with Plan 3 is we've moved both Building A and Building B all the way up to the sidewalk line as the code requires.

How about on the east property line bordering Barwyn Acres, what have we done there? Well, you can see the original buildings were, have lots of rental homes facing the east, opening into the trees, which is a nice, pleasant view. After several meetings with the residents, particularly August 1st, one of the residents suggested, gee, it would help if you turned the buildings. So we went back to our architects and they then turned Building A and Building B. So what that did is allowed more of a break in the buildings through here. We also lowered the residential homes on the ends down to three stories instead of the four stories as was in the rest of the plan. We've also shifted this building setback further to the left. What this allows us to do, it allows us to keep the existing brick wall that's there and also keep the mature

trees that are there as well, so those will not need to come down as the other plan may have required. Again, this isn't our favorite plan but we've done this as a goodwill gesture to the neighbors.

Is this exactly what they want? No. What they've indicated they want is they want two stories. Well, the issue with two stories is that's the minimum in the code you can build downtown, and the plan we'll get to in a minute doesn't even talk to two stories on this. Therefore, I could do nothing to make them happy on the plan if I built three and four stories as the downtown Concept Plan talks about. So this is our effort and the best that we're able to do.

What this shows is what that elevation looks like. Plan 1 noticed that the garages are open and that the residential buildings are four stories. What Plan 3 has done is the residential buildings have lowered to three stories here, and that's actually a building, that's a further back part of the building. So you can see there's numerous balconies here. We've reduced the balconies that there are now.

We've also agreed to add louvers to the garages here. The code doesn't call for this, but again we're trying to be good neighbors and respectful. So what you can see when you look through this louver, you can't see behind it. It also has insulation inside of it, so what it does is it dampens the sound and prevents light from coming out of the garage, therefore, not impacting the residents to the east.

In summary, the changes that we've made is the front setback has been moved from Building A and B up to Hunt Road; the parking was removed from the front yard; the existing brick wall and mature trees will remain on the east property line. We've turned Building A and B so the courtyards open to the east of the property line. We've lowered buildings facing the east property line to three stories. We have reduced the number of balconies from 48 to only 12. Again, we would prefer to have more facing that direction. Now we have more of the residents who will be facing the parking lots to the north and the south, not as attractive a view as looking into the tree canopy that's to the east. We've also agreed to add the louvers

to the garage along the east property line there.

So overall this shows how the views will be predominantly this way instead of this way. So this gives us a plan for Plan 3.

Now it's important to point out we did not -- this property is part of Zone D-1. We are not asking for a zoning change. The zoning is already in place and different plans are already in place. All we're asking, as we believe we're a hundred percent compliant, is to look at our plan, show us where we're not compliant, and we'll change that because our goal is to be a hundred percent compliant with your code. We're not asking for changes in code or changes in zoning. We're just asking for what's already in place that was put in place by six of you here tonight.

Now, this is driven by the code, and 1159.02(a) of the code, which has been talked about numerous times tonight, a key part of it says "unless otherwise permitted herein." After that it says, all development in the D-1 district shall be consistent with the plan approved by the Council as set forth in the

Master Plan for the development of Downtown Blue Ash in 1982, and adopted, the ordinance is given, and the supplemental Blue Ash Town Center Concept Plan that was done in 2005. The Downtown Review Committee shall review all plans for new construction and building additions and ensure proper conformity in its approvals.

What this says, unless otherwise permitted within, this is within the code, permitted within where, that means within the code. So if your plan is permitted within the code already, you go no further in looking at the rest of that line because it's already permitted. This is unless, if you're asking for an exception. We were asking for no exceptions.

Now, I know this is our opinion, but this has come up in other meetings. For example, from the meeting transcript from the BZA on October 8th, on pages 114 and 115, Mr. Mike Duncan asked Bryan Pacheco, Deputy Solicitor, "can you restate what the 'unless otherwise permitted herein' means?" Mr. Pacheco stated, "It does talk about the plan of '05 and '82,

and it says to be in conformity with those plans unless otherwise permitted herein. Meaning if it complies with the code, you don't look at '82, you don't look at '05, you look at the code."

Now, with that said, we have also looked at the plan, we're talking about the Downtown Master Plan. And it's a key thing about how does the Downtown Master Plan and how do the Zoning Code interlink? Well, we can go back to the process where that was put in place. Back on March 2nd, 2006 at the Blue Ash Planning Commission the record shows for approval of the Downtown Master Plan Mr. Thompson, Assistant City Manager, explained that after the plan is adopted, the City will review and propose changes to the D-1 district regulations to implement the plan. So once the plan is approved, the D-1 district regulations, the Zoning Code, that is what implements the plan. The plan doesn't implement itself. Those proposals will go through the zoning amendment process.

Mr. Thompson emphasized that this is a concept and that the legislation will clarify

that the plan does not adopt specific building concepts or zoning regulations. Ray Schafer, Chairman of the Planning Commission, mentioned that the 1981 plan also provided only guidelines. So here we have the Chairman of the Planning Commission telling us also that the other plans referenced here tonight provides guidelines as well as the purpose of this plan is to provide guidelines.

Now, why was the plan even needed, what was the purpose of having this downtown plan? If we go back to the record again on April 27, 2006 at the City Council meeting on page 2 of the minutes, the Assistant City Manager, David Waltz, commented that the purpose of the updated plan, this is the 2005 Downtown Development Plan, is to assure that downtown remains economically viable in the future. So right there he's telling us the purpose of creating this plan and going through this exercise is to make sure that downtown remains economically viable. He stressed that the plan recommended in concept -- is conceptual in nature and not meant to be a blueprint of specific change. He stressed that rather than

focusing on the pictures included in the plan, it is important to recognize the real component that future marketing conditions may encourage mixed-use development and increasing density for downtown. So the concern was not density, the concern was increasing density, the concern was that downtown remain economically viable.

What do we see in downtown Blue Ash today? If you walk around downtown today, the way I have through this whole process, you'll see that currently we now purchased the former Thriftway building, which just sat there for years. Right next to that we see space available at 4856 Hunt Road. Across the street at Town Square Center there's space available. Next to Subway on Kenwood Road there's space available. In Crossings At Blue Ash there are two spaces available. Blue Ash Town Square has space that's not being utilized. The former Montag's is not being fully utilized. Also 4932 Cooper Road next to the LaRosa's, a prime location, has vacant space.

Economically viable does not mean we see available signs all over downtown Blue Ash. What we should see in downtown Blue Ash is the

owners of these retail buildings should have waiting lists for tenants wanting to move in because it's such a great, vibrant place to work, play, and live. This is what we see at Palmera, we have waiting lists. We want to bring that to 4900, waiting list to help spur and be the catalyst to bring more people, 350-plus living right within this area.

This shows the location of 4900 and the dots here indicate all those available signs right here, next door, across the street in an easy walking distance, you don't even have to get in your car, walking distance to 4900.

Now, the history of developing and passing the plan. When the plan came to Council for approval, an addendum was placed on the front of the plan and, in fact, it was Mr. Sumner I believe who requested that this addendum be read into the record before there was a vote on this plan. And what does this addendum say? Council addendum to Blue Ash Town Center Concept Redevelopment Plan, "First and foremost, the attached plan is intended to be a conceptual document. It provides a framework for discussion of a potential future

for downtown Blue Ash. The attached plan is not an implementation strategy or document." And that "not" is actually capitalized and underlined on the addendum itself.

Also City Manager Thompson, he stressed that the conceptual nature of the plan and the desire for more residential density and more pedestrian-friendly features, including additional streetscaping features, are what this plan is entitled to do. So right here on the addendum of the plan it's looking for more residential density and it's saying this is just a concept. It's not the law. We'll see what the law is in a second.

So the Planning Commission then took up the D-1 Zoning Code amendments on August 3rd, 2006. The Zoning Code amendments, the D-1 code remember, as we've seen already, is the implementation strategy of this plan. I think Council had the first reading of the plan on November 6, 2006, and on December 14th it was adopted. And, again, I believe with the exception of Mr. Adamec, that everybody else was part of that and it passed with a unanimous 7 to 0 vote, the same way it had passed through

the Planning Commission. So both the Concept Plan and the D-1 code that implements it passed with unanimous vote by both bodies as it went through the process.

What's interesting is when you've gone through the record, which we have, you notice that the residential complaints or comments or problems from the Barwyn neighborhood and residents is silent. There was a public hearing process on the plan at Planning Commission and on -- where it talks on increased density, as well as on the plan when it went to Council, as well as on the D-1 code when it was at Planning Commission, as well as on the D-1 code when it was at Council, and the record shows it's silent on residents complaining about the downtown, which they knew was right next to them and has been there.

Now, when we look at the code itself, continuing on the code now that we've covered the here within, we see that 1159.05(c), buildings shall be set back a minimum of 10 feet from all other lot lines when abutting uses in a different zone. Okay, we have D-1 against R-3. If you're D-1 against D-1, you

don't have the same requirement. This is the requirement if you're against a different district.

So what does Plan 3 have on east property line against a different district? It has 46.7 feet of setback on Building A and 54.9 feet on Building B, and the garage is 46.7 feet. So the closest we are to the east setback line is 46.7 feet, over four times the 10 feet that is required by the code which you guys passed as being acceptable for a D-1 district that's next to another district.

This is another aerial that shows this is the required 10-foot setback line, and you can see where Building B is 54.9 feet back, the garage is 46.7 feet back, and Building A is 46.7 feet back, way back past what is required by the code.

Now, what do we do for landscaping buffer if we've got a D-1 next to a different district? Well, luckily the code tells us. It says that when the D-1 district is abutting all these other districts, including R-1, what we have marked through, which is more intense, when the D-1 is against R-3, what do we have to

do? There's specific requirements here, some options -- you can have a brick wall as part of it, another one you can have different plant material as part of it. We believe our plan that we've submitted a hundred percent meets this landscape buffer requirement, and if not, show us where it doesn't and we will be happy to get the proper trees and the proper shrubs that are listed right here to make it comply.

Now, we could go in and we could take down all the existing trees that are there now, but it would be our preference not to do that because we think they're a superior screening. But if somebody wants us to take those down, we'll be happy to do that. But we believe the plan that we've submitted, Plan 3, is a hundred percent compliant with this landscape buffer.

Now, there's existing trees there now. This is a view from the front of the existing Thriftway structure showing an existing brick wall, which will remain, and the existing trees, which we endeavor to keep as well.

This is a picture, this is behind the Thriftway, current former Thriftway building here. You can see Glenn Brehm, who is standing

right there, and these are the trees behind him in that particular location.

This is from CAGIS, and what this shows is the 2011 aerial view. This is in the wintertime, so what we see is the deciduous trees don't have their leaves, but we can see the green canopy that is provided by the conifers that are there.

This is what happens in summer. You can see the drastic increase in the backyards there when the deciduous trees have their leaves. I mean, I don't see a lot of light because of the massive trees that are there, some people were complaining about light, but there's a lot of trees there already affecting the light element.

This is a bird's eye view again in the winter looking from the south, looking north of the current trees that are there.

This is a view from the opposite way, from the north looking south with the tree canopy that's there in the winter. Again you can see no leaves on the deciduous trees.

What we then did is we went onto the parking lot, we went approximately 40 feet up

to see what the trees looked like there. This is an image that we took. You can see the recycle dumpster there. Therefore, this is in the front and this is kind of looking back the other way, the tree canopy from up in the air.

Now, is this tree canopy perfect? No. We've seen examples where there are gaps, and we are going to fill in those gaps. We're required to fill in those gaps per your code. But to say it's not there and has no effect would not be correct either.

So we've had our professional architects perform a shading study, and what they did is they did it different times of the year, we picked the equinoxes and the solstices, and we looked to see what would the impact be with Building Plan 3, not with Building 1. As you saw with Plan 3, we've shifted those buildings around there so there's gaps in between those buildings. We've also lowered those from four to three stories. So that will have an impact on shading studies that was not reflected in the information that they've presented here. Also they give no trees to the tree canopy. I'm not saying the canopy is perfect, but to

say it has no effect I don't think is correct either.

So what we see is what is the shading effect when you have trees and when you're using Plan 3. So the existing tree canopy effect is in the purple color. The lighter blue color is the shadow effect from 4900. And obviously we see the effect that's coming -- this is at night. Obviously in the winter it gets darker earlier, so you don't have any effect. This is in the morning, and the sun is coming from the east, so all the shadows are going to the west. As we go on in the day, the sun comes down and around and goes like this. What we see is the only place in all of these where there's an overlap where the blue comes through the existing tree canopy is down here, and the effect is located way up here. Part of the reason for that is we didn't put in trees that are in this location because in September there will be trees with foliage in this location and we did not include those in the study. So you can see there's not an impact from this professionally done study that we had that's based on the correct current plan and

based on the trees.

Now, in past meetings we've gone through different approvals, there have been different slides and studies that have been shown. One said this is a before view of someone's backyard, look at all those trees, and then they said this is the after. Remember, Plan 3 we're not cutting any of those trees down. So you're going to see all these trees from that view. Might they be able to see through there, maybe, but it's not this effect that's been shown in other meetings and alluded to tonight with different angles.

Also, as I've already stated, their shading study uses the wrong, incorrect plan.

Now, that was dealing with setbacks. Then we also have height. 1159.05(a)(1) states the maximum height of principal buildings, the maximum height shall be 50 feet. So what that means is we cannot build anything over 50 feet. So what's the height of Plan 3 of 4900? The three-story heights along the east property line will be 38.4, the four-story heights will be 45.2, and the garage heights will be 42.5. All below the 50-feet requirement as the D-1

code requires.

This is a visual representation of that. It shows where the 38.4 heights are with three stories, and back further we have the 45.2 heights on Buildings A and B, as well as on the parking garage.

Now, to sum all this up, what does the Zoning Code require? It requires a 10-foot setback, it requires no higher than 50 feet. What has Plan 3 done? Plan 3 has gone back 46.7 feet and the three story has only gone up to 38.4, where we voluntarily reduced it from four to three stories. You have to go back another 35 feet to get to the 45.2 feet. So to say that our plan, you're going to stand here and 10 feet in front of you is where it is is not true. Your code allows for that, but that is not what our Plan 3 is asking for in the text.

And the question of light and air comes up, and we believe this has been met by the setback in height. That's why you have those in the code, to mitigate, control that kind of an element. So what happened at the BZA meeting? Mr. Mike Duncan asked, "One of the

items that was mentioned by Hills was that the Zoning Code and its setback requirement has addressed the requirements for air and light, and is that typically the case, does the setback imply that the code itself has looked at and because of the setback has addressed air and light?" And the Community Development Director for your city answered "Yes." So not only are we in agreement but your staff who is administering this agrees with that statement as well.

It's been brought up that we've not met the front setback, which is 1159.05(b)(1). All buildings with frontage on Hunt Road between Kenwood Road and Cooper Road shall be built to the back of the public sidewalk. As you see, by taking these buildings and moving these up, we've done that. Now, who has agreed that we've met that? Your DDRC has agreed we've done met that. Who are the key people that talked to us specifically about pulling it up and getting it to work right? Well, one was Ray Schafer, he's the chairman of your Planning Commission, and two of the other ones were Mr. Mike LeVally, he's an architect, and

Mr. Stan Better, he's an architect. So we've got two professional architects not related to us that were on your DDRC that have previously said, no, you don't meet the front setback and you've got parking in the front, and looked at Plan 3. In the past they've voted us down. Guess what they said on Plan 3, congratulations, Hills, you've done it. You listened to us, you moved it up correctly, you got rid of the parking in the front and, yes, this does meet our D-1 code.

Then we go to, it's been brought up that 1159.05(d)(4), there is no maximum residential density in this district provided the residential uses meet the setback, which we've shown tonight, the height, and other site design requirements. We've asked you to show us where we've not met the height, the setback, and other design requirements because it is our intent to do that. Therefore, as your plan had asked for, let's increase density, let's make downtown vibrant, your code reflected that and says there is no maximum residential density if you meet the height and setback. Why are those important? Because what if there's a different

use. Your plan has already talked about a different use, that's why the height and setbacks are in there, and we've met those.

Also it's been brought up what about the neighborhood compatibility. Is Plan 3 for 4900 neighborhood compatible? In answer to a request by Ray Schafer for clarification on 1159.01(e) to ensure neighborhood compatibility with surrounding neighbors, Deputy Solicitor Bryan Pacheco said, back on August 22nd at the DDRC meeting per page 7 of your minutes, in talking about what the purpose is and the 1159.02 states unless otherwise permitted herein, which means if it fits the code, meaning that the code is a recognition that it does ensure neighborhood compatibility. Therefore, your code has already been put in place, already taken into account with neighborhood compatibility, and since we meet the code, it is compatible with the neighborhood as you prescribed in your code.

This is also an aerial photo where we've placed 4900 Plan 3 where it will be located. Notice we have Charleston Apartments to the south and Town Square Lofts here. All

multi-family residential communities right in this area as the plan, which we'll see in a minute, calls for. Notice the setbacks are very similar between the communities, as well as the heights are similar, and it fits right in. Here we have buildings at Charleston right here, here's the houses of Barwyn Acres -- or here's the closest house here to Barwyn Acres. These two houses are closer to Charleston than we will be to this one house. So we are compatible with the neighborhood.

Now, 1159.07(d), whenever possible -- it's been brought up that we need to have two different entrances. Well, your code says, "Whenever possible, parking lots, with bays containing more than 20 spaces shall provide ingress and egress at both ends of each parking bay or parking lot." First of all, we have a parking structure, which is handled further down in your code in detail specifically. So we're not a parking lot, we're a parking structure. And it says whenever possible. Does it say must, does it say have to? No, it says whenever possible.

Now, 1159.07(j)(2 has been brought up.

"All parking structures should be located in the rear of the building to the maximum extent feasible." It says where feasible. Does it say always has to be, does it say it has to be that way? No, it says where feasible. Here's the back, as has been determined by the city, of our property, here's the front. This garage has been pushed to the back. Do we want to push it to the back further? People are saying we're too close now. We've kept it further back than the 10-foot setback. So we believe as feasibly possible we have put the parking garage to the rear of the property as the Zoning Code requires.

Also, "Vehicle entries to off-street parking structures shall be integrated into the placement and design of adjacent building or oriented away from the primary street frontage." It doesn't say and, it says or. So what have we done, we've done integration. Here's the front of the building where the parking garage is. Can you tell where the parking garage starts and where it stops in this facade? What we've done is to show you, this is what you're seeing right here in the

plan. So the parking garage goes from here to here. It's pretty hard to determine where it starts and stops because, what have we done, we've integrated it into the design as your Zoning Code requires, thereby meeting that requirement in the code.

Again, unless otherwise permitted herein, we believe we meet the code and, therefore, the plan of '82 and '05 are conceptual documents. Now this plan, the architect in this was Menelaos, and this was done back in 2005. The reason why I didn't talk about or discuss -- do we ignore the plan, no, we looked at the plan and incorporated it where we could as it's intended as a conceptual document.

We've already covered the fact that on the front you've placed the addendum that says it is a conceptual document and it's not an implementation strategy or implementation documentation. But interestingly enough, it has uses and where do you think uses are appropriate within the D-1, and if we note the Thriftway property, here it is an R. The key says R is residential. We also see mixed use is purple and core commercial/mixed use is red.

Across the street we see the core commercial/ mixed use and at both ends of the D-1 we see the mixed use. The plan itself from a use standpoint within the plan itself is telling us that it would like us to be residential. Well, look, it's right next to the residential here, right next to residential there. That makes sense, and that's what we've done. So to say other uses, we would rather see other uses here, that's fine, but the conceptual plan that this body agreed to said it would like to see, if possible, residential there.

Housing at high density is a major key to success and needs to be given priority. Within the plan on II-7 it states that density is key and needs to be given priority, which is what we've done with our plan.

It also says that projects will require public subsidy. That's because they'll contain parking garages and things like that when dealing with suburban areas like this is being in downtown. The issue is we're not going to require any subsidy. We have not asked the city for one dime in developing 4900.

In fact, we're going to increase the real

estate taxes from this property, we're going to increase the income and payroll taxes, both during short-term construction and in the long-term because not only do you have employees working here, we'll also have 350-plus people living at 4900. I would assume that a fair share of those do not currently live within the city and would then be subject to the earnings tax, which I believe it's 1.25 percent within the City of Blue Ash. Also we will bring increased population to help support the local retail and will be a catalyst for additional development in downtown. People will see how successful we are when they see we have a waiting list like we have in other communities that we've developed. They will want to be here and be part of the vibrancy and the renewal of downtown Blue Ash and we'll get rid of those available signs.

Now, real estate taxes. Currently it's a fact that the property is being taxed, and we know that the current taxes on the property are $84,762 a year. Of that the City of Blue Ash gets $3,929 a year, and it's interesting enough to know that the school district gets $54,723 a

year. Based on the increased value of us taking an underutilized property and putting 218 high-end, top-of-the-market residential units, we will increase the value to an amount that the projected real estate taxes will be $488,412 a year. That's $403,000 more than the current amount. When you look at that in ten years, that will be $4 million. When was the last time this property was occupied and working as a high-valued asset within Blue Ash? It's been quite a number of years. Well, within a short time, in ten years, we're looking at $4 million of just real estate tax value, not including the payroll tax value that this property will generate.

Now, it's true this Concept Plan does give aspiration for the Thriftway site. It says it envisions a residential development. That's consistent with what we saw on the purpose diagram a couple slides ago that you guys intended this to be a residential development, not some other kind of use, which is what we're doing. It also says it makes recommendations, it doesn't say you have to, but it makes recommendations for quality

in-fill housing at a density of 14 to 18 units per acre. Now, we are quality in-fill housing, but what about the density. We've talked to the guy that put this together, and he said they were just what's a typical density, they focused on -- the goal of the plan was to maximize density, it wasn't focused on any particular property in trying to limit what a property could do. So he said -- we'll get to his comments on our plan in a minute.

It also said there should be open space amenities. You see our swimming pool and that we're going to have open space amenity. We've also shown you, you've seen the high quality of what our facade is going to look like. 4900 will have identity, it will be known as the top-of-the-market rental community within this area.

It also said the building height should be at three to four floors. So it doesn't say it should be at two floors, as some of the neighbors wanted, it says it should be at three to four floors.

It also says parking will be provided in garages integrated with the units or in a

single garage structure. That's what we've done, we've created a single garage structure centered to the building so they can all use it.

So every, a hundred percent, met every part of the recommended aspiration, no. Have we met quite a few elements of it, yes. Where possible we have. But where we haven't, we've gone the increased density, which is where we see in the plan, part of the goal of the plan was to increase density and increase economic vibrancy.

Now, this is the plan itself and this is the Thriftway site right here. A couple things of interest and to note is that a plan for a street to go right back here along the Barwyn Acre neighborhood, so we would be losing some of that tree landscape buffer that's there. It also took this building and it put the building right behind the closest house. So clearly when this plan was put together, it wasn't envisioned that that was going to be an issue. Now, our buildings are further away from that.

This is kind of a close-up, you can see the street, how the trees and stuff stop there

and we don't see that. Along this way you can see how they put the building closest. We pulled that back and we've got that opening in that general area as much as feasibly possible.

What this also shows is here's the existing storm vault. So the plan that you approved, you thought it was okay to have residential buildings on top of a storm vault already. We'll get to the storm vault as we go through the plan.

Again we see the street that backs up to Barwyn, this is their site right here. We see the street that backs up to the Barwyn Acres. Again, these buildings, you can see how Charleston goes back a little further and these are pushed up closer. You saw from the earlier aerial that our -- we're more consistent being back further than what this plan anticipated.

So how tall are these buildings? The diagrams that are put in here, we have one, two, three, four stories, one, two, three, four stories. So they're showing four stories. We have done three and four stories, again trying to make a goodwill gesture to the neighbors to our east by reducing it when this plan shows

that even a picture in the plan had four stories.

So we took our plan and walked the site, we went with Menelaos, who was your architect putting the plan together, and he testified under oath at the DDRC on August 22nd, this is in your meeting notes on page 3, "He, Mr. Menelaos, feels the plan submitted by Hills is a well thought out and designed plan that does meet the D-1 requirements and meets the purposes of the Town Center plan and vision." So his opinion is that Plan 3 meets the plan that you put together.

Also, what are other people saying about the plan? At the August 22nd DDRC meeting, Mr. Dan Johnson, your Community Development Director, says he believes that Plan 3 satisfies the code and meets the intent of the Comprehensive Plan. So he's agreed with Menelaos, that Plan 3 meets the D-1 code and that we meet the purposes of the Comprehensive Plan.

Again, this plan I'll show you is more for reference purposes, it's a conceptual document, it's not an implementation strategy.

So in addition to try to ensure that we are compliant a hundred percent with the plan, we went out and we asked Mr. Greg Dale with McBride Dale Clarion to look at our plan and tell us where we don't meet it. You're familiar with McBride Dale Clarion. From looking through your planning and your D-1 code notes, I noticed they're mentioned a lot as a consultant you've used in the past on your planning and on your zoning issues. So I'll now turn it over to Mr. Dale.

MAYOR WEBER: I think before you do, I think Mr. Lomison should have the opportunity to cross-examine you.

MR. COPFER: We can do it now or we can do it --

MAYOR WEBER: Why don't we do it right now.

MR. COPFER: Okay.

MR. LOMISON: Just to clarify, it is your assertion that your Plan 3 meets 100 percent of the D-1 code without exception?

MR. COPFER: Yes.

MR. LOMISON: Did you have a chance to review the markup of the D-1 code done by

Mr. Johnson that notated several areas of the D-1 code that were not met by the plan prior to the DDRC meeting?

MR. COPFER: And we've agreed to make it meet all those areas.

MR. LOMISON: Okay. But the plan as submitted did not meet those --

MR. COPFER: The plan -- at the DDRC meeting the comments were made. We submitted a plan that did meet it when that hearing was taking place.

MR. LOMISON: Thank you.

MR. COPFER: And as we've seen Mr. Johnson testify that it meets it per his comments in the notes from that DDRC meeting.

MAYOR WEBER: I've been advised by our counsel, Mr. Terauds, that since you are not admitted to the practice of law, that it would be the unauthorized practice of the law for you to cross-examine these witnesses. You can testify as a witness, but you are not to be able to cross-examine these folks because you're not an attorney.

MR. TERAUDS: Mr. Lomison --

MR. VANDER LAAN: That's true.

Mr. Lomison is permitted to do so because he's representing himself. You are representing -- you are here in a representative capacity. You are not the appellant yourself. This is for your own protection, trust me.

MR. COPFER: Mr. Dale.

MR. DALE: Thank you, Mayor, Members of Council. My name is Greg Dale. I am here tonight as a community planner. I am a principal with the planning and zoning consulting firm of McBride Dale Clarion. I have about 30 years of experience as a certified engineer. I'm certified by the American Institute of Certified Planners. I can answer more questions about my qualifications if you're interested. I'm really here to provide kind of a professional planning perspective.

I know that you all have been active for quite a while now. I'm not going to repeat at the same level of detail that Mr. Copfer just went through, but I do simply want to make two what I think are critical points because I think when we cut through all the material you've heard here today, in my opinion there

are really two critical issues. And that is, number one, for reasons that I will try to explain, the only issue that is here before us is whether this proposal meets the requirements of the Zoning Code, and I will particularly address this issue of the relationship to the plan and, number two, that I believe for all the reasons that you've heard that it does in fact meet those requirements, and I would like to take those one at a time.

I think there is a fundamental misconception that's being created about the relationship between plans and zoning. From a professional planning perspective in general, and in Blue Ash in particular, the relationship is the plan is a statement of policy, the zoning is the law that implements that policy. The zoning is the aspiration -- or the planning is the aspiration, the zoning is one of the legal tools to implement that aspiration. And in particular the sequence that is acknowledged as being the appropriate sequence, no great secret to this, is you do the planning, you try to determine what your aspiration is, and then you implement that in that sequence. And

that's general practice in planning and zoning, and when you look at what Blue Ash has done here, the City of Blue Ash has done it exactly that same way.

Section 1123.06 of the Zoning Code is actually interesting to note, it hasn't been talked about very much, and that language says specifically the Zoning Code has been made in accordance with a comprehensive plan. Now, notice that is not a D-1 provision, that is at the very beginning of your Zoning Code. That establishes this idea, the way it's been worded, has been made, that the plan is done and the zoning is done to implement that plan, the zoning is done in accordance with that plan. So that's not an idea that's unique to this D-1 district. That's not an idea that's unique to the D-1 and the Town Center plan. Your entire Zoning Code is set up that way. It is done to be in accordance with the Comprehensive Plan.

You've heard a lot of detail about the legislative history. What I mean by that is in the minutes of the various meetings where it was clear during the adoption of the plan and

during the adoption of the zoning that that was exactly the sequence you're following. I don't know, frankly, how much more clear it can be when City Council puts on an addendum, not in the plan but on top of the plan when they adopted it, "not," capitalized and underlined, "not an implementation document" as if there were any question that City Council wanted to head off in terms of whether or not this plan is in fact a regulatory or implementation tool.

And then further that "unless otherwise permitted herein" language that you've heard discussed I think also makes it clear, and I do think it's important to recognize that your own legal counsel has advised the boards along the way to that very point, that if the application meets the Zoning Code, then the plan does not apply.

So that's why I conclude that that's really the critical issue before us. And I would suggest that Council think about this. One of the appellants made the point earlier about the precedent that you might be setting. If Council were to make a precedent that a comprehensive plan or the spirit of a

comprehensive plan can trump the zoning regulations, that zoning regulations that otherwise comply can be overturned because of language in the zoning regulations that talk about conformity to the comprehensive plan. If you think about that, any application, whether it's a residential deck permit or a new business or anything else, that meets the requirements of the code that's not asking for any variances that is granted could be appealed and the City could then overturn that approval simply on the basis that it is not consistent with the Comprehensive Plan. If that's the situation, if that's the precedent that were granted, zoning would be chaos because there is then no predictability in your process. And that's why this idea that the zoning is the tool to implement the Comprehensive Plan.

So the question in my mind really comes down to a simple question, does it comply with the zoning. And, again, I'm not going to go through all of the details of what you just heard. I would really like to do it more at a kind of summary level. I do think it's very important to keep in mind what has been said

here, and that is that this application presents no request for variance, no request for modification, no request for exception. Frankly, I'm not sure if I know of any other instance in my career where an appeal has been made from a Board of Zoning Appeals' decision when there was no variance or exception or waiver that's requested, and for that matter that exceeds the zoning regulations. You probably hear, maybe not very often, but if you hear appeals of Board of Zoning Appeals or you go to Board of Zoning Appeals, the vast majority of them typically are people who have asked for variances or waivers. None have been requested here, and I think that's important to understand.

So let's just look at the zoning very quickly and kind of deconstruct zoning, what does it deal with, what are the clauses that regulate. Let's just take those one at a time.

The use. There's no question this is a permitted use. Multi-family is clearly a permitted use. The appellants have made no suggestion it is not a permitted use.

The height, as you heard, is not just met

but it is essentially lower than what is the maximum height, and further it's kind of stepped down as it approaches the property line. Again, the appellants I don't think have made any point that it doesn't meet the zoning height requirements.

The setback, as you heard, is exceeded by four or five times. Again, no suggestion has been made that that setback is not met.

The density, you've heard a lot about the density, but let's be clear what's going on here, your D-1 district is not just silent or ambiguous or ambivalent on the density issue, it is very clear, and it says there is no maximum density. It said that, after you adopted the plan, it very clearly said that plan is not an implementation tool and then the zoning regulations say there is no maximum zoning density. Now the appellants don't dispute that it says that. What they would have you do is to go back to that plan and apply that in spite of what I think is the clear intent and clear language of this Council that that plan is not intended to be used as an implementation tool.

The parking standards are met. I heard earlier the reference that the parking standards are not met, that the code requires two spaces per unit. It doesn't require that, it requires one space per unit in the D-1, and that standard is met.

The landscaping, lighting, signage, and design, during the course of the first couple of efforts before the DDRC and BZA there were issues that were raised, but I understand that what happened is that representatives of the applicant came and met with your zoning staff and went through those in detail to button all of those down, and when that plan was resubmitted, it was done based on the consultation with your own zoning staff as to what it would take to meet those requirements. Again, I won't go through those in detail, you heard Mr. Copfer do that earlier.

The bottom line, and I'll conclude with this, is if you agree in my opinion that really the only issue before us is does it comply with the zoning, you've had three levels of city government, your zoning staff, your DDRC, which includes, as you know, a representative of

citizens, the Planning Commission, and other professional staff and your Board of Zoning Appeals, all come to the same conclusion and that it does meet the requirements of the code. So thank you very much.

MAYOR WEBER: Mr. Lomison.

MR. LOMISON: So if your interpretation of the "unless otherwise permitted herein" is correct, as you believe, then the rest of that code should be disregarded, when reviewing the Board of Zoning Appeals' orders and the code, did you see the same line in there where they were required to reference the Master Plan document?

MR. DALE: Yes.

MR. LOMISON: Unless otherwise permitted herein was stated in the Board of Zoning Appeals' code?

MR. DALE: I'm sorry, what's your question?

MR. LOMISON: I'm trying to confirm, you're saying that the, if I understand you correctly, that the Master Plan did not need to be referenced because the D-1 code says unless otherwise permitted herein.

MR. DALE: Right.

MR. LOMISON: I'm asking if you had reviewed the Board of Zoning Appeals code, Section 1133, and whether that had the same language referenced there?

MR. DALE: It includes language about consistency with the Master Plan, but one of the things that you did not point out in that paragraph is that earlier in that paragraph it makes references to when changes are requested, and as I indicated, there is no change, there is no variance, there is no waiver, there is no exception that's being requested.

MR. LOMISON: Have you been in any way, just so everyone is clear, been compensated in any way by Hills Development, have you ever done business for them before or been compensated by any associations that they're members of?

MR. DALE: Well, I think that's the request of Jeff. I'm here as a consultant. I have not personally worked for Hills before, and I think your third question was have I been compensated by organizations of which they've been members?

MR. LOMISON: Yes.
MR. DALE: No.
MR. LOMISON: Thank you.
MR. COPFER: Another issue that's been brought up is traffic. Remember this is D-1, this is downtown. We expect some traffic in the downtown area. That shows us that there's vibrancy. What do we currently have here? We have a 45,000 square foot supermarket structure. It's been a supermarket in the past. So what was the traffic in locations of that? The best way to get a gauge of that is to go to the Institute of Transportation Engineers Trip Generation Manual. We've gone to the 8th Edition, the most recent one. What we've found is that a supermarket, when it's up and running, has approximately 4,600 daily trips a day. Now, a multi-family property in that same transportation guide that has 218 rental homes will have 1,445 average trips a day. That's a 68 percent decrease in the traffic.
Now, is it currently an open, thriving supermarket? No. But it's been that in the past and people know it's been that and know

the traffic that that generated. To say now we're going to be a big traffic impact and we're going to be lower than what the most recent uses have been, you know, clearly that's not a good statement. So we're going to have less of an impact in this property's utilization. I think we can all agree the property is not being currently utilized to its highest and best use, and I bet the retail owners of all the vacant space would agree with us on that point.
Now, what about property values and what about downtown Blue Ash. It should be pointed out that we have a vested interest in not only what happens in D-1 within downtown Blue Ash, what happens with all of Blue Ash. We are a significant property owner within the City of Blue Ash.
Particularly within D-1 we have Kenwood Corporate Center, we have Hills Corporate Center, and then we have Kenwood Professional Building. Within Blue Ash in other areas we have the Reed Hartman Business Park and we have the Hills Commerce Park. It is our interest that property values continue to rise within

the City of Blue Ash. We believe that we're doing that with 4900.
You can see we currently now own 4900 there. This is where our corporate headquarters is located right across the street, and these are our other two holdings, Kenwood Professional Building and Kenwood Corporate Center, all within D-1. We're one of the largest property owners within D-1. We want to see downtown Blue Ash be successful. It is in our vested interest that that happens. What we see is over time, if we're able to take this core and make it more popular, more vibrant, we can raise the value of that, and a rising tide elevates all ships. What we'll have is people will want to live in the areas around here to be able to walk to the increased services of the restaurants and the retailers that will fill the vacant spaces that we currently have within the D-1.
This is the breakdown of the square feet of the buildings we own. We have 139,000 square feet within the D-1, and in total we have almost a half million square feet of commercial space within Blue Ash. We are a

significant owner in Blue Ash, and we want to see Blue Ash succeed and we're doing all we can to make that happen. As so, we've come out of pocket with our own money, we've bought an underutilized eyesore that is sitting there, I'll show you some pictures in a minute, and we want to turn it into a generator, a catalyst by bringing 350 residents to live there and to support downtown and to raise the property values of downtown and all of Blue Ash.
Now, most recently an issue has come up regarding the storm vault. We already saw that in the planning document and how you voted for it, it was okay to put residential buildings on top of that. The storm vault is located right here on the property. The access to the storm vault is located on the east property line. Currently this is all just a grass area with different trees and things that are outside of the buffer and a bunch of leaves. What we're going to do is we're going to pave that and actually make it easier to get into this and to be able to service this vault.
Here we see the entrance to the vault, not the picture postcard we want to have for

downtown buildings in Blue Ash. But you can see the access point is right there to be able to get into the vault to service it when and if that is needed.

We've asked the City of Blue Ash, your staff, how often this has been maintained. Our response is we couldn't find any records of it. That tells us for the last 30 years this thing, nobody has had a problem. This thing is not required to be maintenanced, and the inside water level is approximately 4 feet at its height. So it's not close to being used what it's been designed for.

Now, this vault was constructed around 1983, and it was done by CDS Associates. I'm sorry, I said '83, right? In '85, when Thriftway was developed, a second cap was put on top of the vault, and that second cap was put on there to allow truck traffic and things that would come through the supermarket parking lot, delivery trucks and things like that.

What we're doing is we're going to build a parking structure over top of that vault that will have all of its weight put on a separate structure, not on that vault, and it's going to

take the current use, the current use that the top of the vault is getting and it won't be used anymore. So it's not going to receive the pressure that it's currently receiving now in its current state. Therefore, we'll actually decrease the maintenance of the vault.

Now, I'm not an engineer. This is an engineering question. So what we've done is we've asked our engineers to look at that, and tonight we have Mr. Jim Watson with McGill Smith Punshon to give us some more information on this.

MR. WATSON: Good evening, Mr. Mayor, Members of Council. My name is James Watson. I'm CEO and Vice President of McGill Smith Punshon. We're an engineering, architectural, and survey firm. We're located at 3700 Park 42 Drive, Suite 190B in Sharonville.

Most underground detention structures, whether they are located under a building or parking lot, typically only have limited access through a manhole that's usually not more than 4 feet in diameter. Any maintenance personnel or equipment must pass through that small opening using a ladder or a hoist. The

existing detention vault at the 4900 project does not have that kind of problem in that the opening there is 8 feet high and it's 11 feet wide. It allows workers, equipment, and even vehicles to easily enter the vault for any type of maintenance activity. As others have mentioned, the access way will be paved as part of the project, which will further enhance the ability to access the vault.

With regard to the two slabs over the top of the vault, given that there are two slabs over the top of the vault, any kind of repair work from the top will require removal of portions of both slabs. It's apparent that any kind of repair work required to the structure itself would most easily be performed from inside the vault and not from the top. Because we have that access available, that can be done.

There are other sites such as 4900 are locating detention structures, storm drainage facilities, and other utilities under parking structures. A stormwater detention facility is located beneath the University of Cincinnati Corry Street parking garage. A myriad of

utility lines, storm drainage facilities is located beneath the parking garages serving The Banks along the Cincinnati Riverfront. We're presently in the preliminary design phase of other projects that will likely have stormwater detention facilities underneath parking garages.

As Michael mentioned, we understand the vault was inspected last summer after nearly 30 years of operation and was found to be in good repair. The addition of a parking garage as proposed in combination with regular inspection and maintenance schedule will ensure continued satisfactory performance of the detention vault without fear of catastrophic failure to its structure or its performance. Thank you.

MR. COPFER: This is an actual picture inside of the vault and what it looks like inside. You can see there's been a little bit of silt that has accumulated in there. It's not a lot for over a 30-year period. It can be easily dealt with with the current access point.

As you know, CDS Associates is the consulting engineer for the City of Blue Ash.

They designed the vault originally and they designed the second cap that went on top. Back on March 14th of 2012, representatives of Hills Development as well as Mr. Jim Watson who just spoke, our civil engineer, our structural engineer, our soils consultant, as well as Mr. Eisenmann, the city's engineer, as well as some of the city staff all toured the vault on March 14th to find out the condition and the applicability of being able to build a garage structure over it.

So what is the city's attorney opinion on that? One way of looking at that he's had a chance to vote on Plan 1, Plan 2, and Plan 3 of this development. On April 18th --

MR. VANDER LAAN: Excuse me, it's not the city attorney, that's the city engineer.

MR. COPFER: The city engineer, I'm sorry. So on April 18th, as a member of DDRC, he voted for approval of Plan 1 with the parking garage located over the vault.

On July 11, 2012, as a member of DDRC, he voted for approval of Plan 2 with a parking garage located over the vault.

On August 22nd of 2012, as a member of

DDRC, he voted for approval of the Plan 3, current plan with the parking garage located over the vault.

Therefore, he designed the vault, has been in the vault recently, and clearly he had no problem with our plan being over, a parking garage over a vault kind of a storm superstructure.

As Mr. Watson has testified, it's not uncommon when you're redeveloping properties in downtown areas such as in downtown Cincinnati, such as in Clifton, such as in downtown Blue Ash and meeting the current requirements of the detention, that you're going to have parking structures over top. It's been done before, it's being done on other projects, this isn't something new. Obviously the engineers have looked at this. Our engineers are comfortable with it, including the city engineer as represented by votes here that he did not have a problem with that either. His only concern was our number of parking spaces in the garage, and we've satisfied him on that.

Now, as it's been brought up, there is a replat and that has a number of restrictions,

and some of the restrictions have been talked about. However, what's not been talked about is if we go to the bottom of the restrictions, it says, "Any deviation from the restrictions shall be petitioned by written request to the grantees or their assigns. Each such request shall be considered on an individual basis with approval not being unreasonably withheld." Does it say, no, you have to do that? No, it says approval cannot be unreasonably withheld. What does that mean? If all the engineers say it works, it's not a problem. It's already maintained from the inside, there's already plentiful access to get to it to maintain it. Therefore, withholding approval would in fact be an unreasonable withholding of that. This clearly allows for things -- it doesn't say you can't do anything else. It says that it must be petitioned and that approval not being unreasonably withheld. In fact, we asked for such approval.

Let me give you a letter that we wrote to the city, Dan Johnson, back on February 24th of 2012. If we look at the bottom of that letter, number one at the very bottom, "Approval to

modify the existing stormwater detention vault and to construct a four to five-story parking structure over the vault." We asked for that approval. And then in that second page of the letter we asked to be heard at the March 8th, 2012 City Council meeting. We wanted to come to you, we asked in writing right here as required for this approval. We were told by staff that this is not the correct time. This is a construction issue. First you go through, get the plan approval, and then you come back and deal with this construction issue.

So we're here as we've been directed by your city staff on how to go through the process and how we find it typically done other places. So now they say, well, we should have been here for this first. We tried that, and we were denied access to you to get this approval. And we were told we would have to come back for this approval upon the plan approval. Our plan was approved, we would have been back here to you, but as you know, it's been appealed so we're going through the appeal process. So we feel that we've worked through your channels. We are asking for something

that is not unreasonable and that the plat itself calls for can be done.

So what we've talked about is Hills' 4900 Plan 3 meets the Zoning Code, it's consistent with the Comp Plans, it's compatible with the surrounding neighborhood, and not only does it not need any money from the city, it's an economic benefit for Blue Ash itself.

MAYOR WEBER: Mr. Lomison, do you have any questions you want to ask?

MR. LOMISON: No.

MR. TRAUTH: At this point I think we can open it up to the witnesses who are proponents of the Hills Development, and then I'll close later.

MAYOR WEBER: As we mentioned beforehand, even a show of hands is fine. If they're not going to offer anything in terms of, and I say this for both sides, in terms of testimony to enlighten us, it's one thing, it's nice to know who is in favor and who is not, but I don't want to spend the next half hour listening to repetitive testimony.

MR. TRAUTH: No, this will not be repetitive. It will be new testimony from some

expert witnesses.

MAYOR WEBER: All right. Mr. Trauth, have those witnesses been sworn?

MR. TRAUTH: Yes.

MR. HELLMAN: Good evening. My name is Bruce Hellman, and I'm president of BRG Realty.

UNIDENTIFIED SPEAKER: We can't hear.

MAYOR WEBER: Speak into the microphone.

MR. HELLMAN: I'm sorry. Good evening. My name is Bruce Hellman, and I'm the president of BRG Realty. Our firm is the current owner and manager of over 700 units in Blue Ash. Some of our properties are Hunter Street, Deercross and Fox Run. And our company headquarters are located on Indeco Drive in Blue Ash. We employ about 20 people at the apartment communities and we employ more than 20 people at our home office. Additionally, our company is currently the largest owner and operator of apartment communities in Greater Cincinnati, with over 6400 units in 37 locations. We have proudly called Blue Ash our home for many years and we applaud your efforts to promote the long-term health of the community for all of its businesses and

residents.

I'm writing to express my strong support for 4900 and for Hills Developers. While we are competitors, we have known Louis Guttman, his family and his firm for many years. Like us, they are long-term owners and they build first rate product that will stand the test of time. This development will provide an excellent housing choice for many people to choose to rent versus others. While we own significant units in Blue Ash, as well as close to 500 units in Sharonville, I believe that this development will only enhance our communities in the long run by raising the bar for everyone.

Currently and historically our occupancy has been higher than 90 percent and usually higher than 95 percent. The fact of the matter is that there is a shortage of high-quality rental housing options, and as a result we've seen increases in rent, which makes this option more costly for the renter by a choice population that continues to grow in Blue Ash and throughout the region.

While it may seem odd that we are strong

supporters of this project, it is due to the fact that Blue Ash and its employers need this housing, and we believe there's plenty of demand now and in the future to keep our properties full.

There are several reasons that as members of the Blue Ash community we strongly support this development. First, we believe that legally Hills has the right to develop this property and they've worked very hard to compromise and satisfy all constituents, although not everyone will be happy.

Second, the current site has been vacant for years. The luxury apartment development will provide many economic benefits to the community. It will benefit -- I'm sorry, it will provide a substantial raise in the tax rate of the community and for the already excellent schools. It will provide an increase in payroll and income taxes. It will be a large construction project that will help provide jobs and improve the business climate, and it will add tax-paying residents to its 218 luxury residential units who will utilize the businesses of Blue Ash in the Blue Ash business

district.
Third, this project will be a high-end apartment development with average rents in excess of a thousand dollars per month and will attract excellent residents. The apartment homes will be well appointed with first rate features in the community with plenty of parking and attractive amenities, such as a fitness and swimming facility. It will be a vibrant addition to downtown and you know it will be well cared for as Hills is a long-term local owner who has been an owner and a committed Blue Ash civic enterprise for many years.
Finally, I believe that this housing is needed to support the continued growth of Blue Ash. The site is an excellent one for development and will only improve the downtown Blue Ash. Hills is a very fine developer with an excellent reputation. You know you will get exceptional product that you will be very proud of as a representative of this wonderful community.
I appreciate your consideration and thank you for the fabulous job that you have done to

make this City of Blue Ash a wonderful place to live and to work. Thank you very much.
MAYOR WEBER: Mr. Trauth, we're approaching redundancy here. With all due respect to this witness, we've heard this already, and unless they have something to offer that relates to the appeal from the Board of Zoning Appeals --
MR. TRAUTH: Well, I don't know what they're going to say, so until we hear a little bit of it -- they aren't my witnesses per se. These are people from the public who are supporting this. And we're in the unfortunate position that we have to defend a project for a year --
MAYOR WEBER: Which you have done.
MR. TRAUTH: -- at six different hearings.
MAYOR WEBER: I understand that.
MR. TRAUTH: And we have to build a record.
MAYOR WEBER: And I think you have, but I think when we get to a point where we're just cheerleading for the project, I think we have to draw the line.

MR. TRAUTH: We've heard from one person just now who is outside.
MAYOR WEBER: I recognize that we've been here for two and a half hours and I'm saying we've heard, everything that witness said we've already heard. If somebody has something they want to offer that's new and different, I'm happy to hear it.
MR. TRAUTH: Let's see if they do. As a matter of fact, what you had just heard from this past witness was a repudiation of any concept that any property values are going to decline. Does anybody else have anything new to add? You can be brief. Go ahead.
MR. HOOKER: I'm going to keep it very brief. My name is Morris Hooker. Rascal Deli owns me, okay. We're across from the shopping center. Having 350 more potential customers within walking distance of our deli would be enormous to me and for the other merchants, Servatii's and the other merchants in our shopping center. As the downtown lingers, it affects us, and I just would like to state that for the record. Thank you.
MAYOR WEBER: Thank you.

MR. TRAUTH: We would be willing to say are there a show of hands of other people here in support? Please raise your hand.
(Some audience participants raise their hand.)
MR. TRAUTH: Does that satisfy?
MAYOR WEBER: That's very good, thank you.
MR. TRAUTH: Thank you. I would like to make the PowerPoint presentation as well as all of the exhibits that have been sent to Council, handed to Council tonight as part of the record.
MAYOR WEBER: Is this basically your close, Mr. Trauth?
MR. TRAUTH: Yes.
MAYOR WEBER: I think maybe what we ought to do before you do that is to let Council ask any of the witnesses who have testified tonight whether they have any questions.
MR. TRAUTH: Okay.
MAYOR WEBER: Anyone here have any questions of anyone?
MR. ADAMEC: I've got a couple. I'm not sure if I should start. Just a couple of questions here, and I don't know if I'll go in

order or not, but earlier on I think it was Mr. Copfer, you talked about the flows throughout the building. I'm not sure I heard that, but I think you said you had doors on each floor so if you drive a car in, you go to first, second, third floor, were you saying you go from there to the floors or maybe just tell me what the traffic flow in and out of this building is for people.

MR. COPFER: The garage, you come in and you spiral as you go, but where there are four stories of the buildings that attach to the parking garage, the point I was making is that every residential dwelling unit within 4900 can go out into the hallway and go down the hall and walk directly into the parking garage. You don't have to go outside or go down steps in order to get to a parking garage as in the case of other apartment communities within Blue Ash and within the surrounding area. So this will be unique that every single one of our residential residents will be able to walk to the parking garage without first going outside. Some of the homes have that in some of the other communities. There's a great deal of

them that don't, and none of them have that where all of them can do that as we do.

MR. BECKMAN: Each one of them will have their own spot?

MR. COPFER: Each one of them will have at least one spot within the garage, correct.

UNIDENTIFIED SPEAKER: One.

MR. COPFER: I said at least one, and the city engineer, if you go back through the record, which is on the record, at DDRC required that we have one space per bedroom. He asked for that, even though the code only requires one space per dwelling. And we agreed to do that and our current plan meets that. We will have one parking space for each bedroom within the community itself, which is more than the code requires.

MR. ADAMEC: So when people also are up on the floors, are there elevators that go to each floor on each end? Just how does that -- we can't see that from your drawings, so I'm curious.

MR. COPFER: Right, there are elevators spread throughout the buildings so that every resident on every floor will be able to walk

down through the hallway to get on an elevator if they're walking down to the ground floor or walk out and walk around Blue Ash as well as to get to different levels within the parking garage. So every residence can be accessed without having to use stairs. You come in on the ground floor, from the street, you go to the elevator, you go up to your floor, and you go to your residence. From the parking garage you drive up and you park and you walk, you know, to the -- to where your hallway is within the building. So you do not have to go to any steps, which is a major change from the majority of the apartment communities within the area. And we think that's vitally important, especially with the empty-nester market.

MR. ADAMEC: Okay. Maybe you're the best one to answer this. One of the things we're just hearing today, so we went through the code, and, of course, now there are a couple of questions in there. We are allowed to ask any question we want of any part of the code; is that not right, counsel?

MR. VANDER LAAN: Go ahead, you can ask

anything you want.

MR. ADAMEC: Because this wasn't asked before and I always hate to just pull something out. Maybe Mr. --

MR. COPFER: Mr. Dale.

MR. ADAMEC: Maybe he can answer. Let me just say what it is. 1159.05, it's under building design, and I'll just read what it says, I'm just curious how you meet that. It says at least one primary entrance of every building tenant shall be oriented towards a public street. Now there's more in there, but basically it's not all the tenants' building entrance, it's every tenant's entrance.

MR. COPFER: Correct, and if you notice we've got pedestrian flags up where you enter it, making it pedestrian friendly being able to walk in an urban style construction. So there is an entrance there to get into Building A and Building B. We have a parking garage with Building A and B, both A and B have entrances right there at that pedestrian plaza that's right there at Hunt Road. So I believe --

MR. ADAMEC: So the way I interpret it is the main entrance of the building satisfies

that.
MR. COPFER: Correct.
MR. ADAMEC: Is that how you're thinking of that?
MR. COPFER: Yes, sir.
MR. ADAMEC: I'm not saying that's right or wrong, I just wanted to get your perspective.
MR. COPFER: That's my perspective.
MR. ADAMEC: Okay. The other thing, I think it was brought up about the parking, so I know you know about the integration and all that. I notice when you brought up the plan, which I know that the plan from your standpoint is not relative to the code unless it trumps the code.
MR. COPFER: You're talking about the downtown plan?
MR. ADAMEC: Yeah. It talks about integration means that parking is in or under the units, et cetera, or -- I have to read that one thing you had up there from the plan. It talked about integration, what integration was versus a separate parking garage, and this has the parking garage in the middle of two

buildings, so I'm curious how that is integrated versus any parking spaces in or under the units. It's just a question.
MR. COPFER: And I've got the answer.
MR. ADAMEC: I understand you mentioned that facade looks integrated, but it seems to me like there's three separate buildings.
MR. COPFER: And if we go to that, it's on page 64 of the exhibit you have is that very thing you're talking about, and if we look down four lines up from the bottom on page 64, what it says is parking will be provided in garages integrated with the units or in a single parking garage structure. Notice I've highlighted and bolded "single parking garage structure" because we do have a single parking garage structure. So it was either/or, so we took the "or a single structure."
MR. ADAMEC: Right, that appears right, and the reason I'm asking, is it integrated into the structure as a separate parking garage?
MR. COPFER: That was the front is to be integrated into the structure. We're talking two different items. One was from the code,

that was the code integration item, and this is a planning item. So it's two different areas.
MR. ADAMEC: No, I understand, but it's defining -- to me, I'm just trying to find out is that what integration means.
MR. COPFER: The last one said it shall be integrated. The first one you're referring to is page 54, and that says that the parking structure shall be integrated into the placement and design of adjacent buildings. So we have an adjacent building, and it's right in the middle. So both of them are integrated into it. We look at the front, it's an integration. That's trying to make sure it doesn't look like a parking garage when you look at it, which is why we've gone to great care to make it look not like a parking garage.
MR. ADAMEC: I just wanted to hear your interpretation. I just wanted to hear that part of it, and I didn't want to cut you off, but I just wanted to know your feeling on that.
Let's see what else we have here. The retention basin, it was mentioned a couple times. Can you elaborate what is at The Banks because we have a detention basin that's a

million gallons. Can you elaborate for us what you meant by what you are indicating there.
MR. WATSON: Well, what I'm talking about at The Banks is that there are sanitary sewers, there are storm sewers, there are water lines, a myriad of utilities underneath that parking structure, and I think the point of it is is maintenance.
MR. ADAMEC: Well, I'm just asking is there a retention basin there or not?
MR. WATSON: No. Well, not to my knowledge.
MR. ADAMEC: The other point I would address since we're talking about maintenance, can you dig those pipes up?
MR. WATSON: Well, in our situation there are no pipes.
MR. ADAMEC: No, no, my first question was about The Banks. You brought it up and I think it was in Mr. --
MR. WATSON: In The Banks, yes, you can.
MR. ADAMEC: So you can pick those up and you can replace them entirely?
MR. WATSON: Correct, that's correct.
MR. ADAMEC: But it's not a retention

basin there anyway, it's lines and stuff like that?
MR. WATSON: That's right.
MR. ADAMEC: What's at that Cincinnati Corryville location? I wasn't able to find that one out.
MR. WATSON: The Corry Street garage is west side of Jefferson, the south side of Corry Street. It's just up the hill from the Shoemaker Center.
MR. ADAMEC: How big is the retention basin?
MR. WATSON: It is at least two 90-inch diameter pipes buried underneath the ground floor of that parking structure. An option would have been to build a vault. They went for the pipes because it was cheaper.
MR. ADAMEC: Right, and that's the way now you kind of put something in.
MR. WATSON: Yes.
MR. ADAMEC: Now, how do they replace those pipes, do they dig them out?
MR. WATSON: There you wouldn't replace the pipes. What you would do in that situation is if the pipes require reinforcement of the

site, you would do it from inside the pipe itself.
MR. ADAMEC: Well, sometimes the structure of the pipe goes away and it puts --
MR. CZERWONKA: You're saying they were designed before the fact, not after the fact as part of the project?
MR. WATSON: It was part of the project, yes, it was intended for the parking garage.
MR. ADAMEC: I just wanted to get clarification what it was and how it was relevant to our situation. So you answered that question.
MR. SUMNER: While we're on that topic, you commented the garage will be independent of the basin that's there now. You also commented that there are two caps on top of that basin. How likely is it -- they've survived 30 years without any problem. How likely is it those caps would have to be replaced or repaired, and would it be possible to replace or repair those caps if the garage --
MR. WATSON: I can't envision a scenario where replacement of the caps would be required. With construction of the parking

structure they won't be receiving any load.
MR. SUMNER: So it's highly unlikely, but would it be possible to repair them with the garage over it?
MR. WATSON: I don't know that I would repair them. I think probably what I would do is if they were in such a state that it required a major, a replacement, I think I would just remove them and perhaps allow them to remain removed.
MR. SUMNER: Could you remove them without, with the --
MR. WATSON: Certainly. You would do it from the inside.
MR. SUMNER: Thank you.
MR. TRAUTH: We also have a structural engineer who can comment on that.
MR. STEIMLE: My name is Doug Steimle. I'm with Steven Schaefer Associates.
MAYOR WEBER: Have you been sworn in?
MR. STEIMLE: Yes, I've been sworn in. I've looked into the situation with the retention basin, and basically there are two structures, there is the one structure that was put on top of the original, and that was mostly

for fire truck traffic with the elevators pushing down. And I have investigated and inspected the structure from underneath, and it does look like it's in good repair, which is good. You can't see the stuff over the top basically, you know, it's covered by a parking lot. The bottom structure had been protected originally by a water membrane, as indicated in the 1985 documents, that put the second topping on, the topping structure, and then that was asked to be put back in there, instructed to be put back in. That's most likely why the bottom structure is looking so good because it was protected by water.
The two most corrosive things to a topping structure is water. When water gets into a structure, it freezes, it expands, it causes cracks to grow bigger and more water to get in and cause more damage. The other thing is salt. When salt gets into a concrete structure, what it does is it corrodes the reinforcing steel and that reinforcing steel grows when it corrodes and it pops the concrete off.
So what I'm suggesting that happens when

this parking garage is constructed over top of it is that the asphalt be removed and that topping be investigated more fully to understand how soon that topping slab may need to be replaced or reinforced.

It can be, the life of it can be extended right now. So if there's a topping slab or if there's water over the top of it and it's been protecting the concrete from corroding this whole time, it's been keeping salts out. That's the biggest thing, is keeping salts out. So if there hasn't been, we can test and find out how much salts have gone into the structure. We can sound the top by hitting the top of the slab with a hammer and seeing whether there are spots that are soft where the rebar is just starting to corrode.

So we can get a fairly accurate picture of how much corrosion has taken place in that top slab by doing this investigation and basically see how long can we anticipate the first repair for that. We can also at that time add a corrosion inhibitor to the top slab, which would help prevent corrosion to the reinforcing steel.

MR. ADAMEC: Question since you're a structural engineer. How would you replace that in its entirety? It's a long time, these have a life of how long?

MR. STEIMLE: Say your question again.

MR. ADAMEC: What's the life of that retention basin?

MR. STEIMLE: A typical parking structure -- it depends on how much water and salt get into it really.

MR. ADAMEC: When you have to replace it in its entirety, you have to change it if the structural integrity is gone, how do you normally do it today?

MR. STEIMLE: In this instance if we built a parking garage up there, we would I guess have to saw cut out pieces and then put a new slab in there. I don't know -- concrete structures if you protect them properly will last forever really. You know, most buildings downtown, they're concrete. Concrete is strong over time. You can probably protect it and extend the life out 75, a hundred years.

MR. ADAMEC: Yeah, it's a long time. What are you actually putting above that, what

sort of structure, what sort of cap or whatever?

MR. STEIMLE: So we'll have a wearing surface on top of it. We're going to make sure obviously we don't overload the existing structure. We're going to have columns that penetrate through in strategic locations to not damage the existing structure through the cap of the retention basin.

MR. ADAMEC: Where will they go to, to the bottom?

MR. STEIMLE: To the bottom and we would put a new foundation down there to support that.

MR. ADAMEC: But you're putting some sort of beam --

MR. STEIMLE: Right, we will have limited columns through there to -- we're going to have columns at the edges of the parking garage and then one right down the middle.

MR. ADAMEC: Now, if we have to go through the top of your cap, do we just cut a big hole in it?

MR. STEIMLE: Yes. Our slab will be nonstructural, it can be completely removed.

Obviously we have to work with disrupting traffic through the parking garage, but that can happen.

MR. ADAMEC: How big is your current cap, your current structure?

MR. STEIMLE: Those details have yet to be worked out, probably somewhere around 4 inches, but at some point in time you have to start ramping up, and at that point we will have a structural element to that.

MR. ADAMEC: I don't have any more questions.

MAYOR WEBER: Are you aware of any detention vaults similar in scope and design to this one that have a facility or structure built on top of it like this proposed garage?

MR. STEIMLE: Not exactly like this. This is a fairly -- a retention basin this size is not usual. Now, we have designed a parking garage down at U Square where we do have a retention facility right inside of that, but that's taking care of all the runoff to that entire setting. So that's inside the parking garage.

MR. ADAMEC: How big a unit is that?

MR. STEIMLE: It's probably somewhere around 10 feet fall by 20 feet by 20 feet or so. It's sizeable and it's inside a parking garage.
MR. ADAMEC: It's inside or underneath?
MR. STEIMLE: Well, it's the lowest level of the parking garage.
MR. ADAMEC: It's in the garage, it's not underground?
MR. STEIMLE: And then there's a parking garage above it.
MR. ADAMEC: It's in the garage, it's not underground, correct?
MR. STEIMLE: Correct.
MR. ADAMEC: It's in the bottom?
MR. STEIMLE: Yes.
MR. ADAMEC: It's in the floor of the garage.
MR. CZERWONKA: Was that designed before the fact, not after the fact?
MR. STEIMLE: Correct. That's actually being constructed or has been constructed in the last year.
MR. ADAMEC: Why didn't you just bury that?

MR. STEIMLE: I'm not a hundred percent sure why we didn't just bury that. That had to do with the civil engineer making that judgment. We were the structural engineer making it happen.
MR. ADAMEC: I don't have any other questions.
MR. STEIMLE: Thank you.
MR. ADAMEC: I do have a couple questions for somebody else.
MR. SUMNER: Go ahead.
MR. ADAMEC: It was brought up economic stuff, you talked about that. I don't think that really impacts the actual decision here, but you brought it up, and we have a lot of people out there that are saying, wow, this is going to be a lot of money for Blue Ash. I just want to make sure, have you ever done an economic analysis to the exact amount this brings downtown? Because you mentioned it.
MR. COPFER: In my former career and former employers I was a commercial appraiser as well as a real estate consultant, and I did land valuation as well as impact studies. So, yes, I have that background in my past.

MR. ADAMEC: I just mean for this project, do we know what this whole impact to the community is?
MR. COPFER: Detailed numbers on the payroll income tax have not been calculated, only on the real estate taxes.
MR. ADAMEC: I just wondered what it was because you mentioned it. Second is you mentioned about the taxes, that is only the revenue, it doesn't include any costs that we may incur as the city for the 350 new residents, correct?
MR. COPFER: That is correct.
MR. ADAMEC: Because folks are asking all the time what's this like and, of course, they're telling me different things. So we have expenses for 350 folks too and the other governmental organizations.
MR. CZERWONKA: What do you foresee as the rental rates? Is there a variance between the units or --
MR. COPFER: Yeah, we're looking to go between a thousand dollars up to $2,000 for the rental units, a thousand dollars for one bedrooms and higher for two bedrooms and

two-bedroom tenants.
MR. ADAMEC: You mentioned about the type of project. Are you able to disclose what the project cost is?
MR. COPFER: No.
MR. ADAMEC: Because you did an evaluation of taxes in one of your things that had property and market value, but that's not an indication of what the cost is; is that correct or not correct?
MR. COPFER: That's correct.
MR. ADAMEC: Correct that you can't tell what it costs?
MR. COPFER: Correct.
MR. SUMNER: So you just had a show of hands a moment ago to show support. I would like to ask for all those people that raised their hand in support of the project, can you raise your hand again if you're a resident, a current resident of the City of Blue Ash.
(Show of hands.)
MR. SUMNER: And now if I could also ask if you're a current resident and opposed to the project, please raise your hand.
UNIDENTIFIED SPEAKER: Fifty-two people

have already walked out.
MR. SUMNER: Thank you. That's all the questions I have.
MAYOR WEBER: No one else?
Mr. Lomison, you can start with closing statement if you want to make one.
MS. LOMISON: Hi, my name is Karen Lomison, and I live at 9490 Wynnecrest Drive. I hesitate to mention the name of the company I work for because I'm not officially representing them tonight, but I will say it is the largest consumer products company in the world and it's been around for 175 years and many of its executives and employees live and work right here in Blue Ash.
We have a motto there for everything we do: The consumer is boss. This means the consumer factors into everything we do and every decision we make. No matter how much money we stand to make, no matter how much we like a project, if it's not right for the consumer, we do not do it.
As Blue Ash Council your residents are the consumers. In fact, if you look at your own org chart, you will see that citizens are

actually at the top of it. Your residents elected you because we trust you to make decisions to protect Blue Ash residents. Are you prepared to set the precedent that Blue Ash cares more for business than its own residents?
The 2003 Master Plan you adopted says the quality of the residential areas must be maintained, protected, and improved as the primary policy of the city. All other land use policies and plans should recognize this residential policy as the primary interest of the community. Many of the people behind me as we have shown, many of them are not from Barwyn Acres, also believe that Blue Ash residents come first.
We've shown you why this complex is not compatible with the surrounding neighborhood and it is not right for downtown Blue Ash. We have shown you that the Board of Zoning Appeals failed to follow their mandate to ensure the quality of life for the residents of Blue Ash was protected, and most importantly we've shown you why this apartment complex doesn't meet the Zoning Code or the plan documents referenced in the code.

The residents of Blue Ash trust that your decision will show that business does not trump residents. Please make the decision that's right for the residents that voted you into office to serve them. Stop this apartment complex from moving forward. Thank you.
MAYOR WEBER: Do you want to make a closing statement, Mr. Terauds?
MR. TERAUDS: Mr. Trauth suggested Charleston's motive to appeal is anticompetition. To be clear, my motivation stems from the fact that the proposed project does not meet code, and as a result of that our value will decrease.
Please overturn this proposed project. Thank you.
MR. TRAUTH: Thank you again for your patience, Mr. Mayor, Members of Council. Again, I want to reiterate we want to make the PowerPoint and all exhibits part of the record.
The appellants have the burden of proving the BZA abused its discretion or made an unlawful decision, and they have failed to do that. We are not asking for a zone change, we are not asking for a variance. It has been

determined by your staff, by your appointed Downtown Review Committee, by your appointed BZA that this plan meets the code. It is for you to review that record and determine if that was a correct decision. It doesn't matter what your opinion of the project is, it doesn't matter whether you would want to see something else built there, but the bottom line is if it meets code, it must be approved.
The overwhelming evidence presented by Hills indicates that the proposed development is 100 percent code compliant. No one can come up with anything to prove, as appellants have the burden to do, that it is not code compliant. And it is exactly what had been planned for this area. If you look at your comp plans, residential, if you look at the language in the comp plans and the photos and/or the pictures, it's all residential. It's been planned that way since 2005. This property has sat vacant long enough. Hills has invested its money in this property because they knew what the zoning was and they knew they could comply with zoning.
As we've said, the Comprehensive Plan is

an aspirational document and the Zoning Code is the implementing document. Hills is in total compliance with the D-1 code that was passed by this Council with no objections from the neighbors who have come here tonight.

Hills is replacing a high-intensity commercial supermarket with a much lower intensity luxury apartment building that will be an asset to the downtown district and to the overall community. The best neighbor to residential is residential, not retail, not hotel, not some of the other uses that are allowed in the D-1 district.

The economic benefits from the proposed development are obvious with greatly increased real estate taxes, increased income tax, construction, and long-term residents. The increased population will support your existing businesses and will support filling some of the vacancies that were pointed out.

There was not one issue raised on this appeal by Mr. Lomison or Charleston that has not been thoroughly considered and vetted and overruled by the Downtown Review Committee and the Board of Zoning Appeals and your staff. A

granting of the totally unsubstantiated appeal would be arbitrary, capricious, and would cause the property owner substantial damage due to governmental taking of property rights.

The issue of the detention basin is not a zoning issue. It really has no legal place in this particular hearing. It was brought up after the appeal time. The city staff was aware of it. On February 24th we asked to come before this Council and were denied that opportunity. It is a construction issue that has to be addressed during the construction phase. We've not even had the opportunity to accurately design this project because we need approval first. So without the design of the project, the detention basin cannot even be an issue.

We will not impede the access, we'll improve the access. We will not impede in any way the maintenance, we will improve the ability to maintain. The detention vault, as mentioned by Mr. Watson, was designed to be accessed not through the top but through the side, not through a small manhole but a huge opening. If properly maintained and properly

inspected, it will last forever. It can be repaired from the inside if there is any indication of any problem with the detention basin.

It was designed, as I said, by Thriftway and by your city engineers well over capacity for I believe a 500-year flood, and inspection showed that the water level never got above 4 feet even with silt in it over 30 years. And this thing is 10 or more feet high. The structure is sound. The development will not in any way be supported by the detention basin and will not interfere with any repairs. It will certainly not increase maintenance costs that have been minimal, if not existent, over the past 30 years.

The developer has worked with the neighborhood, the Downtown Review Committee, the staff, Board of Zoning Appeals for over a year in listening to and accommodating concerns, including increasing the setback substantially between the neighboring properties by four to five times the minimum requirement, lowering the building 25 percent, plus or minus, well below the maximum allowed

by the Zoning Code of 50 feet, in making the facade very aesthetically pleasing. You saw the proposed inside of these units. There's nothing like it in Blue Ash. The Charleston doesn't have the amenities, the crown moldings, the granite countertops. The wide buffer area is currently heavily planted with mature trees, to which the developer will add more.

This proposed plan is exactly what is called for in the planning documents of the city, but more importantly is allowed for in the Zoning Code of the city and anticipated by that code. It is a good project and good for the general welfare of the City of Blue Ash and one of which you will be proud. Thank you.

MAYOR WEBER: All right. At this time I'm going to entertain a motion to adjourn to executive session to deliberate.

MR. SUMNER: Motion to go and deliberate.

MR. VANDER LAAN: You're not going to vote --

MAYOR WEBER: We will not vote in there, we're going to vote here.

MR. SUMNER: I will make that motion.

MS. STOLLER: Second the motion.

MAYOR WEBER: Jamie, would you call the roll.
CLERK OF COUNCIL: Councilman Tom Adamec.
MR. ADAMEC: Yes.
CLERK OF COUNCIL: Councilman Rick Bryan.
MR. BRYAN: Yes.
CLERK OF COUNCIL: Councilman Robert Beckman.
MR. BECKMAN: Yes.
CLERK OF COUNCIL: Vice Mayor Lee Czerwonka.
MR. CZERWONKA: Yes.
CLERK OF COUNCIL: Councilwoman Stephanie Stoller.
MS. STOLLER: Yes.
CLERK OF COUNCIL: Councilman James Sumner.
MR. SUMNER: Aye.
CLERK OF COUNCIL: Mayor Mark Weber.
MAYOR WEBER: Yes.
CLERK OF COUNCIL: Seven yeses.
(Off-the-record Executive Session.)
MAYOR WEBER: All right, because there are two appeals that we're going to address, there will be two separate votes. A yes vote

on both appeals is a vote to uphold the decision of the Board of Zoning Appeals. A no vote grants the appeal of Timothy Lomison.
So I will entertain motions at this point to vote on these topics.
MR. BRYAN: Do you need two motions made or one?
MR. VANDER LAAN: Two. You also have a Charleston appeal.
MAYOR WEBER: Yeah, Charleston is involved, that will be first, we'll do the appeal by Charleston first.
MR. BRYAN: In the matter of Charleston appeal, I would like to make a motion to uphold the decision of the Board of Zoning Appeals.
MR. ADAMEC: I second.
MAYOR WEBER: Call the roll.
CLERK OF COUNCIL: Councilman Tom Adamec.
MR. ADAMEC: Yes.
CLERK OF COUNCIL: Councilman Rick Bryan.
MR. BRYAN: Yes.
CLERK OF COUNCIL: Councilman Robert Beckman.
MR. BECKMAN: Yes.
CLERK OF COUNCIL: Vice Mayor Lee

Czerwonka.
MR. CZERWONKA: No.
CLERK OF COUNCIL: Councilwoman Stephanie Stoller.
MS. STOLLER: Yes.
CLERK OF COUNCIL: Councilman James Sumner.
MR. SUMNER: Yes.
CLERK OF COUNCIL: Mayor Mark Weber.
MAYOR WEBER: Yes.
CLERK OF COUNCIL: Six yeses, one no.
MR. BRYAN: In the matter of Lomison, I would like to make a motion to uphold the decision of the Board of Zoning Appeals.
MS. STOLLER: I will second that motion.
MAYOR WEBER: Jamie, would you call the roll.
CLERK OF COUNCIL: Councilman Tom Adamec.
MR. ADAMEC: No.
CLERK OF COUNCIL: Councilman Rick Bryan.
MR. BRYAN: Yes.
CLERK OF COUNCIL: Councilman Robert Beckman.
MR. BECKMAN: Yes.
CLERK OF COUNCIL: Vice Mayor Lee

Czerwonka.
MR. CZERWONKA: No.
CLERK OF COUNCIL: Councilwoman Stephanie Stoller.
MS. STOLLER: Yes.
CLERK OF COUNCIL: Councilman James Sumner.
MR. SUMNER: Yes.
CLERK OF COUNCIL: Mayor Mark Weber.
MAYOR WEBER: Yes.
CLERK OF COUNCIL: Five yeses, two nos.
* * *
CONCLUSION OF THIS MATTER AT 11:03 P.M.
* * *

CERTIFICATE

I, Lois A. Roell, a Registered Merit Reporter and Notary Public in and for the State of Ohio, do hereby certify that the foregoing is a true and correct transcript of the proceedings in the foregoing captioned matter, taken by me at the time and place so stated and transcribed from my stenographic notes.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal this 23rd day of January 2013.

LOIS A. ROELL, RMR
Notary Public-State of Ohio
My Commission Expires: 2/18/13

Appeal of Board of Zoning Appeals decision to approve a proposed multi-family residential development at 4900 Hunt Road (Plan 3)

Tim Lomison
Karen Lomison
9490 Wynnecrest Drive

Jean Staubach
9495 Wynnecrest Drive

Representing Barwyn Acres Residents

January 10, 2013

Topics of Discussion

Intro
Code Conflicts
- 1159 D-1Downtown Commercial District
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- 1133 Board of Zoning Appeals
- 2003 Master Plan

Additional Site Logistics

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Additional Site Logistics

1133.05 ORDERS.
(a) In exercising the above mentioned powers, the Board of Zoning Appeals may, **in conformity with the provisions of the Zoning Code,** reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute change in the Zoning District Map and will not impair an adequate supply of light and air to adjacent property, nor increase the congestion in public streets, nor increase the public danger of fire and safety, nor materially diminish or impair established property values within the surrounding area, nor in any other respect impair the public health, safety, comfort, morals, and welfare of the City, nor go against the intent of the Master Plan of the City. Every change granted or denied by the Board shall be accompanied by a written finding of fact, specifying the reason for granting or denying the variation.

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- 1159 D-1Downtown Commercial District
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Additional Site Logistics

1159.01 Purpose

The purpose of the D-1 Downtown Commercial District is to:
(a) Create a central town center core for the City of Blue Ash;
(b) Meet the need for professional services, specialty shops, residential, public, and civic uses;
(c) Encourage the maintenance and redevelopment of properties within the **vision established in the Master Plan for the Development of Downtown Blue Ash (1982) and supplemented by the Blue Ash Town Center - Concept Redevelopment Plan (2006);**
(d) Create pedestrian-oriented development through the integration of a mixture of uses; and to
(e) Ensure neighborhood compatibility with surrounding neighborhoods.

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Sampling of Code Violations

1159.05 Site Development Requirements
(b) Setbacks
(1) All buildings with frontage on Kenwood Road, Cooper Road, or on Hunt Road between Kenwood Road and Cooper Road shall be built to the back of the public sidewalk. Exceptions may be made to allow room for outdoor dining areas, landscaped entries, pedestrian plazas, enhanced customer entrances, and similar pedestrian amenities.

1159.06 General Design Requirements
(e) Building Design
(1) The design of all new construction and additions shall be approved by the Downtown Design Review Committee and shall be designed to meet the intent of the following provisions:
A. All buildings shall have four "front" elevations.

1159.06 GENERAL DESIGN REQUIREMENTS
(c) Landscaping.
(1) The site shall be landscaped in accordance with the Landscape Standards in Chapter 1188 and a separate plan shall be submitted detailing each of the landscape elements of the site.

Sampling of Code Violations

1159.07 Parking, Loading, and Access Requirements
(f) All parking areas and walkways shall be illuminated so as to produce a minimum illumination of 1.0 footcandle within such areas. All exterior lighting shall be erected so as to minimize light onto adjacent single-family residential areas and no exterior lighting shall exceed 10 footcandles. All lighting shall be served with underground cable and underground served poles. Pole lighting shall be compatible with the City street lights, with a pole height of 24 feet (in addition to the possibility of a two-foot City approved concrete base).

1159.07 PARKING, LOADING AND ACCESS REQUIREMENTS
(j) Parking Structures
Above-ground parking structures shall comply with the following standards:
(2) All parking structures should be located in the rear of the building to the maximum extent feasible.
(3) Parking structures shall be visually similar in character and scale to the adjacent buildings and shall have architecturally articulated facades designed to screen the view of parked cars.
(4) Vehicle entries to off-street parking structures shall be integrated into the placement and design of adjacent building or oriented away from the primary street frontage

Sampling of Code Violations

1159.08 Signs
(b) The size, type, height, and number of signs shall be regulated by Section 1181.05

1159.05 Site Development Requirements
(d) Lot Area/Density
(4) There is no maximum residential density in this district provided the residential uses meet the setback, height, and other site design requirements.

1159.02 Conformity with Plans
(a) Unless otherwise permitted herein, all development in the D-1 District shall be consistent with the plan approved by Council as set forth in the "Master Plan for the Development of Downtown Blue Ash," dated November 18, 1982, and adopted by Ordinance 82-101, and the supplemental Blue Ash Town Center - Concept Redevelopment Plan dated December 2005, and adopted by Ordinance 2006-20. The Downtown Design Review Committee shall review all plans for new construction and building additions and ensure proper conformity in its approvals.

Topics of Discussion

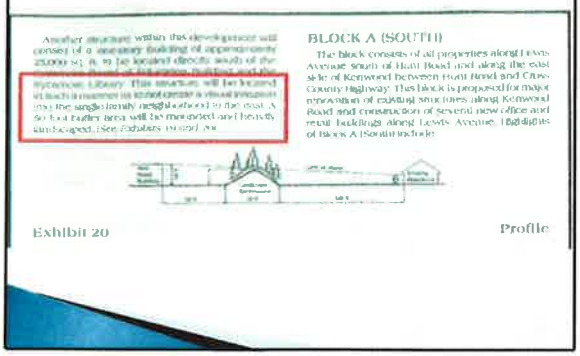
Intro

Code Conflicts

- 1159.01 Downtown Commercial District
- **1982 Master Plan**
- 2005 Concept Redevelopment Plan
- 1133 Board of Zoning Appeals
- 2003 Master Plan

Additional Site Logistics

Excerpt from 1982 Master Plan



Excerpt from 1982 Master Plan

Objective: **fostering harmony between the buildings and their particular sites and neighboring structures**

Topics of Discussion

Intro

Code Conflicts

- 1159 D Downtown Commercial District
- 1082 Master Plan
- **2005 Concept Redevelopment Plan**
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Additional Site Logistics

Excerpt from 2005 Concept Redevelopment Plan

Thriftway Site

The redevelopment plan envisions residential development for this property. The exact time for redevelopment will be determined at a later time when the property will be ready to be considered for a new type of land use. The plan however, wants to make a **strong recommendation towards the development of quality in-fill housing at a density of 14-18 units/acre.** The design and layout should strive for a compact building form combining **open space amenity** and project identity. Several types of housing can be considered such as townhouses and flats with building heights at 3-4 floors. Parking will be provided in garages integrated with the units or in a single garage structure, with additional surface parking areas. There should be 2 parking spaces provided for each unit because the area does not have a public transit system.

Excerpt from 2005 Concept Redevelopment Plan

The core of the downtown should serve as a development node and should be defined by high-intensity land use development (starting at the average **.50 floor area ratio**, compared with the existing .33), mixed-use commercial and residential uses, buildings up to four stories high, defined business district parking areas (surface parking, one level below grade garages, and parking structures), a pedestrian amenity system with high connectivity to create a lively, safe, and attractive walking environment.

Excerpt from Notes from BZA Meeting regarding Plan 1

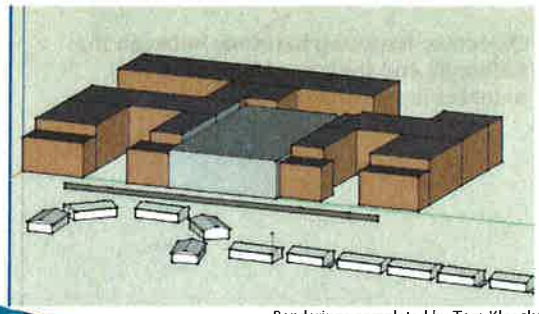
Mr. Sirkin read a statement in the Comprehensive Plan that highlights the need to protect the quality of the residential areas over all other policies. He agreed that the project impairs light and air and agreed with all of the other issues highlighted in the appeal. He stated that the project is too high and too close to multiple residences to satisfy the intent of the Comprehensive Plan, which is not supported by the BZA decision criteria in 1133.05.

Ms Brook agreed that the project is attractive, but agreed with Mr. Sirkin.

Mr. Kirby agreed and added that the setback should not have been waived because the development does not satisfy the "existing building" provision in the Code. He thinks that the DDRC stretched the waiver provision of the Code too far, which means that those items that were waived do not comply with the Code, which then results in the requirement for a maximum density.

Mr. Collett said that the project does not satisfy all of the applicable Code requirements and that the density more than doubles the intended density per the Master Plan. He does not believe that the setback should have been waived and that the parking is in both the front and side yards. The concern that the existing commercial building could be visibly blocked is not sufficient grounds to support the setback waiver. The Master Plan does not support such a waiver.

Size of Proposed Complex Compared to Barwyn Acres Neighborhood



Renderings completed by Tom Kloecker
(Tom has 38 years of experience developing computational geometry and graphics methods for the automotive and aerospace industries)

Excerpt from 2005 Concept Redevelopment Plan

These projects should reflect the Plan's principles and should adhere to its vision. In addition, these projects should reflect the inputs received from the stakeholders during the charrettes. The criteria to be used in selecting and in supporting such projects are as follows:

- Be consistent with the Concept Redevelopment Plan
- Make the greatest impact possible in expediting the implementation of the plan, in creating positive spin-off effects, such as increased visibility, and increased quality in development and character.
- Project leverages public financing commitments.
- Project is cost effective.
- Project has broad community support.

Topics of Discussion

Intro

Code Conflicts

- 1159 D-1 Downtown Commercial District
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- **1133 Board of Zoning Appeals**
- 2003 Master Plan

Additional Site Logistics

1133.04 Powers

(a)The powers of the Board of Zoning Appeals are to interpret the Zoning Code as follows:

(1)To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an inspector in the enforcement of the Zoning Code

(2)To interpret the provisions of the Zoning Code in such a way as to carry out the intent and purpose of the Master Plan including, but not limited to, determining zoning lines where the street layout on the ground varies from the street layout as shown on the Zoning District Map.

1133.05 ORDERS.

(a) In exercising the above mentioned powers, the Board of Zoning Appeals may, in conformity with the provisions of the Zoning Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute change in the Zoning District Map and will not impair an adequate supply of light and air to adjacent property, **nor increase the congestion in public streets**, nor increase the public danger of fire and safety, nor materially diminish or impair established property values within the surrounding area, nor in any other respect impair the public health, safety, comfort, morals, and welfare of the City, nor go against the intent of the Master Plan of the City. Every change granted or denied by the Board shall be accompanied by a written finding of fact, specifying the reason for granting or denying the variation.

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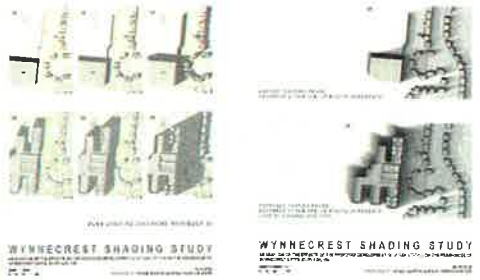
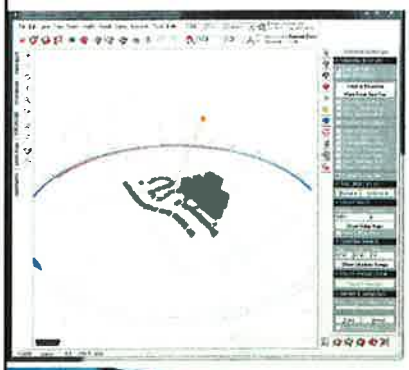
Wynnecrest Shading Study
An Analysis of the Effects of the Proposed Development *Blue Ash Station* on the Residences of Wynncrest Drive, Blue Ash, OH
Prepared By: Renee Martin, M. Arch; Rebecca Wood





This shading study was modeled in Rhinoceros and analyzed in Ecotect, using location and weather data from Lunken Airport. The digital model was created from an 11"x17" copy of the Hills Properties proposal drawings. The Rhinoceros model and local weather data were imported to Ecotect, which produced an interactive solar projection for the given hours and dates

Sunlight Coming Through Current Tree "Buffer"

Topics of Discussion

Intro

Code Conflicts

- 1159 D-1 Downtown Commercial District
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- 1133 Board of Zoning Appeals
- **2003 Master Plan**

Additional Site Logistics

2003 Master Plan

Land Use Policies

The quality of the residential areas of the City should be maintained, protected, and improved as the primary policy of the City. All other land use policies and plans should recognize this residential policy as a primary interest of the community.

Topics of Discussion

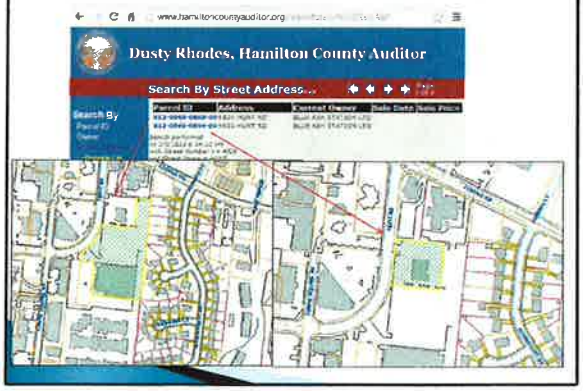
Intro

Code Conflicts

- 1990's Downtown Commercial District
- 1982 Master Plan
- 2005 Concept Redevelopment Plan
- 1993 Board of Zoning Appeals
- 2003 Master Plan

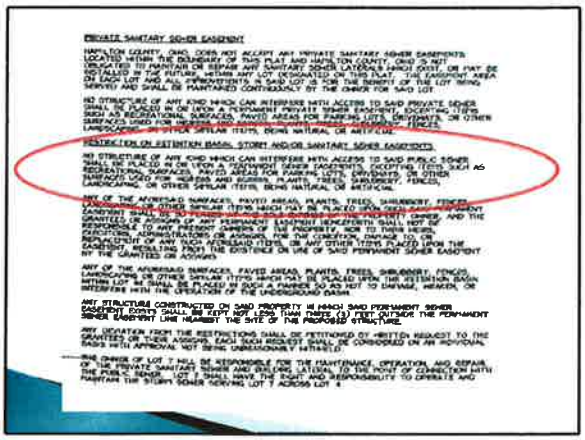
Additional Site Logistics

4920 Hunt Road is composed of 2 separate plats



1123.05 Minimum Requirements

In interpreting and applying the provisions of this Zoning Code, they shall be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. **It is not intended by this Zoning Code to interfere with or abrogate or annul any easements**, covenants or other agreements between parties, except that if this Zoning Code imposes a greater restriction, the Zoning Code shall control.



PRIVATE SANITARY SEWER EASEMENT

HAMILTON COUNTY, OHIO, DOES NOT ACCEPT ANY PRIVATE SANITARY SEWER EASEMENTS LOCATED WITHIN THE BOUNDARY OF THIS PLAT AND HAMILTON COUNTY, OHIO IS NOT OBLIGATED TO MAINTAIN OR REPAIR ANY SANITARY SEWER LATERALS WHICH ARE LOCATED ON OR MAY BE INSTALLED IN THE FUTURE, WITHIN ANY LOT DESIGNATED ON THIS PLAT. THE EASEMENT AREA OF EACH LOT AND ALL IMPROVEMENTS IN SAID LOT IS FOR THE BENEFIT OF THE LOT BEING SERVED AND SHALL BE MAINTAINED CONTINUOUSLY BY THE OWNER FOR SAID LOT.

NO STRUCTURE OF ANY KIND WHICH CAN INTERFERE WITH ACCESS TO SAID PRIVATE SEWER SHALL BE PLACED IN OR UPON A PERMANENT PRIVATE SANITARY EASEMENT, EXCEPTING ITEMS SUCH AS RECREATIONAL SURFACES, PAVED AREAS FOR PARKING, DRIVEWAYS, OR OTHER SURFACES USED FOR ingress AND egress, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING, OR OTHER SIMILAR ITEMS, BEING NATURAL OR ARTIFICIAL.

RESTRICTION ON RETENTION BASIN, STORM AND/OR SANITARY SEWER EASEMENTS

NO STRUCTURE OF ANY KIND WHICH CAN INTERFERE WITH ACCESS TO SAID PUBLIC SEWER SHALL BE PLACED IN OR UPON A PERMANENT SEWER EASEMENTS, EXCEPTING ITEMS, SUCH AS RECREATIONAL SURFACES, PAVED AREAS FOR PARKING, DRIVEWAYS, OR OTHER SURFACES USED FOR INGRESS AND EGRESS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING, OR OTHER SIMILAR ITEMS, BEING NATURAL OR ARTIFICIAL.

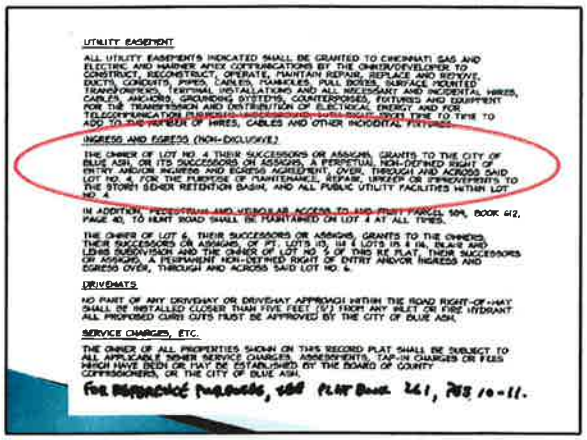
ANY OF THE AFOREMENTIONED SURFACES, PAVED AREAS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING OR OTHER SIMILAR ITEMS WHICH MAY BE PLACED UPON THE RETENTION BASIN EASEMENT SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER, AND THE GRANTEES OR ASSIGNS OF ANY PERMANENT EASEMENT HEREINAFTER SHALL NOT BE RESPONSIBLE TO ANY PRESENT OWNERS OF PROPERTY, NOR TO THEIR HEIRS, EXECUTORS, ADMINISTRATORS OR ASSIGNS, FOR THE CREATION, REMOVAL, OR REPLACEMENT OF ANY SUCH AFOREMENTIONED ITEMS, OR ANY OTHER ITEMS PLACED UPON THE EASEMENT, RESULTING FROM THE EXISTENCE OR USE OF SAID PERMANENT SEWER EASEMENT BY THE GRANTEES OR ASSIGNS.

ANY OF THE AFOREMENTIONED SURFACES, PAVED AREAS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING OR OTHER SIMILAR ITEMS WHICH MAY BE PLACED UPON THE RETENTION BASIN WITHIN LOT 4 SHALL BE PLACED BY SUCH OWNERS SO AS NOT TO DAMAGE, HINDER, OR INTERFERE WITH THE OPERATION OF THE UNDERGROUND BASIN.

ANY STRUCTURE CONSTRUCTED ON SAID PROPERTY IN WHICH SAID PERMANENT SEWER EASEMENT EXISTS SHALL BE KEPT NOT LESS THAN THREE (3) FEET OUTSIDE THE PERMANENT SEWER EASEMENT LINE NEAREST THE SITE OF THE PROPOSED STRUCTURE.

ANY DEVIATION FROM THE RESTRICTIONS SHALL BE PETITIONED BY WRITTEN REQUEST TO THE GRANTEES OR THEIR ASSIGNS. EACH SUCH REQUEST SHALL BE CONSIDERED ON AN INDIVIDUAL BASIS WITH APPROVAL NOT BEING UNREASONABLY WITHHELD.

THE OWNER OF LOT 7 SHALL BE RESPONSIBLE FOR THE MAINTENANCE, OPERATION, AND REPAIR, OF THE PRIVATE SANITARY SEWER AND FOR ONE LATERAL TO THE POINT OF CONNECTION WITH THE PUBLIC SEWER. LOT 7 SHALL HAVE THE RIGHT AND RESPONSIBILITY TO OPERATE AND MAINTAIN THE STORM SEWER SERVING LOT 7 ACROSS LOT 4



UTILITY EASEMENT

ALL UTILITY EASEMENTS INDICATED SHALL BE GRANTED TO CINCINNATI GAS AND ELECTRIC AND MANNER ARIEX COMMUNICATIONS BY THE OWNER/DEVELOPER TO CONSTRUCT, RECONSTRUCT, OPERATE, MAINTAIN REPAIR, REPLACE AND RENEW DUCTS, CONDUITS, PIPES, CABLES, MANHOLES, PULL BOXES, SURFACE MOUNTED TRANSFORMERS, TERMINAL INSTALLATIONS AND ALL NECESSARY AND INCIDENTAL WIRES, CABLES, ANCHORS, GROUNDING SYSTEMS, COUNTERPOISES, FIXTURES AND EQUIPMENT FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICAL ENERGY AND FOR TELECOMMUNICATIONS PURPOSES, INCLUDING ANY TIME TO TIME TO ADD TO OR REMOVE OF WIRES, CABLES AND OTHER INCIDENTAL FIXTURES.

INGRESS AND EGRESS (NON-EXCLUSIVE)

THE OWNER OF LOT NO. 4, THEIR SUCCESSORS OR ASSIGNS, GRANTS TO THE CITY OF BLUE ASH, OR ITS SUCCESSORS OR ASSIGNS, A PERPETUAL NON-DEFINED RIGHT OF ENTRY AND/OR INGRESS AND EGRESS AGREEMENT, OVER, THROUGH AND ACROSS SAID LOT NO. 4, FOR THE PURPOSE OF MAINTENANCE, REPAIR, UPKEEP OR IMPROVEMENTS TO THE STORM SEWER RETENTION BASIN, AND ALL PUBLIC UTILITY FACILITIES WITHIN LOT NO. 4.

IN ADDITION, PEDESTRIAN AND VEHICULAR ACCESS TO AND FROM PARCEL 504, BOOK 612, PAGE 40, TO HUNT ROAD SHALL BE MAINTAINED ON LOT 4 AT ALL TIMES.

THE OWNER OF LOT 6, THEIR SUCCESSORS OR ASSIGNS, GRANTS TO THE OWNERS, THEIR SUCCESSORS OR ASSIGNS, OF LOTS 15, 16 (LOTS 15 & 16, BLAIR AND LEWIS SUBDIVISION AND THE OWNER OF LOT NO. 5 OF THIS RE-PLAT, THEIR SUCCESSORS OR ASSIGNS, A PERMANENT NON-DEFINED RIGHT OF ENTRY AND/OR INGRESS AND EGRESS OVER, THROUGH AND ACROSS SAID LOT NO. 6.

DRIVEWAYS

NO PART OF ANY DRIVEWAY OR DRIVEWAY APPROACH WITHIN THE ROAD RIGHT-OF-WAY SHALL BE INSTALLED CLOSER THAN FIVE FEET (5') FROM ANY INLET OR FIRE HYDRANT ALL PROPOSED CURB CUTS MUST BE APPROVED BY THE CITY OF BLUE ASH.

SERVICE CHARGES, ETC.

THE OWNER OF ALL PROPERTIES SHOWN ON THIS RECORD PLAT SHALL BE SUBJECT TO ALL APPLICABLE SEWER SERVICE CHARGES, ASSESSMENTS, TAP-IN CHARGES OR FEES WHICH HAVE BEEN OR MAY BE ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS, OR THE CITY OF BLUE ASH.

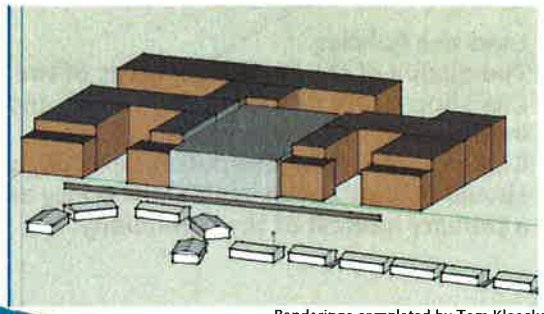
FOR REFERENCE PURPOSES, SEE PLAT BOOK 141, PGS 10-11.

Restrictions on Building Over Sewers

Hamilton County Planning and Development Stormwater Drainage System, Section ST 206
Public Storm sewers shall not be located under any building.

MSD Rules and Regulations, Section 206 "Construction of Structures Over Sewers"
MSD will permit no structure of any kind which can interfere with access to a public sewer or exert loading upon a public sewer to be placed in or upon a permanent sewer easement, excepting items such as recreational surfaces, paved areas for parking lots, driveways, or other surfaces used for ingress or egress, plants, trees, shrubbery, fences, landscaping or other similar items, being natural or artificial.

Size of Proposed Complex Compared to Barwyn Acres Neighborhood



Renderings completed by Tom Kloecker
(Tom has 38 years of experience developing computational geometry and graphics methods for the automotive and aerospace industries)

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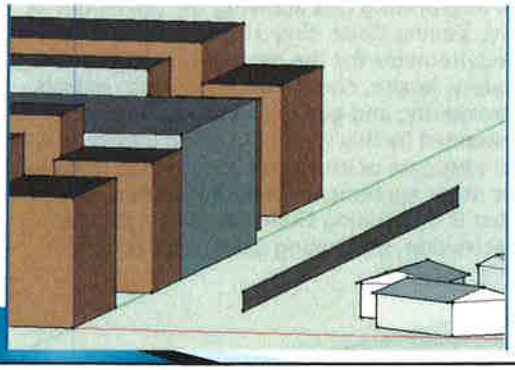
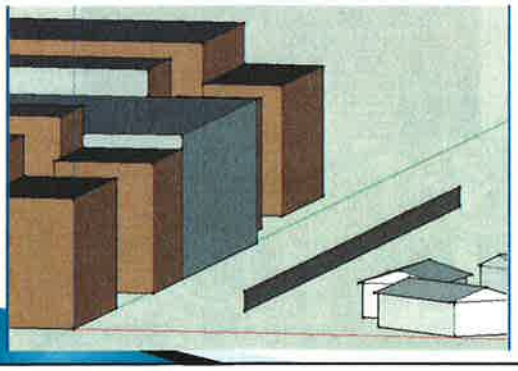


Thank You

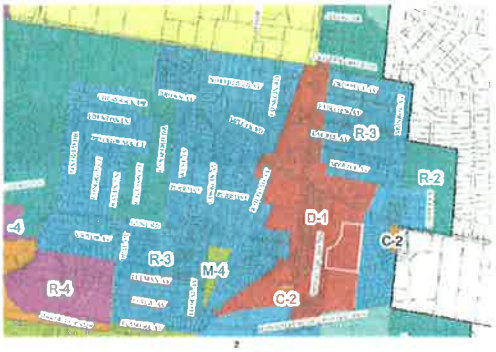


49Hundred

Blue Ash
City Council Meeting
January 10, 2013

HILLS PROPERTIES

Blue Ash Downtown Commercial District Zoning Map



2

49Hundred Site Plan 1

DDRC Meeting, April 11, 2012 & BZA Meeting, June 11, 2012

3

MEETINGS WITH BARWYN ACRES NEIGHBORS

At Hills Corporate Office

JULY 3, 2012
Neighbors Attending:
Tim Lomison, Karen Staubach, Jean Staubach, Cecilia Kloecker

August 1, 2012
Neighbors Attending:
Tim Lomison, Karen Staubach, Jean Staubach, Cecilia Kloecker

August 14, 2012
Neighbors Attending:
Tim Lomison, Karen Staubach, Jean Staubach, Cecilia Kloecker, Tim Rehe

4

49Hundred Site Plan 3

DDRC Meeting, August 22, 2012 & BZA Meeting October 8, 2012

5

49Hundred Plan 3 Rendering

6

49Hundred Exterior Building Materials

West Elevation

7

HILLS PROPOSED LUXURY RENTAL HOMES

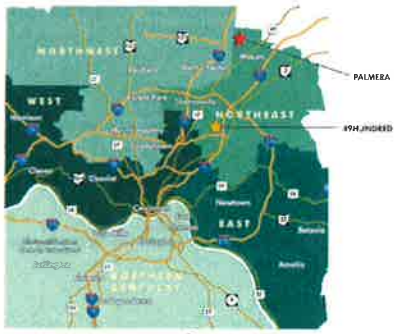
Community Amenities
- Resort-style pool
- Resident Clubhouse
- Fitness Center
- Private parking garage
- Elevators

Interior Amenities
- Crown molding
- 9' ceilings
- 42" kitchen cabinets
- Granite countertops
- Stainless steel appliances

8

Greater Cincinnati-Northern Kentucky Apartment Market

As defined by CBRE,
the premier multi-housing advisory and brokerage team in the Central Midwest.



9

PALMERA
EXCEPTIONAL APARTMENT HOMES

360 Luxury Rental Apartment Home Built and Managed by Hills in 2012

10

Greater Cincinnati-Northern Kentucky Apartment Market

2012 Apartment Market

Occupancy by Submarket

	December						July	Dec.	July
	2005	2006	2007	2008	2009	2010	2011	2011	2012
Central									94.7%
Northeast									94.3%
N. KY	91.3%	92.8%	89.9%	91.1%	88.0%	92.2%	94.2%	94.1%	95.4%
West									91.2%
East	91.0%	91.2%	91.1%	92.6%	90.6%	92.7%	94.3%	93.5%	95.4%
Central									93.8%
Northwest									96.6%

CBRE

11

Greater Cincinnati-Northern Kentucky Apartment Market

2012 Apartment Market

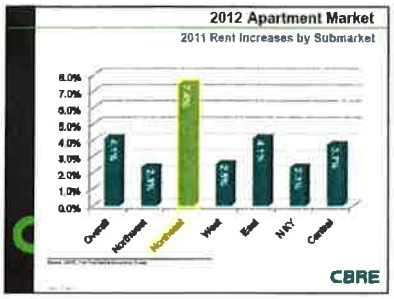
Rent per SF by Submarket

	December						July	Dec.	July
	2005	2006	2007	2008	2009	2010	2011	2011	2012
Central									$.81
Northeast									$.75
N. KY							$8.72		$.74
West									$.68
East									$.84
Central									$.89
Northwest									$.91

CBRE

12

Greater Cincinnati-Northern Kentucky Apartment Market



13

BLUE ASH APARTMENT MARKET

Apartment Community	Year Built	# of Rental Homes	Before 49 Hundred % of Blue Ash Apt. Market	After 49 Hundred % of Blue Ash Apt. Market	Change % of Blue Ash Apt. Market
Old Plainfield Woods Apts	1995	18	1.33%	1.15%	-0.18%
Charleston at Blue Ash	1982	242	17.91%	15.42%	-2.49%
Deercross Apartments	1985	336	24.87%	21.41%	-3.46%
Town Square Adult Apts	1984	50	3.70%	3.19%	-0.51%
Hunter's Creek Apartments	1980	146	10.81%	9.11%	-1.70%
Fox Run Apartments	1973-74	228	16.88%	14.33%	-2.54%
Timber Ridge Apartments	1972	248	18.36%	15.81%	-2.55%
Walnut Creek Townhomes	1970's	83	6.14%	5.29%	-0.85%
Total Before 49 Hundred		1,351	100.00%	86.11%	-13.89%
49 Hundred	2013-14	218		13.89%	13.89%
Total After 49 Hundred		1,569		100.00%	

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Hills Property Management Is a Member in Good Standing of:

The Greater Cincinnati Northern Kentucky Apartment Association

The National Apartment Association

The National Multi-Housing Council

15

Hills Property Management has won both local and national awards including:

2005 Hills voted the Best Property Management Company by the Cincinnati and Northern Kentucky Apartment Association

National Award:

In 2006 CEL & Associates INC. ranked HILLS Best in The Industry in the category of companies of similar size.

16

Plan Modifications: Building Footprints, West Property Line

Plan 1

Plan 3

17

Plan Modifications Building Footprint: East Property Line

Plan 1

Plan 3

18

49Hundred Summary of Changes
From Plan 1 to Plan 3

- Front setback: moved buildings A & B up to Hunt Rd.
- Parking removed from front yard
- Existing brick wall & mature trees to remain on East property line
- Turned buildings A & B, so courtyards open to East property line
- Lowered buildings facing the East property line to 3 stories
- Reduced number of balconies along East property line from 48 to 12
- Added louvers to garage openings along East property line

49Hundred Site Plan 3

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.02a
Unless otherwise permitted herein, all development in the D-1 District shall be consistent with the plan approved by the Council as set forth in the "Master Plan for the Development of Downtown Blue Ash," dated November 18, 1982, and adopted by Ordinance 82-101, and the supplemental Blue Ash Town Center – Concept Redevelopment Plan dated December 2005, and adopted by Ordinance 2006-20. The Downtown Design Review Committee shall review all plans for new construction and building additions and ensure proper conformity in its approvals.

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

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"Unless otherwise permitted herein"

BZA October 8, 2012 Meeting Transcript
Pages 114 & 115

Mr. (Mike) Duncan:
"Bryan (Deputy Solicitor Bryan Pacheco) can you restate what the "unless otherwise permitted herein" means?"

Mr. Pacheco:
"It does talk about the plan of 05 and 82, and it says to be in conformity with those unless otherwise permitted herein. Meaning if it complies with the code, you **don't** look at 82, you **don't** look at 05, you **look at the code.**"

HISTORY OF ADOPTING THE CONCEPT PLAN & D-1 CODE AMMENDMENTS

March 2, 2006: Blue Ash Planning Commission Record of Proceedings, P.2
Approval of an updated Downtown Master Plan

"Mr. Thompson (Assistant City Manager) explained that after the plan is adopted, the City will review and propose changes to the D-1 District regulations to **implement** the plan. Those proposals will go through the zoning amendment process."

"Mr. Thompson emphasized that this is a **concept** and that the **legislation** will clarify that **the plan does not adopt specific building concepts or zoning regulations**. Ray Schafer (Chairman of the Planning Commission) mentioned the 1981 plan also provided **only guidelines**."

25

HISTORY OF ADOPTING THE CONCEPT PLAN & D-1 CODE AMMENDMENTS

April 27, 2006 – Council of the City of Blue Ash Meeting Minutes, P.2
First Reading of the Blue Ash Town Center Concept Redevelopment Plan

"Assistant City Manager David Waltz commented that the **purpose** for this updated plan is to assure that downtown remains **economically viable** in the future....He stressed that the plan recommended is **conceptual** in nature – and **not** meant to be a blueprint of specific change....He stressed that rather than focusing on the pictures included in the plan, it is important to recognize the real component that **future marketing conditions** may encourage mixed-use development and **increasing density** for downtown."

26

Blue Ash Downtown Commercial District Available Retail Space

27

Blue Ash Downtown Commercial District Available Retail Space

28

HISTORY OF ADOPTING THE CONCEPT PLAN & D-1 CODE AMMENDMENTS

May 11, 2006 – Council of the City of Blue Ash Meeting Minutes P.9-10
Adopted the Blue Ash Town Center Concept Redevelopment Plan

Council Addendum to the Blue Ash Town Center Concept Redevelopment Plan "First and foremost, the attached plan is intended to be a **conceptual document**. It provides a framework for discussion of a potential future for downtown Blue Ash. The attached plan is **NOT** an **implementation strategy or document**."

(City Manager Thompson) "He stressed the **conceptual nature** of the plan, and the desire for **more residential density** and more pedestrian-friendly features, including additional streetscaping features."

29

HISTORY OF ADOPTING THE CONCEPT PLAN & D-1 CODE AMMENDMENTS

August 3, 2006 - Planning Commission - Approval of D-1 Zoning Code amendments

November 9, 2006 - Council of the City of Blue Ash – First Reading of D-1 Zoning Code amendments

December 14, 2006 – Council of the City of Blue Ash - Adopted D-1 Zoning Code amendments

30

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.05(c)

Buildings shall be set back **a minimum of ten feet** from all other lots lines when abutting uses in a **different zoning district.**

49Hundred Plan 3
East Property Line Setbacks

Building A: 46.7'
Building B: 54.9'
Garage: 46.7'

31

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE - REQUIRED SETBACK

East Property Line Setbacks

Building A: 46.7'
Building B: 54.9'
Garage: 46.7'

32

CHAPTER 1188 LANDSCAPE STANDARDS
1188.07 BUFFER YARD REQUIREMENTS

WHEN...	IS PROPOSED TO ABUT...	AN MINIMUM BUFFERYARD OF...	PLANT MATERIAL
Any use in the R-5, C-2 or D-1 district	Any R-1, R-2, R-3, R-4 or R-5 district or land use	10' side and/or rear yard is required with	EITHER 1 tree (A) @ 25' O.C. + a double row hedge (E) OR 6' wall, brick faced on both sides and 8" thick with a top course to be row lock, and 1 tree (A) @ 25', 35' O.C. OR A double row, staggered planting of trees (C) 15' O.C.

33

Existing Brick Wall &Tree Line: North Side of Existing Building

34

Existing Tree Line: South Side of Existing Building

36

Existing Tree Line: CAGIS Winter 2011

Existing Tree Line: CAGIS Summer 2009

37

Bird's Eye Looking North – Winter

38

Bird's Eye Looking South – Winter

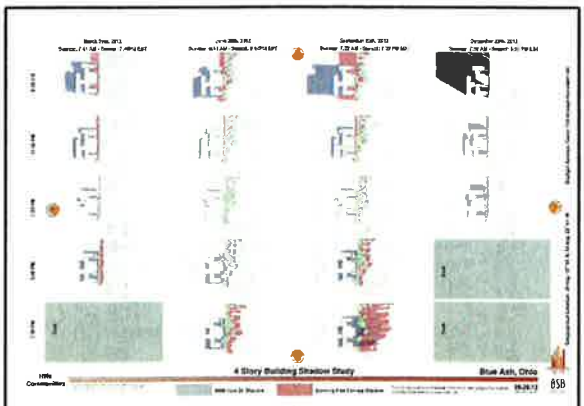
39

Existing Trees

40

Existing Trees

41



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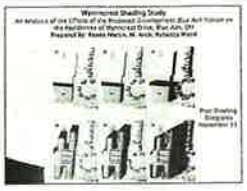


43

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.05(a)(1)

The maximum height of principal buildings shall be 50 feet. Principal buildings located at the corner of Kenwood and Cooper Road may have a maximum height of 60 feet.

49Hundred Plan 3
East Elevation
3-Story: 38.4'
4-Story: 45.2'
Garage: 42.5'

44

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE - BUILDING HEIGHTS

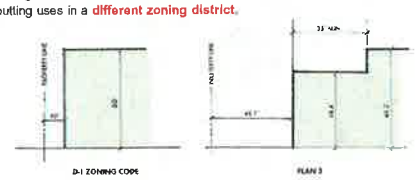
49Hundred Plan 3
East Elevation
3-Story: 38.4'
4-Story: 45.2'
Garage: 42.5'

45

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.05(a)(1)
The maximum height of principal buildings shall be 50 feet. Principal buildings located at the corner of Kenwood and Cooper Road may have a maximum height of 60 feet.

1159.05(c)
Buildings shall be set back a **minimum of ten feet** from all other lots lines when abutting uses in a **different zoning district.**



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"Light and air"

BZA October 8, 2012 Meeting Transcript
Page 117

Mr. (Mike) Duncan:
"One of the items that was mentioned by Hills was that the zoning code and its setback requirements has addressed the requirement of for air and light, and it that typically the case, does setback imply that the code itself has looked at and because of the setback has addressed air and light?"

Mr. (Dan) Johnson (Community Development Director):
"Yes."

47

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.05(b)(1)

All buildings with frontage on Kenwood Road, Cooper Road, **or on Hunt Road between Kenwood Road and Cooper Road shall be built to the back of the public sidewalk.** Exceptions may be made to allow room for outdoor dining areas, landscaped entries, pedestrian plazas, enhanced customer entrances, and similar pedestrian amenities.

Plan 3

48

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.05(d)(4)

There is no maximum residential density in this district provided the residential uses meet the setback, height, and other site design requirements.

49

BLUE ASH DOWNTOWN DESIGN REVIEW COMMITTEE
Neighborhood Compatibility

August 22, 2012: DDRC Meeting Minutes, P. 7

"In answer to a request by Ray Schafer for clarification on 1159.01 (e) to ensure neighborhood compatibility with surrounding neighborhoods, [Deputy Solicitor] Bryan Pacheco said 1159.01 is talking about what the purpose is and 1159.02 states 'unless otherwise permitted herein,' which means if it **fits the Code**. By meeting the Code it is a recognition that it **does ensure neighborhood compatibility**."

50

Compatible Use within D-1
Aerial Photo

51

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.07(d)

Whenever possible, parking lots, with bays containing more than 20 spaces shall provide ingress and egress at both ends of each parking bay or parking lot.

52

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.07(j)(2)

All parking structures should be located in the rear of the building to the maximum extent **feasible**.

53

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.07(j)(4)

Vehicle entries to off-street parking structures shall be **integrated** into the placement and design of adjacent building **or** oriented away from the primary street frontage.

54

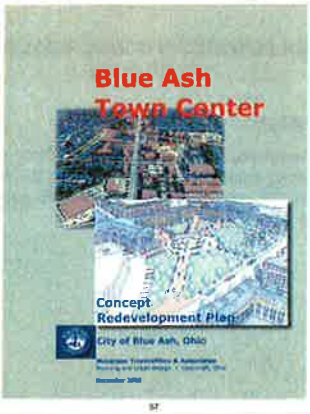
BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

55

BLUE ASH DOWNTOWN COMMERCIAL DISTRICT ZONING CODE

1159.02a
Unless otherwise permitted herein, all development in the D-1 District shall be consistent with the plan approved by the Council as set forth in the "Master Plan for the Development of Downtown Blue Ash," dated November 18, 1982, and adopted by Ordinance 82-101, and the supplemental Blue Ash Town Center – Concept Redevelopment Plan dated December 2005, and adopted by Ordinance 2006-20. The Downtown Design Review Committee shall review all plans for new construction and building additions and ensure proper conformity in its approvals.

56



57

COUNCIL ADDENDUM TO THE BLUE ASH TOWN CENTER 2005 CONCEPT REDEVELOPMENT PLAN

First and foremost, the attached plan is intended to be a **conceptual document.** It provides a framework for discussion of a potential future for downtown Blue Ash. The attached plan is **NOT an implementation strategy or document.** As Such, specific renderings or site plans are for illustrative purposes only and not meant to dictate specific outcomes. Such specificity will be undertaken during the implementation phase, and anticipated to be done on a case-by-case basis in a joint venture with property owners and developers.

58

BLUE ASH TOWN CENTER 2005 CONCEPT REDEVELOPMENT PLAN

Figure IV-2
Town Center Land Use Concept Structure
Downtown Blue Ash District

59

BLUE ASH TOWN CENTER 2005 CONCEPT REDEVELOPMENT PLAN

II-7

Housing at high density is a major key to success and needs to be given priority. Housing in the downtown as part of mixed-use projects, housing adjacent to the downtown, and housing at other locations in the city. Provide for a range of housing options.

60

BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN

II-7

Projects will require **public subsidy.**

61

ECONOMIC BENEFITS TO THE CITY OF BLUE ASH

- Increased Real Estate Taxes
- Increased Income Taxes
  - Short-term Construction
  - Long-term Residents & Employees
- Increases Population to Support Local Retail
- Catalyst for additional downtown development

62

REAL TAX ESTATE IMPACT

UNIT NAME	2012 EFFECTIVE RATE	CURRENT TAXES	PROJECTED TAXES	ANNUAL DIFFERENCE	10-YEAR DIFFERENCE
Blue Ash City	3.68	$3,929	$22,628	$18,709	$187,092
Sycamore CSD	42.900366	$54,725	$315,318	$260,595	$2,605,949
Hamilton County	16.193011	$20,541	$118,357	$97,817	$978,165
Great Oaks JVSD	2.344452	$2,991	$17,232	$14,241	$142,414
Hamilton Co. Park	1.022476	$1,304	$7,515	$6,211	$62,110
Public Library	1.00	$1,276	$7,350	$6,074	$60,744
TOTAL	**66.450313**	**$84,762**	**$488, 410**	**$403,647**	**$4,036,474**

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BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN

IV-19 Thriftway Site

The redevelopment plan envisions **residential development** for this property. The exact time for redevelopment will be determined at a later time when the property will be ready to be considered for a new type of land use. The plan, however, wants to make a strong **recommendation** towards the development of **quality in-fill housing at a density of 14-18 units/acre.** The design and layout should strive for a compact building form combining **open space amenity** and **project identity.** Several types of housing can be considered such as townhouses and flats with **building heights at 3-4 floors.** Parking will be provided in garages integrated with the units or in a **single garage structure,** with additional surface parking areas. There should be 2 parking spaces provided for each unit because the area does not have a public transit system.

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BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN

65

BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN

66

BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN
EXISTING STORM VAULT

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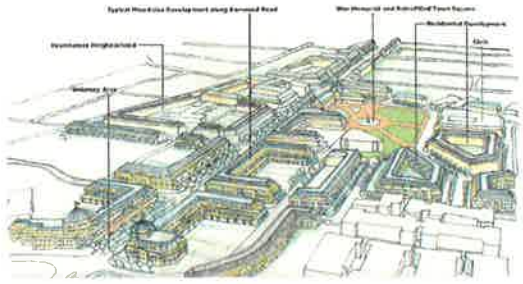
BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN



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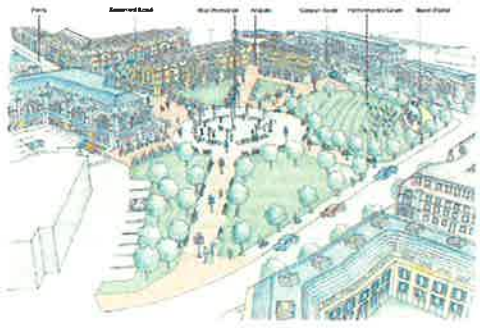
BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN



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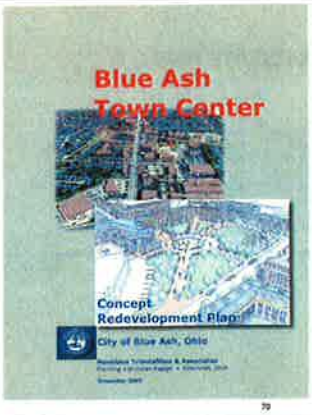

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DDRC August 22, 2012
Meeting Minutes
Page 3

"He (Mr. Menelaos Triantafillou) feels the plan submitted by Hills is a well thought out and designed plan that does meet the D-1 requirements and meets the purposes of the Towne Center plan and vision."

PLAN 3 COMPLIES WITH THE D-1 CODE

August 22, 2012: Blue Ash Board Downtown Design Review Committee Meeting Minutes Page 9

"Dan Johnson (Community Development Director) said he believes it (Plan 3) satisfies the Code and meets the intent of the Comprehensive Plan."

71

BLUE ASH TOWN CENTER
2005 CONCEPT REDEVELOPMENT PLAN

First and foremost, the attached plan is intended to be a **conceptual document.** It provides a framework for discussion of a potential future for downtown Blue Ash. The attached plan is **NOT an implementation strategy or document.** As Such, specific renderings or site plans are for illustrative purposes only and not meant to dictate specific outcomes. Such specificity will be undertaken during the implementation phase, and anticipated to be done on a case-by-case basis in a joint venture with property owners and developers.

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BACKGROUND

- C. Gregory Dale, AICP
- Principal, McBride Dale Clarion
- 30 years of experience in planning and zoning

73

OVERVIEW

- The only issue before City Council is whether this application conforms to the zoning code
- This application does in fact comply with the zoning code

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RELATIONSHIP OF PLAN TO ZONING

- Plans are policy, zoning is law
- Plan first, then zone to implement
- Blue Ash:
  - "The Zoning Code has been made in accordance with a comprehensive plan..." (1123.06)
  - Legislative history
  - Plan is "NOT an implementation document" (City Council addenda to Plan)
  - "Unless otherwise permitted herein..." (1159.02a)
  - City legal counsel opinion
- If the application meets the zoning code, the plan does not apply

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ZONING COMPLIANCE SUMMARY

- Use: permitted
- Height: 50' permitted, 38-45' proposed
- Setback: 10' required, 46-54 proposed
- Density: no maximum density required
- Parking: standards met
- Landscaping, lighting, signage, design: minor issues raised in first plan addressed to staff's satisfaction in this plan
- Planning Staff, DDRC, BZA all agree

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49Hundred Site Plan 3
DDRC Meeting, August 22, 2012 & BZA Meeting, October 8, 2012

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HILLS 49HUNDRED PLAN 3
TRAFFIC IMPACT

USE	AVERAGE DAILY TRIPS
Supermarket (45,000 SF)	4,600
Multi-Family (218 Homes)	1,445

Impact = 68% decrease in daily traffic

Source: Institute of Transportation Engineers Trip Generation Manual, 8th Edition, aka ITE Manual

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BLUE ASH PROPERTIES
OWNED & OPERATED BY HILLS

Kenwood Corporate Centre

Kenwood Professional Building

Hills Corporate Centre

Reed Hartman Business Park

Hills Commerce Park

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BLUE ASH D-1 PROPERTIES
OWNED & OPERATED BY HILLS

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BLUE ASH PROPERTIES
OWNED & OPERATED BY HILLS

	TOTAL SQ. FT.
HILLS CORPORATE CENTRE 4901 Hunt Rd	47,812
KENWOOD PROFESSIONAL BUILDING 9403 Kenwood Rd	58,143
KENWOOD CORPORATE CENTRE 9395 Kenwood Rd	33,777
D-1 TOTAL	139,732
HILLS COMMERCE PARK 10830 Kenwood Rd	193,022
REED HARTMAN BUSINESS PARK 11305 11333 Reed Hartman Highway	155,877
BLUE ASH TOTAL	488,631

81

Location of Storm Vault

82

Access to Storm Vault

83

Inside Storm Vault

84

John Eisenmann, CDS Associates

- **March 14, 2012** - Toured vault with Hills Development Team Members
- **April 18, 2012** - As a member of DDRC, voted for approval of Plan 1 with parking garage located over the vault
- **July 11, 2012** - As a member of DDRC, voted for approval of Plan 2 with parking garage located over the vault
- **August 22, 2012** - As a member of DDRC, voted for approval of Plan 3 with parking garage located over the vault

85

Replat of Lot 4 of Towne Square Center Subdivision Part II
Recorded: Book 372, Page 91

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Replat of Lot 4 of Towne Square Center Subdivision Part II
Recorded: Book 372, Page 91

BY THE GRANTEES OR ASSIGNS.

ANY OF THE AFOREMENTIONED SURFACES, PAVED AREAS, PLANTS, TREES, SHRUBBERY, FENCES, LANDSCAPING OR OTHER SIMILAR ITEMS WHICH MAY BE PLACED UPON THE RETENTION BASIN WITHIN LOT 4A SHALL BE PLACED IN SUCH A MANNER SO AS NOT TO DAMAGE, WEAKEN, OR INTERFERE WITH THE OPERATION OF THE UNDERGROUND BASIN.

ANY STRUCTURE CONSTRUCTED ON SAID PROPERTY IN WHICH SAID PERTINENT SEWER EASEMENT EXISTS SHALL BE KEPT NOT LESS THAN THREE (3) FEET OUTSIDE THE PERTINENT SEWER EASEMENT LINE NEAREST THE SITE OF THE PROPOSED STRUCTURE.

ANY DEVIATION FROM THE RESTRICTIONS SHALL BE PETITIONED BY WRITTEN REQUEST TO THE GRANTEES OR THEIR ASSIGNS. EACH SUCH REQUEST SHALL BE CONSIDERED ON AN INDIVIDUAL BASIS WITH APPROVAL NOT BEING UNREASONABLY WITHHELD.

THE OWNER OF LOT 7 WILL BE RESPONSIBLE FOR THE MAINTENANCE, OPERATION, AND REPAIR OF THE PRIVATE SANITARY SEWER AND BUILDING LATERAL TO THE POINT OF CONNECTION WITH THE PUBLIC SEWER. LOT 7 SHALL HAVE THE RIGHT AND RESPONSIBILITY TO OPERATE AND MAINTAIN THE STORM SEWER SERVING LOT 7 ACROSS LOT 4.

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HILLS 49 HUNDRED PLAN 3:

- Meets Zoning Code
- Consistent with Comp Plans
- Compatible with the Surrounding Neighborhood
- Economic Benefit for Blue Ash

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SUMMARY: HILLS 49 HUNDRED PLAN 3

Plan Facts & Benefits:

- Plan 3 is 100% compliant with D1 Code
- Existing mature trees and brick wall along the east property boundary to remain
- Building heights under 50' allowed:
  - East Elevation:
  - 3-story: 38.4'
  - 4-story: 45.2'
  - Garage: 42.5'
- Setbacks over minimum of 10'
  - East Property Line:
  - Building A: 46.6'
  - Building B: 54.8'
  - Garage: 46.6'
- Garage parking is integrated into the buildings and convenient to residences
- Garage openings along east property line to have louvers
- Includes high-end community amenities such as pool and fitness center

Economic Benefits:

- Increased Real Estate Taxes:

Tax:	1 year	10 years
- City Tax	$18,709	$187,092
- School District	$260,595	$2,605,949
- Other Taxes	$124,343	$1,243,433
- TOTAL TAXES	$403,647	$4,036,474

- Increased income taxes
  - Short-term construction
  - Long-term residents
- Increased population to support local retail

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49Hundred Plan 3 Rendering

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LAYOUT PLAN

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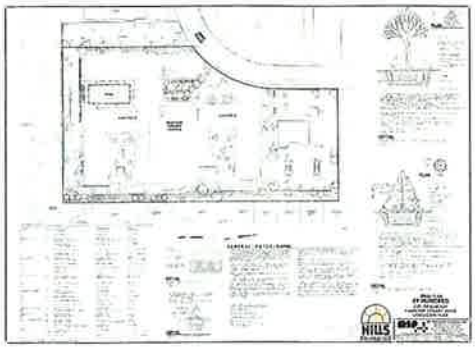
LANDSCAPE PLAN



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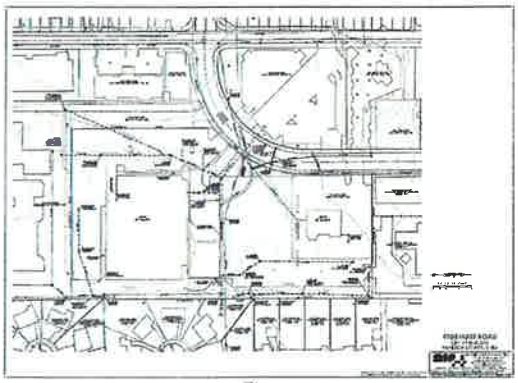
EXISTING UTILITIES



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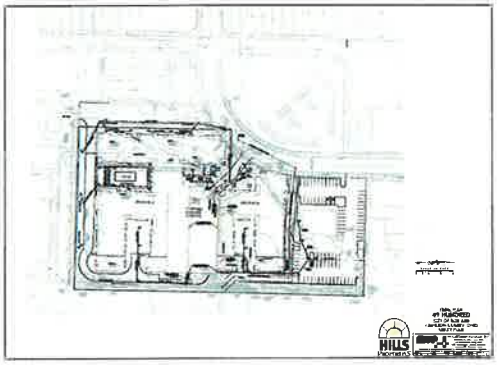
UTILITY PLAN



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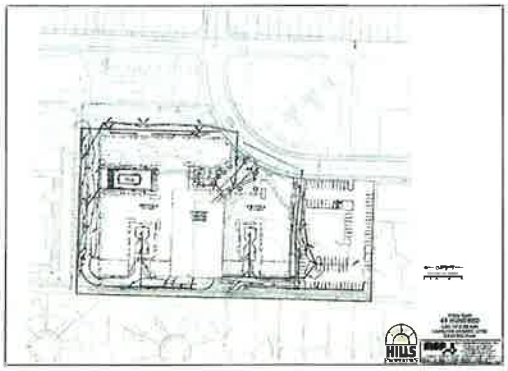
GRADING PLAN



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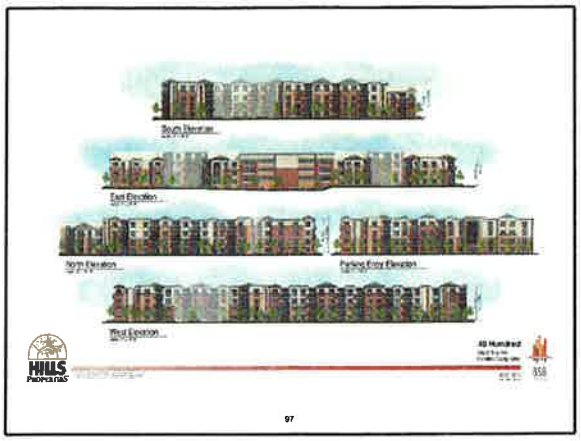
LIGHTING PLAN

96


South Elevation
East Elevation
North Elevation
Parking Entry Elevation
West Elevation
HILLS
Properties
97