

**KENT PLANNING COMMISSION  
BUSINESS MEETING  
MAY 16, 2017**

**MEMBERS PRESENT:**     **Chris Clevenger**  
                                     **Jeffrey Clapper**  
                                     **John Gargan**  
                                     **Peter Paino**  
                                     **Amanda Edwards**

**STAFF PRESENT:**         **Jennifer Barone, Development Engineer**  
                                     **Bridget Susel, Community Development Director**  
                                     **Eric Fink, Assistant Law Director**  
                                     **Sheila Uzl, Transcriptionist**

**I.     Call To Order**

The meeting was called to order at 7:00 p.m.

**II.    Roll Call:**

Mr. Clapper, Mr. Gargan, Mr. Clevenger, Mr. Paino and Ms. Edwards were present.

**III. Reading of the Preamble**

The Planning Commission operates in accordance with the provisions of the Kent City Charter, the Kent Zoning Code and Subdivision Regulations, all of which establish the powers and duties of the Commission. Members of the Planning Commission are appointed by Kent City Council and serve without compensation. Certain cases such as Conditional Zoning Certificates, Special Zoning Permits, Overlay District Projects and Zoning Amendments require Public Hearings before the Planning Commission. During the Public Hearing, any person wishing to address their concerns to the Commission will be provided the opportunity. Once the Public Hearing is closed, it shall be the discretion of the Chair whether to allow any additional public comment. Cases such as Site Plan Reviews and Subdivision Projects do not require a Public Hearing. However, the Chair will allow public comment on each case as it is taken on the agenda. In each instance where the Commission receives public comments or conducts a Public Hearing, those persons wishing to address their concerns to the Commission will be required to do so under oath or positive affirmation. The oath or affirmation shall be administered to all who wish to speak at the beginning of the Planning Commission Meeting. Once a decision has been made by the Planning Commission on a case, the Case is closed for the commission, as there is no provision to reopen a case. With the exception of cases falling under the Subdivision Code, any decision of the Planning Commission may be appealed to the City's Board of Zoning Appeals in accordance with the Chapter 1109 of the Zoning Code. Anyone interested in appealing a decision of the Planning Commission is advised to seek private legal counsel.

**IV. Administration of Oath**

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to rise and raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

**V. Correspondence**

Letters and emails were received regarding the case on the agenda at tonight's meeting

**VI. Old Business**

***The following is a verbatim transcription of case PC17-001, Kent Investors, LLC property located at 1005 East Main Street, Kent, Ohio***

**A.     PC17-001     KENT INVESTORS, LLC  
                          1005 East Main Street  
                          Site Plan Review**

Ms. Edwards: The applicant is requesting Site Plan Review and Approval in order to construct a three unit commercial building. The subject property is C-R: Commercial High Density Multifamily Residential District. Is the applicant here to present their case? You can come to the microphone and state your name and address for the record please.

Gary O'Nesti: Good evening. My name is Gary O'Nesti. I'm Special Projects Director with Kent Investors, LLC. My address is 1585 Frederick Place, Akron, Ohio. Ready? Okay thank you. Good evening everyone. We're here to talk to you a little bit about our project located at 1005 East Main Street. The project as you know...what I want to do is...uh... maybe introduce our team that's with us tonight; give you a general overview and the nature of the consultants. We'll take a little bit of time to talk about their respective disciplines, what we've done as a result, and what the requirements were relative to the Planning Commission's review of the site plan, architectural, traffic and things of that nature so that we can cover each of those items; not only individually, but collectively so everyone can see what's going on with the project. Let me take this opportunity to introduce our team. Again my name is Gary O'Nesti. I handle Special Projects. With me is Mike Wohlwend of Wohlwend Engineering here in Kent. He is handling the civil engineering for us and Scott Heim from Davey Tree. We've asked Davey Tree to get involved some months ago to work with us on...working on the details associated with landscaping as well as trees and existing trees on the site. Tyler Rice, Fabo Architecture, Scott Hagan.... excuse me...from Wooster Engineering. I'm sorry Josh Haydo from Wooster Engineering. I apologize. Also with us tonight is Bob Abramovich who is our Vice President of Development...in the back...tall fellow.

And then Gary Miller our Vice President of Leasing; also in the back....uh...Stephen Funk, our attorney was unable to attend this evening. There was an unfortunate accident in the family that he was called away to take care of some personal business.

Let me kind of recap a little bit about the project for you so that you understand it and if you have any questions, you can interrupt me at any time. You know that the zoning on this property is multi-family commercial in the C-R zoning so the uses here are all permitted uses. We have been before the zoning board before and we've been through numerous meetings as well as to the Architectural Review Board. So what we're trying to do is develop the plan around no variances. We've done that. Architecturally we've looked at the plan so we can understand what the architectural components were but also as it related to the site plan. Setbacks....uh...no setback requirements or no setback variance. The parking variance...there's no variances of any kind that are required here including that the drive-thru is a permissible use also. There are no regulations against that so all the uses that are anticipated for this project are permissible uses; permitted by code. I'm sure you all know that. So what we have tried to do is to work through the Kent zoning code so that we understood it properly but also work through the code and tried to take as much opportunity to not take variances and position the plan as best we could so we've done that...uh...as a result of being in front of the commission on previous occasions. So the plan is developed around that process.

In addition to that we have taken a look at trying to preserve existing vegetation and trees which is why we have had Davey Tree involved from the beginning of January. And then, in addition to that, we have also looked at the traffic components of this...uh...We understood that we would be required by the Planning Commission to prepare a traffic study so we did that. We went back and forth with the traffic study on a couple of occasions trying to understand what the requirements were. We've dealt with that and prepared the traffic study. We addressed those comments that came back to us and I believe the traffic study has been approved and recommended by the staff as well as the reviewing agents so we've worked through them and we're open to questions with regards to any of those elements. Let me take this opportunity to introduce our Civil Engineer, Mike Wohlwend who will talk a little bit about the site plan. That will be our primary objective on site and it will go into the architectural component.

Michael Wohlwend: Good evening. Michael Wohlwend of Wohlwend Engineering Group, 4216 Karg Industrial Parkway, Kent, Ohio. As Gary mentioned we put a lot of time and effort into developing a plan that meets all the City of Kent's zoning code. So I'll just run through some of the highlights and I'm happy to answer any questions ... any more detailed questions from there. To start with we show all the setbacks on the plan ... uh .. We meet all the setbacks that are required by code. This site is a bit unique in the fact we had to take City setback ordinances into account. There's also a recorded plat for this site so as part of our plan, all the surveys that we did they are recorded

setbacks so those are the actual setbacks we show on the plan when we designed the site and used those numbers. They're the most restrictive setbacks as possible for what the site was designed for. Parking for the site...uh...City of Kent Code requires one parking stall for every four seats. Our plan is based on 141 seats with three uses which calculates out to 36 parking stalls and we have 57 shown broken up in areas in the front, south of the site as well as the north end of the site.

Speaking of the parking lots, we have three different access points too. We have a southern access on Luther, a northern access on Luther and we also have an access on Elmwood on this side. No access on Main Street. No access on Crain Avenue. The parking lots will be made of asphalt. New asphalt parking lots...the front and the side. The northern parking lot is an existing lot and we'll overlay and resurface it so it looks like new. Utilities for the site...the storm sewer systems and storm water management will be handled through an underground oversized pipe system that is in the front of the site. It's on the southern end as well as looping around the east and north end at the drive-thru area so we'll use that pipe system for our storm water management requirements....uh...that system will combine and connect to existing storm sewers on Luther. We're using the same concept for the water lines and sanitary sewers services will come out of the back of the building and connect with Luther. Obviously we're working through the...uh...technical aspects of that when we get into the technical review portion with the City of Kent Engineering Department so we'll fine tune those at a later date. Dumpster for the site is located at the northeast corner and we really worked hard to orient that and to minimize the inconvenience of the neighbors. There's options to turn it different ways and we really thought it was the best oriented where we could have a continuous landscaped screen around the back of it where the dumpsters are facing the building versus the dumpster that would face the houses, if it was a different location so that is why we chose to put it in that area there.

Landscaping again meets the City code. We are proposing three large trees across the frontage of East Main Street along with some lower landscaping around the site. There will also be three new trees on the west side unless we can reuse some of those trees and we'll touch on that here in a little bit. Also showing four new trees along Elmwood. The trees along Crain Avenue are going to stay and...uh...stay in their current location. We're also showing of course the landscaping around the dumpster at this point. With that, I'll be happy to answer any other questions you have. Thank you.

Mr. O'Nesti: If you've got a moment, let's talk about the architectural components. We've been before the Architectural Review Board as you know and so we made a couple of presentations to them. There were a number of comments made about the plan so that...the elevations on this particular plan so we spent some time with the Architectural Review Board as well as the presentations with the architect trying to

develop a plan that was sufficient for their review and sufficient for the neighbors that had comments about it so we spent little bit of time doing that. What we tried to do is to make it visually attuned to everybody's eyes whatever location you were at and...uh...and you know that was important. This is...this is a site with four roadways on it so from our prospective, we were asked to do that by the Architectural Review Board and we went ahead and did that so...uh...I'll point to anything you want me to point to Tyler, if you want to talk a little bit about the material or the elevation so...

Tyler Rice: I'm Tyler Rice from Fabo Architectural, 1736 Columbus Road, Cleveland. As Gary mentioned, we went through ARB and we spent a lot of time trying to make this building fit in more with the neighborhood. We propose you know lots of windows on all four sides as well as materials that are harmonious with the neighborhood...uh... as you walk through the neighborhood there's some brick here, some siding and other architectural details that are similar in residential architecture and we also introduced gable roofs on all four sides with asphalt shingles that are similar in residential architecture. What Gary is holding is our material board...uh...We're proposing brick and stone and siding with a little bit of EIFS and some asphalt siding...asphalt shingles excuse me. Any questions? I'll be happy to answer any questions.

Mr. Paino: Are those the colors that are going to be used for the building?

Mr. Rice: Correct. Yes.

Mr. Paino: Is the buildings on the center and right...are they two story structures or are they just made to look like that.

Mr. Rice: It's made to look like it's a two story structure. It is not actually two stories.

Mr. O' Nesti: The Architectural Review board made some recommendations to us. Thank you Tyler. Hang around for just a minute...made some recommendations and we're certainly going to comply with them and work through all the details at the Technical Plan Review. I think we're capable of doing that. There's a lot of work going into that effort. And in addition to that I want to point out that Scott Heim is here with us from Davey Tree, if there's any questions about the trees or any questions how we're going to work through that and we're here to answer those questions as best we can... Plus our traffic component...uh...our Traffic Engineer from David Wooster here with us also...uh...we've completed the study. We've submitted it to the City. The City has that and we're working with them with the recommendations. I think they made recommendations to you as a Planning Commission and we're comfortable with the staff recommendations. So...uh...with that, if there's any questions we can answer, we will.

Mr. Gargan: Can you remind me what are the Architectural Review Board's recommendations.

Mr. O’Nesti: That’s a good question...uh... I know we have a list.

Mr. Gargan: That is why I asked.

Ms. Susel: We’ll cover that in the staff report.

Mr. O’Nesti: I believe there were three.

Ms. Edwards: Thank you.

Mr. O’Nesti: Thank you.

Ms. Edwards: Moving on to public comment...Before public comment, can the applicant actually have Davey Tree...uh...speak to the landscaping and also have a review...a quick review of the traffic study and the findings before we move onto public comment.

Mr. O’Nesti: With regard to Davey Tree, absolutely ... Scott we can talk about that. With regards to the traffic, we stand by whatever the report is. We’ve completed a report and addressed comments. We’re comfortable with whatever the staff report states...but certainly we will have Davey Tree.

Mr. Paino: I would like the study presented to us so we can understand what the study says.

Mr. O’Nesti: I am happy to do that ... Josh, the Planning Commission would like us ... I assume a summary on what we’ve done in general and what our findings are ... can do.

Josh Haydo: Josh Haydo, David Wooster and Associates, Traffic Engineer.

Ms. Edwards: Address please.

Mr. Haydo: 2 East Crafton Avenue, Pittsburgh, Pennsylvania. We performed this traffic study consistent with what the City of Kent requirements. We submitted the initial study a couple of months ago...uh...met with the City and their consultant engineer about a month ago to go through some of their initial comments on the study. Reissued the study ... received a couple more minor comments which were addressed earlier this week. Findings of this study ... uh ... we developed a mitigation strategy to address the capacity of queuing as a result of the proposed development. None of the offsite intersections experienced any impacts ...uh...and to address the capacity at the Luther intersection some minor time changes were recommended.

Ms. Edwards: Thank you.

Mr. O'Nesti: Let me just give you a brief history of what we did. When we looked at this site in detail, we called Davey Tree and said okay we've got some trees over here.

There are a number that we're saving. There's a number of considerations that come into play when you want to do that obviously; its position, its location, its grading. It's all those things that can interfere and impact in any way shape or form so what we tried to do was to bring in a professional maybe a little better at it than we were to see what we could do and how we could do that so that's why we asked Scott to get involved in the process. We're compliant with your City architectural...I should say with your landscaping requirements and landscaping code. There are some existing trees obviously on the site that we wanted him to look so that's why we called him to get involved in it. What we planned to do was to...obviously the plan has enough technical details in it to see how we're going to make connections to sewers and water and how the storm sewers systems are going to work but the final design of the plan, the Technical Plan Review, is when we get into actual grading components and depth of grade depth cut. All those things got to happen and those all have impacts on how we'll deal with these. They will understand the changes that need to be done to preserve existing trees so what we said to the City is we want to bring Scott into the process...be a part of the process so that when we're designing this, we're in a position to understand how we can make changes to preserve whatever trees we need to preserve.

Scott Heim: Scott Heim from Davey Tree, 959 Bruce Drive, Kent, Ohio. Mr. O'Nesti asked me to come in and take a look at some of the larger trees on the property. Some of those grade cuts are way too close to those trees...uh...on the north side of the property none of those trees are going to be affected because construction is far enough away from them and we proposed basically a maintenance program, fertilization, so that if some of the construction was too close, they would try to maintain the health of those trees as they go forward. Some of the larger trees on the site are very close to cuts. It's probably not a wise decision to try to go that route to try to save those trees. He's also proposed to replace the trees that are coming out so with that factor, they will be replacing the same number of trees that are coming out. Any other questions, I'll be happy to answer.

Mr. Paino: What would happen if the site plan reflected trying to save the trees?

Mr. Heim: Two things...uh...Any time you are going to do any construction near a tree, what we consider construction near a tree is inside the drip line, you usually have a 3 to 7 year time frame to see what affect the root loss has on the crown of the tree. In some of the cases...talking to Mr. O'Nesti... we may be moving some utility lines around so that we don't affect those root structures. But the main thing is the grade changes. That's where we're going to have difficulties.

Mr. Paino: That is my point. If the grade doesn't change and designed fit the site better, then what would be the likelihood of the trees surviving.

Mr. Heim: Just depending. You have to keep in mind that these are very mature trees ... very large root structures that have been there undisturbed for quite some time. It's like so...quite honestly, it's going to be a difficult procedure to fit something on that site without disturbing those root structures.

Mr. Paino: Well you're the expert. This is one of my questions .... that is why I keep asking it ... Is a larger tree more affected ... is a larger tree's root structure more affected by construction than say a smaller tree.

Mr. Heim: Certainly, there is more of a footprint for the larger trees so the percentages of root loss are going to affect more than they would a smaller tree because you're not going to affect that same footprint. There are a lot of things we can do to help preserve trees that are affected by construction. Pruning, reduce crown size to try to...uh... to try to basically balance the root loss to the crown at that point. There are some other products that we can apply to the trees that slow the growth pattern. It shortens the cell elongation so with that we treat the trees to survive some kind of construction damage like that and then fertilization, proper water and cultural techniques

Mr. O'Nesti: *(Inaudible)*

Ms. Edwards: Mr. O'Nesti if you could hold the microphone while you are speaking.

Mr. O'Nesti: Sure.

Ms. Edwards: Thank you.

Mr. O'Nesti: Is that better? So one of the things that we talked about earlier on...we talked about most recently of course is that we're preserving trees along this roadway. These are impacted. Lots of things we got sidewalks going around the site that have an impact on some of these trees you have, some grading conditions will have an impact on that. In addition to that we looked at these trees along here where the drive-thru is and we said early on...uh...how do we do that? How do we deal with that? Those are pretty mature trees but what are we going to do with them so one of things that we talked about was we've got to have some selective pruning on the trees. And in addition to that, we've got to pay attention to what happens to the root structure like he just told you. But what we talked about most recently was at Technical Plan Review when we get involved in there may be ways that when we grade that out we can lessen the severity of the cut and ensure that we're not cutting too deep and impacting the root structure. Where the root structure gets impacted, you then have to widen the drip line of the tree so it is appropriate. One can't be greater than the other, if I got that right so that is one of the things we talked about. One of the other things we talked about doing is we want to meet the code but in addition to that we're very much open to working with the City at that time when we need to selectively plant some additional trees here, we're open to doing

that and replacing in kind as we can. Obviously it's...it's important to us that we have an appropriate site also that we can preserve as best we can.

Mr. Clevenger: Scott, in your professional opinion, are there any existing trees on this property currently sized 18" in diameter or larger...uh...that are scheduled to be removed that would create an undue burden on this site plan, if they were not removed. Let me rephrase that. Are there...are there any trees on the site currently that are 18" in diameter or larger that are scheduled to be removed now. If they were not removed, would they create an undue burden on the plan?

Mr. Heim: Well ... I believe so. Just with the cuts where the driveways and grades are going... first of all it's going to affect the health of the tree and that's my biggest concern. We don't want someone to cut too close to a tree and then we have a hazardous tree on the site or something along those lines. So the trees that are scheduled to be removed at this point, in my opinion are the ones that should be removed because they are going to be greatly impacted by the construction.

Mr. O'Nesti: What I was after ... Mike is the engineer ... so there is engineering involved in the technical design in this process. To honestly answer your questions, clearly there is an agreement but there is also some technical plan reviews. That is why we talked about at Technical Plan Review time when we are getting in and setting grades we can make changes and modifications to try to preserve those grads. Some of those things will have an impact on the site.

Mr. Wohlwend: Let me walk through the trees real quick and show you the ones that are going to be removed. And this plan is kind of a combination two different drawings. It's a proposed grading plan with the trees highlighted in green so they're easier to see. The trees are in the front of the site...Again there is a large cut. The site has a large drop in the southeast corner to the northwest corner. The site really drops this way. The driveway connections to the building to have a flat path we need to cut this area down so you don't have driveways that are too steep so that's really what's driving the removal of these two trees here. This tree in the corner itself is impacted when we do the cut as well as the installation of the sidewalk that's right inside of the right-of-way right there...uh...This tree the same thing. It's the cut slope that's really the issue. We looked doing some retaining walls to try to save those but the same location would be the same cut...a cut right beside it that that's going to negatively impact the tree as well. This tree down here ... that is just some shrubs and trees are necessary to remove so we can get the parking lot configuration to work. These two trees are actually in the building footprint. These trees...I guess this one is in the driveway itself and this driveway is located where it is to meet the City...the City's code for driveway spacing from the corner so that's what drives the location of the driveway which means the tree comes out. This tree gets removed because of the cut and slope as well. These are the two trees that we are...we have the potential to save, if we can reroute the utilities. Currently the utilities are

coming this way but we might be able to reroute them off the building a different way ... affecting a different street so these are the two large trees we're endeavoring to save as we move through Technical Plan Review and adjust the grading in that area there.

Mr. Paino: Do you have any idea how old those trees are above that space?

Mr. Clevenger: For the two trees here ... that are here we're looking at changing the grading and potentially saving...uh...next to the drive-thru. What type of pruning is going to have to be done to ensure the safety of the drivers in the drive-thru will affect the health of the trees, if they're left there? Would it be a cutting back so there would be a clearance from the building first all and then not encroaching on the crown.

Mr. Heim: The only issue with that is that we have to wait until the fall to do that pruning because oak wood is prevalent in our areas ... we will wait on that. It should not affect any safety issues with the drive-thru or having limbs over top of the drive-thru like that. There're limbs over top houses and cars all the time. As long it is properly maintained that shouldn't be an issue.

Ms. Edwards. Thank you. Moving onto Public Comment... Today we're going to be limiting Public Comments to two minutes per person. When you come up to the microphone, please state your name and address for the record. So would anyone like to present?

### **PUBLIC COMMENTS**

Paula Treckel: My name is Paula Treckel. I've been sworn in. I've lived at 1244 Woodhill Drive in Kent for 28 years and I've been a resident of Kent for 55 years. Kent is proud to be the Tree City. Trees are the backbone of one of our finest industries, the Davey Tree Company. The logo our City found on the agenda for tonight's meeting is a tree. Kent so values our trees that in 2014 we added an ordinance to City zoning code. Section 1168.05...it states every development shall retain all existing trees 18" in diameter or more. That no excavation or other subsurface disturbance may be undertaken within the drip line of any tree 18" in diameter. The developer of this property plans on cutting nine century old trees; oaks and maples, that have grown here since the land was part of the Lumious farm long before University Heights allotment was platted in 1939. This stand of trees predates the founding of Kent State University, its neighbor across the street. It provides the neighbors whose homes surround it and those of us who walk our dog or ride our bikes in the neighborhood with a soft natural transition from busy Main Street to our quiet family neighborhood. They have stood the test of time. Businesses come and go but they endured. Remarkably they're the last stand of century trees on the commercial side of East Main and in the 80 years that they have stood on this commercial site, no previous owner saw the need to chop them down or call them quote "an unreasonable burden". They saw them for what they are an asset to this property's value

and to the Kent community. In the place that these beautiful trees are, they will plant ten Spirea trees. They will be no bigger than my wrist. They propose planting 42 shrubs; 22 of which will shield the unsightly dumpster leaving ten small Spirea and ten small rose bushes in front of the building sign and that's it. No buffer to shield where the commercial side is as required by our zoning code, 1168.12(c) Buffer B. The developer's plan includes parking for 57 cars; ten or nine spaces more than what is required by our zoning code. There are nine priceless trees on this property. Honor our City's identity as the Tree City. Enforce our zoning code. What will it be commissioners, nine trees or nine parking spaces? The choice is yours tonight. Thank you

### ***Applause***

Randall Smith: Randall Smith, 301 Oakwood Drive. I have been sworn in. I wanted to speak briefly about four unique things about this property. Some of them have come up already. One is that it has four front yards. I think if you're familiar with the property or been around the property aesthetically, it has four front yards. The other thing is...uh...the Board of Zoning Appeals denied a variance to change this so it is four front yards. I can come back with that in a little more detail later. It's also a part of a neighborhood with no sidewalks and no streetlights that was designed back in the 1930s. I think you're going to have several comments as to why this element is going to be a safety issue based on that fact. We've already talked about the century old trees on the lot which is also another unique factor I believe. And also the unique a factor in this property is that it is zoned Commercial Residential. It's not strictly commercial and if you read your code 1145.01... "The purpose of Commercial Residential is to encourage commercial development in the areas which have the necessary access to public services and traffic arteries along with residential development where residents can take advantage of this close proximity to commercial uses". That's a direct quote from the code. I can bet you're going to hear many people talk about the fact that there aren't arteries necessary for this development. And again it's going to be a safety issue. Now, I'm willing to get back to the four front yards. These plans are very different than what was first presented. A lot of that is due because of complaints from the neighbors but I think if you look at this carefully, particularly the...uh...the north elevation which would be on Crain Avenue; this elevation here. Essentially that's going to look like the back of a warehouse. I mean there are four solid metal doors. I mean there's doors...where those windows are the Architectural Review Board said they couldn't be functional because of security reasons which raises the issue what type of clientele are we drawing to this development. And so I've made the comment before that this building...it really shouldn't matter how it's situated on this property, it should look great from any angle from any direction. You know, why not turn it around and make this frontage on Main Street front Crain Avenue and then you can put the dumpsters on Crain Avenue that...or you can put the dumpster by Main Street so it wouldn't be in anyone's front yard. So ... Thank you.

## ***Applause***

Scott Flynn: Hi. My name is Scott Flynn. I live at 220 Francis Drive. I was sworn in. Francis is over here. I can see this property through the trees most times of the year through my backyard. My children, my four children and I use this area right here a lot to walk. There's like ... and will be said, there are no sidewalks to get from here to here. This is already a dangerous intersection for bikers and everybody without sidewalks ... curbed roads ... no street lamps. Of course these cars have to go somewhere. I have reviewed the traffic study but certainly no left turn on Elmwood, no left turn on Linden, no left turn on Sherman...these cars have to go somewhere. We're talking about the second biggest ... Starbucks is the second biggest drive-thru business in the country and they have to go somewhere so they're going to be going down Francis. They're going to be going down Fairview. They're going to go down Crain and that causes a danger issue. At the BZA hearing in July and this is a direct quote from the transcripts, Mr. Konstand, who was representing the developer said, page 29, "What we don't want to see is a fast food with a lot of traffic so we're trying to work with small cafes." That's was when the BZA kept saying what are you putting in here? Well, we can't tell you but we don't want a fast food with a lot of traffic so they go with Starbucks ... the second most voluminous traffic. They do the second most business behind McDonalds in the world ... uh ... Here's another quote from the Akron Beacon Journal just two days ago. "O'Nesti said the City is reviewing the traffic situation and his company would comply with their recommendations." That's not a direct quote from Mr. O'Nesti that is a direct quote from the newspaper. He's reviewing the traffic situation and will comply with their recommendations. You just heard Mr. Wohlwend talk about three entrances to this property. Mr. Bowling two days before that Akron Beacon Journal article provided comments to the traffic study on behalf on the Engineering Department. He said we strongly recommend eliminating the second driveway closest ... second driveway on Luther closest to Main Street. The minimal mobility benefits of the additional driveway do not outweigh the potential safety concerns of having a driveway that is near the signalized intersection. So two days after Mr. Bowling says that our strong recommendation is we don't think this is safe ... you know ... we're getting conflicting statements here. This is dangerous ... we're talking about a drive-thru ... thousands of cars per day funneling out of this right next to the intersection. And it's kind of like safety be damned. We are not going to follow what the City recommended. Who do you trust? Mr. Bowling has been around here a long time and you know... the Department of Public Service ... he has a duty to the citizens. Do you trust Mr. Bowling or do you trust, you know, a handful of out of town developers who have no relationship to this City?

I know Paula touched upon the trees but that's a big issue. That's a shall issue. It's in the code. They shall be retained unless there is an unreasonable burden. I didn't hear an unreasonable burden. I heard I want to put the drive-thru there so I got to cut the trees down. I want 57 parking spots. Mr. O'Nesti said he only needs 36 so where's the

unreasonable burden. The preponderance of evidence is on them to show that there's an unreasonable burden to retaining these trees. I didn't hear anything other than we kind want to build the driveway here. We want to build parking lots here. It's not a burden. Not being able to put in parking spots here isn't a burden. Not being able to put in a drive-thru exactly where you want isn't a burden. So between the tree code and the safety issues I hope this Planning Commission says no. You've read the staff report. You can approve, you can approve with conditions or you can disapprove. We don't want this approved with conditions. We want you to disapprove this. That's your right as a Planning Commission. You have a right to look at safety issues. It happens every day in this county. Planning Commissions rejects site plans due to safety issues. Here's one safety issue. Here's another one. Here's another one. We want the developer to go back to the drawing board which hopefully they would have to do if they get rid of all these trees. If they can't have this driveway here which is a danger maybe they will go back to the drawing board or maybe they'll appeal. And that would be fine. Mr. Fink will defend your decision. And I can tell you the judge that reviews your decision will uphold your decision if it's done for the welfare and safety of the citizens. If your decision is based on that a judge will say this is stupid. This is unsafe. You can't do all this. And so based on the safety and trees issue alone, not to mention all the other nuisances...staring at a drive-thru in his front yard. I mean there are a lot of issues here. The main ones are traffic safety...you can have all the traffic reports in the world but traffic safety is different than traffic congestion. They might say that everything will move quickly but that's not what I'm hearing. We're talking about safety. Is this safe for the neighborhood? Absolutely not. Thank you.

### ***Applause***

Ann Conard: My name is Ann Conard. I live at 121 Francis Drive. As a retired Kent City school teacher and resident of University Heights. I want to share my concerns of the safety of the children in our neighborhood. The children in K-5 walk to and from Walls Elementary School daily because bussing is not provided. In addition there's a running club for the students at Walls and they currently use our neighborhood after school. There are no sidewalks on our curbed streets and the area where Elmwood, Oakwood, Woodhill, Fairview and Francis intersect...that's five streets...that area will be a problem where the speed limit and stop signs are ignored. Increased traffic and drivers unfamiliar with our neighborhood will only add to the danger for the children. Thank you for giving this serious matter your consideration.

### ***Applause***

Susan Smith: Susan Smith, 301 Oakwood Drive in Kent. I understand what the traffic shows that this won't create any kind of...uh...congestion in the area but it will flow faster through there. Well faster through there is unsafe. It's already fast enough.

The area I'm talking about is where Luther and Crain connect here. There aren't sidewalks for children to walk, an adult walking with a buggy/stroller, a biker, a kid on a bike, a jogger, a runner, anybody. They run a long here so you're going to add faster traffic down through here. People coming out here, coming out here, coming out here...Faster isn't better. It's...it's just unsafe and we're told just now there's no impact. See there's a huge impact in this area...uh...The other thing is that I wonder if the traffic study also looked into the increased foot traffic as far as when people come around this to stop at the light. Well when they get a green light, they're going to have to wait for pedestrian traffic to travel across Main Street, so it's not going to move faster. And if this indeed is a Starbucks at the drive-thru that has 160 cars going through an hour there's going to be a huge amount of traffic coming in and out of there.

There's also going to be huge pedestrian traffic because it's a place the students like to go...the community likes to go. So I just would ask that you look at the safety issue again. Thank you,

### ***Applause***

Janet Sessions: Janet Sessions, 128 Francis Drive, Kent, Ohio. I guess I've been sworn in. About 40 years ago when I decided to buy a house in Kent, I determined I wanted to live in my present neighborhood...University Heights. It was a family friendly area full of stately old trees. It has well-kept homes, friendly people and most of all near the school where I was teaching. In fact, this room has a number of parents of the students I taught here tonight. I often walk to school first to enjoy the beauty and the ambience of the area and I still walk frequently through this area. My concern is expressed by others is with safety and the inconvenience of families who live here...the children, the bikers, the joggers, the walkers...all of those who use this area faces far more danger as the traffic increases. And believe me the traffic will increase. Currently the bussing for the elementary students is not provided and even the kindergarteners next year will not be bussed to school as they have been in the past. There is also a bus stop just around the corner on Elmwood for the Stanton and high school students who must gather there by 7:00 in the morning which during the winter months means it's really still dark so there is that danger. I hope that you will...uh...see the light and consider what is happening to this neighborhood if this plan goes through. Thank you.

### ***Applause***

Mary Jacobi: Mary Jacobi and I live at 220 Elmwood Drive and I have been sworn in. Gerald Reeds started the University Heights development in the late 1930s and it has been a positive asset all these years for the City of Kent but it's also a positive environment for Kent State University. Why would we want to destroy that? This proposed strip mall will cause car light pollution, noise pollution, unsightly dumpsters, trash. That's just to name a few of the things. Instead of the beautiful front yards we

now have that I enjoy now, I will look at that building over there. What you see and that's the north front yard that looks like a warehouse with a lot of cars in it...uh...I can't understand that building design. My house was built in 1945. I've lived in it for 50 years. I look out and see beautiful front yards. That's not one of them. If you lived where I do, would you want to look at that every day? Did you know that Tree City Bulletin on page 7, the spring issue, says the City will focus on the neighborhoods. This development has four yards, not roadways, so you have to focus on the neighborhood. The City should want to preserve the heritage and beauty and the tranquility of the neighborhood. Hopefully you will decide to keep the Kent neighborhood a great place to live. Thank you.

### ***Applause***

Jane Krimmer: Jane Krimmer, 318 Elmwood Drive, and I have been sworn in. Our neighborhood, the University Heights area is a no parking area throughout all of the streets. The streets are narrow and you've noticed there are no sidewalks or streetlights. When a vehicle is parked on the street, it is difficult for anyone driving through...getting around it. There is a great concern about the support and needs of the businesses; especially food businesses. Supplies must be provided. Suppliers are not interested when they are inconveniencing others. To meet the requirements of their business, a supplier often uses very large trucks to complete their tasks and they often arrive at the same time as other suppliers and in the middle of the full parking lot and the ability to park and a convenient way to park to drop off their load. They may travel. They may need to wait for their turn. Where will they wait...on Elmwood, on Luther, on Crain, maybe on Main Street...Who knows? Not just the entrance to the area but up down streets in front of private homes, private driveways and in the way of anyone walking, running or driving to their home address. We've also noticed that if you come through Main Street where Starbucks is being serviced, you often have to wait your turn to get around when these cars are in the way. The second point I'd like to make is the streets in our neighborhood are not designed to support these large heavy loads. These vehicles will deteriorate our streets at a quicker pace than anticipated by the City for repair. Thank you very much. Thank you for my wallet whoever found it.

### ***Applause***

Rick Newton: My name is Rick Newton. I live at 1106 Oakwood Drive. I have been sworn in. I'll read from my script: The traffic study recently released reports that this section of East Main Street is the, and I quote, the highest crash corridor in the City of Kent. In the developer's letter of April 19<sup>th</sup> provides, I quote, no discussion of safety in terms of existing crash patterns or how this development could impact safety. Now that I hear for the first time that some proposed minor timing changes in one traffic light in this area will take care of the safety issues. As it is the residents of University Heights and

University Woods have no safe place of egress to turn left east onto Main Street. The corridor overlooking East Main Street has poor visibility and that traffic is part of this dangerous corridor. For this reason, my wife and I are on Linden... many of us residents exit the neighborhood only at the Luther and the East Main light. This short narrow street is already over stressed. In the past 20 years over 40 new houses have been built behind the original University Heights area and the demand for the Luther East Main Light is over taxed. A no left turn sign has been posted at the corner of Elmwood and East Main to prevent short cutters from making a treacherous turn out of the neighborhood. The heavy traffic flow consists of cars travelling east from Water Street on Crain Avenue then making a sharp right to cue up at the Luther light. These drivers are largely short cutters who use Crain to avoid the stop and go traffic on Main Street. The cue often bends around that corner. I know because I've been walking that corner since 2001 to get to the Kent State campus. Pedestrian and bike traffic here is very hazardous any time of day or night. There are no sidewalks no streetlights. The developer now proposes to add to the stress with entrance and exit access ramps on Luther and Elmwood. The drive-thru will have no direct access from East Main Street because precisely it is a dangerous spot. Their plan to syphon traffic onto and again off to tiny residential streets is unacceptable. Drive-thru and fast food are the operable words here. Drive-thru patrons tend to be in a hurry in too much of a rush to even park and get out of their cars to buy a cup of coffee. It will be as much of a rush to get into the lot as they are to get out. They'll probably be sampling their coffee as they make their exit. All this distracted driving will take place in a busy area already of left hand turns onto two side streets. If the City of Kent approves the drive-thru, it will knowingly aggravate an already designated high crash corridor and unavoidable accident trail. It jeopardizes the life and limb of motorist, pedestrians, dog walkers and cyclists. The City will bear the moral and perhaps a legal responsibility for allowing this high designated crash corridor to become unnecessarily risky for anyone in transit by car, foot or bike on all four sides of the drive-thru. I urge the commission to disapprove.

### ***Applause***

Anna Everly: Anna Everly 211 Elmwood Drive and I've been sworn in. As a resident on Elmwood Drive, I'm highly concerned about the volume of traffic that the current proposed project will bring to this neighborhood. As a resident I see the increased traffic volume as a safety issue. Increased traffic on Elmwood and subsequent side streets such as Oakwood, Fairview, Francis and Woodhill will be dangerous for walkers, dog walkers, runners, bikers, and children walking to and from Walls Elementary School. These streets do not have sidewalks, curbs or streetlights. Currently the stop sign on Elmwood and the intersection of Crain Avenue has already been referred to and is already a safety issue for those residents who are jogging and walking about the neighborhood. Increased traffic brought in by this project will make the side streets hazardous to any and all pedestrians. I hope you take these concerns under advisement.

## ***Applause***

Kim Sebaly: Good evening. I'm Kim Sebaly. I along with my wife, Fay Ann, have lived at 132 Luther Avenue with our family for the past 38 years. We were shocked last summer when we learned a company in Akron had bought the property just across the street from us for a drive-thru café plus retail stores. After Faith Lutheran church was outbid for the property many years ago, we understood KSU was going to collaborate with City in the development of a public health department. We were even more stunned after learning from advertised lease arrangements that a Verizon store, sandwiched between a Starbucks, that as yet an unnamed drive-thru (fronting our front yard) was being considered for a restaurant facing our friends and neighbors on Elmwood. We strongly recommend for reasons that you've already heard that you deny the applicant's request for building a mini-strip mall featuring a drive-thru Starbucks, 200 feet or less in the front yards of 14 homes in the neighborhood. The project is inherently flawed. We're not even sure that the proposed use for this special property with 4 front yards even meets the minimum requirements for commercial development in a C-R zone. First, does this property have the "necessary access" to public services and traffic arteries? Data from a host of traffic studies suggest it does. What the traffic studies do not seem to take into account, however is the unusual consequence you've already heard about of Starbucks quick service coffee: drive-thru traffic on steroids. We already see a traffic circus on East Main's Willow to Luther fast food strip. Again as referenced by somebody else, AMATS ranks it #5 out of 175...175 street districts in the composite score of High Crash Roadway Sections in the Akron area. Likewise the studies don't seem to have taken into consideration the newest cause of traffic accidents related to pedestrians: "distracted driving". Although texting/phoning are the number one causes, eating and drinking are next and hot coffee is at the top of this list. Drinking hot coffee or eating a muffin at peak traffic hours around 1005 East Main is not a recipe for safe driving. And my wife would like to address the second reason why we have doubts about whether or not this proposal meets the requirements of the C-R zone,

Fay Ann Sebaly: I'm Fay Ann Sebaly, 132 Luther Avenue here in Kent. The second point is can residents in our neighborhoods take advantage of their close proximity to the commercial uses proposed for the property? Conceivably, but highly unlikely. Neighbors see major disadvantages ranging from loss of property values, nuisances galore, and disruption of current City and university efforts to improve the quality of life for everyone in the region. The sponsors of the website are "Neighbors Invested in Kent". It took us some time to discover that Kent Investors that are the listed as owners of 1005 East Main aren't really Kent investors at all. What we want tonight is a strong signal from the Planning Commission that LRC, "Neighbors Invested in Kent", and the City of Kent can work together on a suitable plan that clearly meets the letter and the spirit of Kent's C-R zoning code. We hope that signal is the denial of the applicant's current proposal for developing 1005 East Main. Kent deserves better.

### ***Applause***

Deborah Daly: My name is Deborah Daly. I live at 1223 Woodhill Drive and I've been there for 20 years...uh... and although I don't walk as much now, I used to walk around the neighborhood. My main concern which I tried to raise at the Zoning Commission but was told this is the appropriate place to raise it. It's about the traffic. This map you see here does not show that there is only one way, safe way, to turn east onto Main out of our neighborhood. That neighborhood including Overlook...uh...the boundary to Overlook which is not intersected by anything except for the other streets within University Heights and University Woods. There are approximately 250 households in this neighborhood and I try unless it's the dead of summer and the university is shut down to never turn left at Overlook which is the only other place it's legal besides Luther but you have to cross two lanes of traffic and you're half block from the three way intersection where Kent State comes out onto Main Street. Alternatively I suppose, if it would become impractical to wait to go through the traffic, I could go four or five blocks to Luther Avenue to another extremely congested area to Lincoln to another congested intersection in order to make a left turn to double back five or six blocks to go... well more than that to Acme. I don't think this makes any sense. The neighbors are so opposed to any kind of commercial development...you know...the restaurant, doctor offices, a bookstore and any of those don't degrade. A drive-thru is specifically designed to get as many cars in and out of an area which is plain inappropriate. The investors have decided they have to maximize their profit but this is just not an appropriate place. They made a bad choice and they can't think of any use for it. And I really hope you'll turn down their application. Thank you.

### ***Applause***

Swanhild Boneida: Hello. My name is Swanhild Boneida but I go by Swan and I live at 401 Oakwood Drive in Kent and I've been sworn in. We recently moved to the neighborhood about two years ago after living about 30 years in the nearby Twin Lakes area. We like being in this neighborhood of Kent very much. We love to walk and see many of our neighbors and Kent State University students walking in this neighborhood at all times of day. I am deeply concerned about the impact of this proposed drive-thru coffee shop on the safety of walkers, joggers and bicyclers of all ages in the area. My husband and I walk regularly and enjoy this activity to enhance our health, agility and state of mind as so many others. There are no sidewalks on many of the streets requiring people to walk in the street. The intersections at Elmwood, Crain and Luther Avenues are already quite hazardous and difficult to walk. Cars come around those corners quickly and they are not prepared for pedestrians or bicycles. Children walking or biking will be very vulnerable. We are privileged to live within earshot of the school and hear the children of all ages playing in the school yards during daylight hours. They like to take the cut through trail from Oakwood Drive to the school play yard. This leaves many

of them to have to pass by the proposed development site. Alternate neighborhood side streets will also become more congested as drivers, maybe me, seek ways to avoid the increased traffic by this proposed drive-thru coffee shop. My neighbors' children love to play with the other children and pushing traffic into our narrow streets to avoid congestion at Luther, Crain and Elmwood will threaten these children as they learn to navigate safely. Their lives are at risk from the freedom they now have within prescribed limits. For all these reasons and many others, I hope you will block this proposal. Thank you for taking the time to consider these observations and for devoting your efforts to making Kent a safe and pleasant place to live.

### ***Applause***

#### *(Overlapping Comments)*

Theodore Voneida: I'm Theodore Voneida and my address is 401 Oakwood Drive in Kent, Ohio. I am reading the following statement, with which I strongly concur, on the behalf of our son James Voneida who is unable to attend the meeting because he is working. "Good evening members of the Planning Commission. Is the sidewalk along the north side of East Main and across from campus safe to walk or ride a bicycle? At present, it is relatively safe. My daughter and her cousin walk or ride frequently along that sidewalk, as so many of the residents of the adjacent community, University Heights. My parents live in this neighborhood, where my mother and father enjoy a pleasant walk. Many of the college students who walk to Kent State live in apartments further out East Main, among them Campus Pointe and Holly Park. There is also an elementary school, Walls Elementary, where my daughter went for six years, in the neighborhood. Crain Avenue, where I live with my daughter, is a favorite shortcut between Route 43 and Kent State via Luther Avenue. I have witnessed this firsthand for over 15 years, and have even seen accidents at Luther Avenue where it crosses East Main to Kent State.

If a drive-thru coffee shop were built at or near that corner, we could only expect many more traffic accidents, as well as pedestrian and bicyclist injuries or fatalities. My daughter's best friend and her brother were just hit by a car a month ago while responsibly crossing a similar side street in Kent, sustaining injuries to them and damage to their bicycles. We can only imagine what a steady stream of morning coffee traffic would do to an already busy, congested, and somewhat troubled intersection. We would also expect to see much more pedestrian traffic back and forth across this intersection from campus. This drive-thru would endanger anyone not in a car, and further degrade what is left of the few pedestrian and bicycle friendly zones in and around East Main Street. It would only serve to benefit drivers in a hurry and a coffee merchant looking to turn a quick profit". Thank you very much.

### ***Applause***

Bob Twig: Good evening my name is Bob Twig. I live at 1223 Woodhill Drive and I'm checked in...sworn in. Thanks to the Planning Commission we are here to consult this evening. Last night around 10:00 I walked around the site. It was dark. It was quiet. It was peaceful. I could see the stars. If this project goes through, all this will change forever. And it will change for the worse. I am especially concerned about my neighbors' whose homes closely surround this site. Their well being, their safety, their peace of mind will be irreversibly be compromised by this project. Some of us have chosen to live in this neighborhood because of its tranquility and its safety.

Ms. Edwards: Excuse me. Could you please hold the microphone for transcription purposes?

Mr. Twig: Those qualities we find so important and valuable are going to be destroyed by this project. These are the qualities that are priceless and once they are gone they cannot be replaced. This whole rectangle between 59 and Crain, Luther and Elmwood has a unique history and it's a site that must be respected as such. It's a special place deserving our special consideration. The existing plans that we have seen for this project show dumping a tacky strip mall on this special place. The design we've seen for the proposed structure is repugnant. As proposed this project is not a use for this special site. It is an abuse of this site. I'm not architect but I'm certain I could do a better job. The Planning Commission has the interest and responsibility to sustain the positive qualities of this community. The neighborhood near and around this site is one of the most positive features of this community. The Planning Commission has the duty to protect and enhance our community. This project as proposed is a clear detriment to our community. The residents and for that matter all the citizens of Kent do not wish to see their community degraded to a crass level of commercialization of Streetsboro, Ohio. I say to you Planning Commission no "Streestborolization" to Kent, Ohio. This project serves no needs in this community. There are many individual reasons each of us know which is sufficient why this project should not unfold...noise, commotion, safety, degradation of our property values, degradation of the little bit of aesthetics that we have here in Kent, Ohio. Right now this community needs the wisdom and support of our Planning Commission to protect our neighborhood and for them to plan something unique and special. I'm a faculty member at the university and I'm familiar with traffic issues at this corner here. This is a very dangerous place here. Not only in the morning is there a big line in the road here to get into the university, at the end of the day, there's a big line coming out of the university that goes through to Crain or goes left onto Main Street. And there are busses coming out of Terrace as well. This is really a bad, bad traffic site. And this particular intersection people coming in and out of there, it's a nightmare. Thank you for your attention.

***Applause***

Clara Bosshart: I'm Clara Bosshart. I live at 315 Elmwood Drive. And you each have a copy of an article that appeared in the Record Courier March 31, 2013...uh...I'm taking more of an historical approach about the current situation. The title is Portage Pathways. 75 years later University Heights is a dream fulfilled. I would like to quote briefly from

the article that you have. "Grant Reed said he was betting on the future of Kent and Portage County when he announced plans for the housing development he was building on the tract of reclaimed farm land on Kent's east side. He had set his sights on developing the setting for some of the most beautiful homes in the Kent of tomorrow. As the 30s were ending, high end residential areas were in short supply in Kent. Reed believed there was a market for homes close to Kent State. In February 1937, he began to address the task of transforming a one-time field into housing sites. The developer preserved the wooded setting nestling home sites along the trees. Winding roads linked streets that would bear the names such as Elmwood, Woodhill, Oakwood, Overlook. He said there would not be a straight road in the place. University Heights before Reed's death in 1942, even incomplete was a monument to his visions of community beautification and it remains so today." I have spoken with historic preservationists about University Heights. One stated that the area could qualify for the National Register of Historic Places as a planned development from the WWII era. The developer's placement of commercial property is not compatible with University Heights neighborhood nor does it enhance the neighborhood. It will only erode property values. Kent has the civic duty to protect this unique lovely and historic neighborhood. Thank you.

### ***Applause***

Bruce Shaw: My name is Bruce Shaw, 1215 Fairview Drive and I have and I have been sworn in. I would just like to make just three comments. One I would like to speak in the context of this site under discussion. In 1954, my parents hired a contractor to build their house at 132 Luther Avenue. It was designed by the general contractor, Joe Morbito. In building this project he was attentive...attentive to the fact there were four fronts on this facility. The Tinker Funeral Home was built in 1949. It set near these houses. The house my parents built in 1954 was the last one built surrounding the area under discussion right now so one of the issues and of concern to me is the issue of the builders putting in a facility on this piece of property. My concern is those are 1950s designed houses. They have a contemporary look from the mid-century.

Secondly...When we look at what is being proposed it can easily be done quickly using an architect's CAD...AutoCAD...a machine which you push buttons and it draws something for you and that is not what is designed for this area nor should it be. It should be something special. I hope you will take this into consideration. This place has been satisfactory and a great place to live. Secondly they're going be dealing with the

things called safety and traffic issues. I would like to just call to your attention quickly that in its preparation, it was most likely done as a mathematical model. As a mathematical model, it would show you possibilities. It would show you probabilities but it will not show you predictability. That is it could work but it doesn't tell you what is going to happen. I'd like to speak from experience and say that (*Inaudible*) in the evening coming back from the library as a high school kid and I crossed at Terrace going over to Luther. Well, the light was in my favor and I went and started up my old...uh...bike and I started to go across the street. I did not see the guy speeding down Route 59 heading west. He smacked me. I can still see to this day, see myself bouncing alongside that car avoiding the wheel well and then being trapped for 40 Transcript putting me into a swirl...swirly derby swell...swell... (*Inaudible*) and then finally ending up on the curb in front of ...it's now the Continental. I was very fortunate that time and the ambulance drove me to the hospital.

The last thing I'd like to draw attention to is in the neighborhood...the...In regard to the responsibilities of the Planning Commission and the individuals here, it is my understanding that if one reads, the Planning Commission beginning with the 111 ... I'm sorry the zoning code Section 1103.1. It is stated that the Planning Commissioners shall be held to be the minimum requirements for the promotion of the public health, convenience, comfort, prosperity morals, or general welfare. That is the intent. You will notice in the letter I sent to you all...I hope you did receive the four page letter. And in that I made comment on Section 1107. The reason I did that was because of all the descriptions of all the duties and responsibilities in their decision making of the members of the commission. It is their responsibility to be able to be...to make judgments on behavior and operant by using 1107. It's possible to set up criteria by which commissioners' decisions will be made. I just draw that to your attention.

Lastly, I'd like to draw your attention, that to my knowledge, nothing has been done in regards to what the general welfare of the neighborhood would wish for itself. And so...no one has asked any questions...no one has interviewed anybody and so on. I would like to propose to you tonight that should you wish to know in some sort of fashion in a quantitative and qualitative manner what would be the wish of the neighbors. Several of us would be very pleased to do a survey for you. Either going to do or via email and we would ask and provide that information to you within in a couple of weeks' time or less. What I would like to ask, is if you would like the information on the welfare and the concerns of the neighbors on convenience, comfort, prosperity and public health. That information can be collected for you. Thank you.

### ***Applause***

Meg Calby: Good evening. My name is Meg Calby, 534 Overlook Drive. Unlike many people here I did not grow up in Kent but I went and looked at the University Heights neighborhood because of its large trees, its proximity to downtown and KSU and the

quiet neighborhood for families to walk and bike. When I moved to the area and I was unable to purchase a home at the University Heights area for nine months because nothing was available. It was so popular and people stayed so I built in University Woods where the buildings were the same. It just wasn't historic. I built a house according to the codes of the City around large growth and so did my neighbors. We knew what we bought and what we got into and we didn't try to change it. I've been in my Overlook home for 14 years and both the Heights and the Woods have kept their charm. Why would I want a mini strip mall at the start of my neighborhood built by an out of town developer who doesn't get the area? I know that probably it's zoned for commercial for residential by neighbors but this is not for me. This is not for most of my neighbors. Two fast food stores and a phone store, really? This is for the transient Kent State students to bring in money. Cutting down old growth trees is not compatible with either neighborhood. It's not what I bought into. Additional traffic to these three stores and the drive-thru will be a big a mess. The developer's model shows a drive-thru coffee shop. I'm curious why this would not get more congested as one study had said so I went to another coffee shop with a drive-thru and carry out, Dunkin Donuts. I counted cars last week on several days. Even during finals week, the drive-thru is very very busy. On an average 40 cars went through the drive-thru between 8:45 and 9:00 a.m. I tried to pick the same time each day. Afternoon and evening is different. As my friends from the university will tell you, 4:00 – 4:30 is a crunch time there too when more people go in and out of the parking lot. And if you add it all up in averages, that's 160 cars in and out of that area. A major chain of coffee shops, which will not be named, estimated that their drive-thru business will increase by 50% in the next two years. So if that coffee shop, who will not be named, moves into our neighborhood, I would estimate 240 cars an hour. How can this not cause a problem when I want to get out onto Crain or try to get out onto Luther, as many people have said to get onto Main Street? How can that not be a safety hazard to bikers and walkers? 1005 East Main Street is a unique property with a neighborhood surrounding it. It is the entrances to two of the most sought after nicest neighborhood in Kent. Does Kent really need another mini strip mall? Does it really want more fast food places? Do you really want to ruin an historic neighborhood? The City can do much better than this. Our citizens deserve it and we expect it. Thank you.

### ***Applause***

George Ackerman: George Ackerman, 109 Elmwood Drive, Kent, Ohio. First off I want to say that last night when my wife Diane and I were walking to the meeting to talk about today's meeting, a firetruck from Franklin Township came flying down Crain Avenue turned left on Luther and came out on Main. I can't imagine that happening with the bank of those cars...uh...I like to walk my grandsons in the neighborhood. They're just at that age where they're learning to ride bicycles so getting in and out is already going to be an issue. Just the sheer volume of traffic coming into the neighborhood to go to Starbucks...We got this 15 years ago when we moved into Kent. This is the property in question. This is our house where all the headlights are going to be, all the noise from the

car radios, people talking and speakers talking to the people in the cars... People wanting to go to Starbucks are going to have a few ways to get in there. They're going to come down Luther and they're going to wait to turn in there. They're come up Luther and try to turn in there. They're also going to come up Elmwood both ways. Now the bad part is, when they get done, where are they going to go? Now as everyone knows, they cannot make a left off of Elmwood so their only option is to turn around, go back Crain and wait to merge into Luther or go into our neighborhoods where everybody is talking about and try to escape by one of those...uh... This is just a disaster waiting to happen....uh... Giving these backups, potential, if a firetruck does have to come through here at some point, I have no idea how they're going to get through you know if they're backed up both ways on Crain there on the north side of that property. No one's getting through. There's nowhere for them to go. Now that's a safety issue in my book. If they're parked here trying to go up into the neighborhood, they're trying to come off Elmwood, they're still going to have issues. Their only option is to go around like everybody else will. I'm also a little bit concerned about where the semis are going to park and I know the code says they need a dedicated truck loading and unloading spot, 14-foot clearance, 12 feet wide and 40 feet in length. I'm not sure that I see that on this drawing...uh... I know when I go by Starbucks now on Main Street, they park right on Main Street. So you've got your semi, they've got your own little unloading dock in there. This is a big truck. It's not a little dinky thing that is not going to damage our street. If they're starting to park on Elmwood or Luther...well...assume they'll park on Elmwood if they don't have a place to park here. Traffic will be stopped again. I have no idea how I'm going to be able to get in and out of my driveway during certain hours of the day...plus my neighbors up and down Elmwood there. I know Ken has issues getting in and out on Luther many days because of the cars coming down there. This is just going to make things worse. I do want to point out a couple of things. One, the Aurora's Transcript from their July 1<sup>st</sup> Planning Commission meeting was estimating 53 to 50 vehicles per peak hour that got to go somewhere. Finally is the Starbucks in Solon, Ohio in a shopping strip mall on the southeast corner of 43 and 91. They're backing into traffic onto their Aurora Road and the police chief is saying he's considering talking to the Planning Commission to revoke their permit. We won't have an option of revoking their permit once it's made. And there is nothing conditional about the drive-thru here and it's forever with us. Thank you for your time.

### ***Applause***

Bob Mayfield: Good evening. I'm Bob Mayfield, 346 Oakwood Drive, Kent. Several people have mentioned, there are four front roads here and about ten years ago...and about ten years ago... I'm trying to remember when this property first came on the market. I looked at it because our store was being asked to move very nicely by the City and State. We thought it would be a great location to relocate our business. One of the first things the realtor said was "oh it's 1.2 acres and great visibility on Main Street and you've got four front lawns. You've got this building with four major streets."

And that was one of the big selling points. Well we ended up not buying that property because it was out of our budget. We're very happy where we are now in downtown Kent. But...uh...four front yards and you have to remember one of them is Main Street which is a major major state highway compared to Crain Avenue and Luther Avenue that are both urban collectors. They collect all the traffic from the neighborhoods. I think you could probably put that definition on Elmwood also because they're collecting the traffic from other neighborhoods. When the Crain Avenue Fairchild Avenue bridge was built, one of the big things the Crain to Main people fought for was traffic calming going down Crain Avenue and I think the traffic calming that was put into effect...traffic signals and some other things...uh...along the street worked very well. The City did a great job with that. I think this development here when you see the access to this property, this is going to increase that Crain Avenue traffic considerably. Another thing that concerns me is those people who live on those three streets whose houses front this...you know...as people enter and exit the parking lot and the drive-thru, almost every single house is going to be swept by lights in the evening and it's going to look like...uh...you know... an old movie in New York City with the flashing neon lights with traffic going through there. Another thing I am concerned about is the pedestrian traffic crossing East Main Street. Yeah we did a study for the cars but did they account for the pedestrian traffic crossing Main? You push that little button on the traffic signal pole and it extends the amount of time for the pedestrians to cross the street. I go across there all of the time walking my dog up on campus. And it does ... I know I can tell it slows down traffic by going along there. I'm just worried because there's going to be a constant stream of cars coming in and also pedestrian coming across.

Another thing I'm concerned about ... I'm jumping around here because I'm not as organized as a lot of the folks here. When you look at the site plan, we have all this parking on the back of the lot towards Crain Avenue but there's no efficient way for the pedestrians to get from this parking area to the front of the store. They're going to have to walk all the way through here; all the way around to the front of the store crossing across busy drive-thru lane. I'll tell you what the developer here who I have a lot of respect for...his experts he brought here I have a lot of respect also. They're doing their job and I understand that. I'm glad they're interested in developing in Kent, Ohio. This is a great city. It's a great neighborhood. I understand that but when you consider the amount of billable hours, just here trying to fight this and going through, I would think we could come up with a better plan than a little strip center .... helicopter brought in a strip center and just plopped it down here. Go and plop it down in any other commercial district in the county. I don't have any problems with them developing this site. I do have problems with the building. And I think with a little more energy and thought in design to the property instead of trying to make excuses for the property to fit their prefabricated building. Exiting my neighborhood going down Elmwood is not going to be a pretty one with dumpsters in the back of a strip center.

***Applause***

Sheryl Weber: My name is Sheryl Weber, 121 Elmwood Drive. I am the second house as you come onto Elmwood from 59. I have had the opportunity to live there for about 24 years and being only the third resident which is typical of many of the people who live in the neighborhood where we stay to make it a home. I have to praise everyone for their testimony today I guess...uh...and just speak very quickly to the stop sign at the corner of Elmwood and Crain Avenue. Nobody stops at that stop sign. People slow down a little bit but there is no stopping so if we're talking about safety, that's going to increase the problem. And I stand there and witness it regularly. I went through this process and understand there is another step to this if the commission would award the request here tonight then it would go to a Technical Plan Review. It's my understanding that the public doesn't have any further access to that. However, I have a concern from the perspective of the storm water ... uh ... and as of today, the City has come to fix the storm water basin that is at the apron of my yard...my driveway, okay. Since February I've called and was told they will get there. It's a big project from what I'm understanding and I'm only one of a lot that needed to be fixed. My point here is that I don't believe that the integrity of this system that you are going to put demands relative to the sewer and storm sewer can accommodate everything that surrounds it contributing to it plus a three unit commercial building. Again, maybe it will. I'm just a little bit hesitant because I live there and I know that there have been other storm water issues and I know that there have been some further down on Elmwood so relative to the Technical Plan Review, I hope that you do take this into consideration.

I want to follow up ... the presentation relative to the tree commission and the zoning relative to the trees is very very important and I think we have to consider that. I'm one of those people who have a century trees...I got five in my yard actually and I take it very seriously to pay taxes and pay Davey Trees to help maintain those trees. And the utilities come in and ... uh ... pruning a tree is relative to their code...the City code. They have done some serious damage to some of those trees and I have spent money and Davey Tree usually comes and says well ... you know ... we can fix that and we can make it better. So as a tax payer and community member, I am contributing personally to the century trees that are in our neighborhood. Davey Tree has supported this in the need to have trees and the importance of planting trees. There's a poster hanging on Water Street by the Pufferbelly that talks about the contribution that a 15-foot pear tree can make...the storm water reduction ... the carbon reduction and the electric energy. Things like that need to be considered because if you take those century old trees down, no tree will be able to do something relative to our environment. And I've said relative to the plan and I've said this before, why does it have to be so big? I ... you know...scale it down and allow those trees to exist. Again the City and Davey Tree have been very supportive of the trees to the point where 13 years ago, the City gave me money to plant the trees that I put in my front yard to control the lights coming down Crain Avenue. I have no space to do that to protect my home from the lights coming down because my driveway is directly across from the egress access to the projected site. So I can't plant any more trees and I think it's going to impede my quality of life. Thank you very much.

## ***Applause***

Lee Higgins: I'm Lee Higgins. I've been sworn in ... probably sworn at. The Technical Plan Review question was just mentioned. What does ...

Ms. Edwards: Excuse me. Would you please give your address please?

Mr. Higgins: I'm sorry. 1232 Woodhill Drive.

Ms. Edwards: Thank you.

Mr. Higgins: You're welcome...uh...When does the Technical Plan Review actually happen? What drives that?

Ms. Susel: I can answer that. Actually after the plans are approved by the Planning Commission, the Technical Plan Review occurs with the different departments within the City: Engineering, Community Development, Fire Department and the Health Department.

Mr. Higgins: Thank you I just wanted clarification on it. There are several communities in our area that have been referred to before earlier. Solon and Aurora and others have had traffic issues from Starbucks or whoever might be there that cause a lot of consternation among residents, commuters and safety forces. The traffic study that was done that we looked at was unclear how traffic would circulate around the block but it only addressed Main Street and Luther at that intersection. It projected the number of additional trips because of this development to be somewhere around between 200 and 250 in the morning and...uh...about 150 in the afternoon. According to a company called Yunga, which provides data to the food industry, in a study that was published in October, it says that Starbucks drive-thrus take an average of 299.80 seconds to serve a customer. That's just under five minutes. You could infer that might be as little as 12 cars an hour and as many as 20 on a good day perhaps. Certainly less than some other places because Starbucks is slow in serving people because of the nature of their product. And there's probably those who are going to want to get in there so where the problem is going to be circulating along their block in the neighborhood. It will be obstructing traffic I fear. I think it would...uh...I think it would benefit the Planning Commission to hear from a representative from the operation that would go in there...uh...before approving the plan so as to not to make any of us buy a pig in a poke. Number one, we don't know for 100% certain that it's a Starbucks. The developer hasn't committed to that. Starbucks has mentioned that on its website and specifically mentioned this address. So there's a couple...Verizon also mentions that they're going to have a store there and then there's an unknown and we have no idea what that could be. And again...so...I don't know if you know what that could be but we don't. We also need if this goes forward and it's approved...we'd also want some iron clad assurance that the deliveries

will made on the property and trucks not spotted in the streets for unloading because not only are they tractors, they are 53-foot tractor trailers...uh...53-foot trailers with a tractor and a 40-foot space according to code is not going to accommodate that and the maneuverability. I'm wonder if Jim Bowling...if you would...Would you care to comment on your strong objection on Luther driveway on...

Mr. Bowling: (*Inaudible*)... I stand by that statement.

Mr. Higgins: Okay. I just wanted to make sure we got it correct. Thank you very much.

### ***Applause***

Durinder Bhardwaj: My name is Durinder Bhardwaj and we live at 1100 Birchwood Circle in Kent. We often use the entrance from Luther Avenue and Elmwood Avenue. The reason I wanted to say a few words is to address the quality of life in our neighborhood and I'm giving you an example of it today. When we returned from (*Inaudible*) ... out to the west where our granddaughter is working for the US Navy. But anyhow, we returned from there parked my car and we went inside to just have a cup of tea. And uh...when we heard a soft knock at our door I responded and went outside. There were two little children from the neighborhood, one about 8 years old and one about 6 years old. uh...one is called Simone and the other is Sierra. They have been Muslims ... Muslim young children. They had bag in their hand and the bag in their hand contained my mail over the last 6 days or 7 days and they gently handed that to me. This is the quality of life in our neighborhood in which we live. And anything that...therefore disrupts that quiet quality neighborhood in which we live affects us deeply. And...I say it affects us deeply because we have lived in Kent and been given the kindness and experienced the kindness of numerous friends...numerous people in this area. Whether they were doctors that took care of us...one Doctor Smith sitting over here or whether they were students that took care of us or for that matter Kent State University where I worked for a long time. Hopefully we have contributed our share as well, but we don't know that. Umm ... the quality of life ... I can continue on this is that our streets are made in such a way half of the neighborhood seems to have the uh ... sidewalks and the half doesn't seem to have the sidewalks, but that doesn't matter. Our house ... (*Inaudible*) compassion of the kind people that extend right on the road on which many of the walkers walk because there are no ... uh ... sidewalks. And they put their trolleys where they have their children and they have their ... uh ... elderly who ... um ... just walk to maintain their health and want to walk on those ... those roads and those roads become part of our neighborhood. They are part of our conversation and that is what creates our neighborhood. We stand on the edge of the road and we will talk. I have the time; I'm retired. (*Laughter*) There are other people retired. What I am trying to tell you is that our neighborhood is not just composed of shops and with people and houses and a store and a bakery and what kind of architecture there is, but these are real kind wonderful people. And they ... they are the ones that have been the reason for us to live in Kent for the last

47 years ... (*Inaudible*)... and if anything disturbs us ... if anything can disturb our way of thinking about Kent then it hurts us a great deal. And it is hurting when we see a site, which at one time to me was a sacred site, will be desecrated. I'm sorry. I feel awfully sorry if it gets built.

### ***Applause***

Vinnay Bhardwaja: Thank you. My name is Vinnay Bhardwaja. I live with my husband at 1100 Birchwood Circle, Kent. I think I have heard so many people. I see that same thing. And to think that I am looking at all of you are going to make the decision for us. And I'm coming...I have tried to work with the City to make...Kent is a compassionate city. It's going to be. I am going to remind all you commissioners please consider that Kent is going to be a compassionate city. So whatever decision you take, we have to accept it. Please consider if this site was next to their property. Many children are walking so the safety issue has to be considered. I also see some of the parents walking.

It's going to be dangerous. Please consider our neighbors who have been so kind. Thank you.

### ***Applause***

David Wright: My name is David Wright. I live at 520 Harvey Street, Kent, where I've lived since 1976. In my opinion this project is an affront to all the people who care about Kent. We're looking at a site that has been benign for 50 or 60 or 70 years and certainly is not going to be benign in a few days after this if you approve this...uh...action. The group of people who are coming here are out of towners. They've probably never stepped in Kent before this and they have come with the purpose...the sole commercial purpose of trying to hijack a neighborhood. They don't have to beautify the neighborhood. They don't have to beautify the City. They don't have to add value to the property. They don't have to provide any service that is already duplicated throughout the City of Kent. In fact, how many restaurants do we need? Are we going to become the city of one thousand restaurants? I don't know. There is already an abundance of properties available that they could take over. And I would like to cite a couple of properties. There are two of them which are very close to the site and already provide a drive-thru service. They have plenty of parking. They have plenty of space. They are about the same size as the project under consideration and they would require some modifications to the buildings. And you all know what I'm talking about; the two banking buildings over off of Main Street. A perfect fit for these people...uh...They're going to permanently destroy the neighborhood and especially the trees of this signature neighborhood of Kent. One way or another, and here's what I understood from Mr. Heim's testimony, it cannot be guaranteed that the trees will survive more than a couple of years. That disturbs me greatly. We are not going to be a tree city any more. We're going to be the treeless city. The current edition of the Tree City Bulletin which I'm sure

you're all familiar with has a section on page which is entitled Facts and Focus on the Neighborhoods. In here, a couple things it says: "You probably saw the tag line Kent is a great place to live, work and play. It evokes the idea that any that anytime and anywhere in Kent is a great place to be. What an auspicious tag line. It is also a tag line that takes all of us to make true"... and at the bottom it says: "Our focus on the neighborhoods in Kent happens every year. Some years are bigger than others but we are always working to keep Kent's neighborhoods great places to live." Now I'm not quite not sure if that is what the City really feels about this project under consideration or is that what the City means by better neighborhoods? A commercial development in what used to be the heart of Kent's residential area? This project will not make neighborhoods better. It certainly won't make our neighborhood better. This is a very harsh word I'm going to use and I hope nobody is offended by it. What I think is this project is going to rape the neighborhood and the City. And I appeal to the commissioners not to consider it and vote against this outrage. Thank you very much.

### ***Applause***

Mary Organ: My name is Mary Organ. I live at 5876 Horning Road and I have been sworn in. I have been here before the Planning Commission speaking against a proposed student housing development in my own neighborhood. I am friends with various residents in this neighborhood and along Crain Avenue. When I heard this developer was to come before the Planning Commission, I got curious and I got involved. As with our neighborhood's developers, these developers are from out of town as you've heard several times tonight. They do not live in this neighborhood nor live or work in the City of Kent. They will not be impacted except for the potential financial gain by this development nor will they be present to experience all the safety and aesthetic concerns that were raised tonight. Mr. Clevenger has already quoted and questioned the developer directly from the zoning code regarding the removal of trees 18" or more in diameter. The removal of these trees is a direct conflict with City of Kent's zoning code recommendation. As the Planning Commission, you are the board and the body who has the authority to decide the fate of this development and these trees; not the future Technical Plan Review. In addition to the zoning code section that was cited, you've heard many safety concerns from the residents about increased traffic in and around this neighborhood. Mr. Flynn's quote from Jim Bowling regarding the safety of the driveway entrance near the corner of Luther and Main raises some serious red flags regarding this proposed development. And I hope these concerns are heeded. I'm going to ask you, just as you did with my neighborhood, to please listen to these longtime residents about their concerns for their neighborhood and homes. Please say no and deny this out of town developer who is here tonight but will be gone when this all done. Thank you.

### ***Applause***

Mike Drew: Good evening. My name is Mike Drew. I live at 129 Elmwood Drive. That's why I feel obligated to say something that everyone else has said because my driveway is at the stop sign on Elmwood Drive. And my wife so happened to point out to me: you know we never wanted anything here, now we have a garbage trash dump right in our yard so I guess I should be overjoyed that we finally have something ... uh... My dad designed and built that house when I was three years old; designed and built it himself. Except for my military time and a couple years it took to throw my parents out, I've lived in that house since I was three years old. I bite my tongue and say I'm 70 years today but I can't be more than 50. At anyway at any rate, I may be one of the longest residents here. In its current configuration with the .. (inaudible) .. with the site what I'll call the Tinker side of the street because certainly everyone knows who Tinker was. But the Tinker side says no left turn at the top of the street. That sign is a little misleading because it says no left turn period but I think as you go up the street it says no left turn on week days. Is that right?

Unidentified person from audience: Yeah.

Mr. Drew: At any rate, on any given day, I can get as many as 10 or 15 cars turn around my driveway because they see that sign. As it works out now, that's a problem. I sit and watch that stop sign every day. If I could get a buck for everyone who runs that stop sign on Elmwood, I'd be in Boca Raton while you're talking. I don't see how... This is an issue obviously... noise pollution, light pollution and I guess because of where the trash can is air pollution in my area anyway. And I think the commission needs to take into consideration... I'm sure you already have because it's been beaten this evening, all of the real disruption that will take place and how Tinkers was there for the specific purpose of being a buffer for the neighborhood. It was allowed to be there for that purpose. It was part of the development for that purpose because it is not a high traffic business even though people are dying to get in there... I know that's a bad joke. At any rate I would like you to consider the totality of the neighborhood... the number of people who have lived there for a number of years. And to be quite candid, maybe against my own interest, since the building has been torn down, the lights are actually worse from Main Street because the building was a buffer for Main Street. I appreciate the consideration and I'm confident you'll make the right decision. Thank you.

### ***Applause***

Terry Kuhn: I'm Terry Kuhn. I live at 496 Overlook Drive and I have been sworn in. I was on the Planning Commission many years ago when a mall at 261 and 43 was going through from the DeBartolo Corporation. I hope you will look beyond the safety and traffic when you have to make a decision tonight. It was Henry Taft and I that addressed the City. I hope that you will look beyond the issues of safety, traffic, nuisances like noise, landscaping, front yards, ordinances, congestion and the myriad of the things that go into making a decision about a development like the one proposed. You see, I did not

say to ignore those issues and concerns rather I urge you to look beyond that to the big picture of what is going on here. While this is about what trees will be cut and whether our children and pedestrians will be safe in this development, it is also about the ultimate goal of why we're all gathered here in this public forum. We're gathered to assure that change occurs according to public policy in the neighborhoods of Kent, Ohio. Such change should exist in a unique combination of the past, the present and the future this instance of time. All three, the past, the present, the future become one decision for you to make. Therefore, I ask you to consider the heritage of the neighborhood, its current character and its future as you make your decision. Think beyond the routine issues and ponder the ultimate goal of this City's development and potential. Surely there was a better vision for this unique property. Thank you.

### ***Applause***

Ms. Edwards: Does anyone else want to speak here this evening. Okay seeing none...Mr. Fink, can we take a five minute break for the commissioners to organize?

Mr. Fink: You're the chair. Absolutely...

Ms. Edwards: Alright. We're going to take a five minute break and then let's come back in please.

*(Five Minute Break Taken)*

Ms. Edwards: Public comment is now closed. Moving onto to staff comments.  
Ms. Barone?

### **PLANNING COMMISSION DISCUSSION**

Ms. Barone: The applicant is proposing a commercial use which is a permitted use in the C-R District. It is in the staff report they are proposing 57 parking spaces. That's more than what staff had calculated that are required. We don't know yet what the use of the buildings or the sections of the building will be so it's a little bit hard for us to try to use the most...the highest number that we think it would be. They are also required to have bicycles storage racks and for this size of building, they would need one bicycle storage rack so we recommend that be part of the conditions, if you choose to approve this. Staff has also talked to the developer about the possibility of moving the sidewalk along S.R. 59 further away from the pavement. Right now it's the curb and then the sidewalk. It is safer to have the sidewalk further away from the pavement. This may be hard to do in some places because of the change in grade but we would ask that you might consider putting that as a condition. Also, as part of that we would like a larger area at the intersection where they can cross S.R. 59 and have a place to gather until the light turns

in their favor so they can cross more safely and not be hanging out right at the edge of the pavement.

A traffic study did show that there was no significant impact and that no additional improvements would be required for this project. The plans you received show a left turn lane on Luther Avenue. The revised traffic study does not show that it's needed any longer so we're asking that that be removed. We don't want a left turn lane if we don't have to have one. It makes a longer route for pedestrians to cross the street. You've heard that the City Engineer is recommending that the one driveway be removed that is close to the intersection of Luther and East Main Street. I talked to the Fire Department earlier today about the possibility of removing that. They weren't thrilled with that idea but we want you to consider possibly making it instead of a right in/right out just make it a right in with no out. If so, I would suggest changing one of the conditions so that the right in/right out is changed to right in only.

Utilities are available pretty much on all four streets around this parcel. The storm water management that was mentioned earlier consists of oversized perforated pipes on site. On signage, they will be coming back later with a Comprehensive Sign Plan once it is known where all the tenants are going to be. Landscaping, they are proposing vegetation that meets the zoning code. The Architectural Review Board recommended approval as presented with three conditions. The three conditions are: 1) Install a three sided masonry enclosure for the dumpster which matches the material of the building as long as this does not require a variance. 2) The faux windows are to be real windows. 3) As much existing vegetation as possible is to be saved.

No variances were required as presented. Staff said if the commission wishes to make a motion, it should be with six conditions that you can see in your report. That's all I have.

Ms. Edwards: Thank you. Ms. Susel did you have anything to add.

Ms. Susel: Eric and I have actually compiled a list of issues to speak to but I will probably make some comments as the discussion goes forward,

Ms. Edwards: Thank you. Moving onto Legal ... Mr. Fink?

Mr. Fink: A couple different comments and... the Fire Department sent out some...spoke to Legal about this issue as well and they are requesting to keep the current driveway open as a require...when they reviewed the plans they viewed it as a requirement in order to have access to all sides of the building and the driveway could be ultimately right hand turn only and it could still be done in a way to allow the fire trucks access. That was the Fire Department's request. There was...one speaker spoke to some of the factors in Kent Codified Ordinance 1107. That does not apply to this situation because that applies to conditional uses or specially permitted uses and in the C-R

District these are permitted uses so the factors that were listed do not apply to this project. The property and...I'm probably guilty of this is in the past but if anyone here remembers the Sheetz case we had several years ago, if you recall this property has four frontages but the property still has only one front yard. I'm not sure it makes any real difference but I'm trying to make sure I use the right vernacular with respect to this issue. The Architectural Review requested a three sided masonry enclosure as long as it does not require a variance and that speaks to the fact that there are conflicting zoning requirements with respect to the dumpster. It is required to be screened but however, it cannot be more than 6 feet in a front yard setback or frontage setback. In this case, the staff has made a determination that the more onerous requirement is to make sure the dumpster is fully screened therefore we hold it to a higher standard just to make sure the dumpster is fully screened. Therefore they are allowing it to be over the six (6) foot but no more than one (1) foot over of the height of the dumpster apparatus, if they choose to surround it with a masonry enclosure.

Ms. Edwards: Thank you Mr. Fink. Moving on to Planning Commission discussion ... Mr. Clevenger?

Mr. Clevenger: I'm going to pass for now.

Ms. Edwards: Mr. Paino?

Mr. Paino: I guess the first thing I want to say is this has been one of the most compelling presentations in front of the Planning Commission of evidence in a very long time. And I will tell you that any decision that is made tonight will be a very difficult one but the...So I'm going to go through this as I normally do in a semi-organized, semi-disorganized manner but ... uh ... The truth of the matter here is as a Planning Commission, we have to uphold the zoning code as it is written whether we like the zoning code or not. It gives us a little bit of latitude to make decisions but we can only make a decision based on the site plan that has been presented to us so some of the comments about the architecture of the building unfortunately are not for the Planning Commission ... the looks of the building are not in our purview for making a decision. So when I read through all this information and studied the site plan and I went out to the site to look at the site which I've seen thousands of times but I still wanted to look at it another couple times in the last week ... uh ... and then I looked through the information...read the staff report. There's a couple of things that came to my attention. The first thing was the trees and people spoke to that tonight and ... uh ... I guess ... and I'm going to go through this very carefully. Every development to which this chapter applies, shall retain all existing trees 18" in diameter or more unless during the site plan or development plan in due process is determined by the Planning Commission that the retention of such trees will unreasonably burden the development. Okay. Well I guess we might ... that the removal of those trees might burden the neighborhood and the character of the City of Kent. So that's why I asked in the beginning of the meeting here...uh...why couldn't the site plan

start out taking into effect with the preservation of the trees. And I strongly believe in that philosophy of design in planning so ... uh ... so I'm not in favor of cutting the trees down and I think an effort should be made to make the site plan reflective on that. That's one point ... uh .... I think if this does pass ... I think that there should be a lot more screening as far as vegetative screening is concerned...the north to Crain Avenue and to some of the other places. I think the screening should be such that it's arborvitae. It's six feet tall...something that's actually going to screen something. I think... remember a number of years ago there used to be huge Lilac bushes on Crain Avenue. I mean that's a screening. I think that if a dumpster...Well there's a dumpster there and I think it should have a masonry enclosure and some vegetative screening....uh...One of the things that struck me was ... how many parking spaces are needed? It's in here somewhere.

Ms. Barone: I have 48 in my Staff Report. They quoted a different number like 36 or 37.

Mr. Paino: On the drawing, it says 36 and they provided 57 so I don't know which one is correct. I can't remember when somebody came in and had excess parking. We're usually arguing over trying to get an extra two or three spaces. So because of the fact that there are whatever is on this drawing, there's 21 additional parking spaces that don't seem to be required per the zoning code, I would suggest that they only have 36 parking spaces.

Ms. Edwards: Mr. Paino, they have 36 for the 141 in restaurant seats but then if you take the outdoor patio seating...

Mr. Paino: Well look, I'm going by what's on the drawing. Well I guess I want to know what's the required number of spaces versus what's...

Ms. Susel: We have it calculated at 48.

Mr. Paino: Excuse me?

Ms. Susel: We have it calculated at 48.

Mr. Paino: Okay so then there's nine extra spaces. Well, is that correct?

Ms. Susel: 48...

Ms. Barone: Madame Chair, you may want to ask the developer why he wanted the extra spaces.

Mr. Paino: Right. Well the extra spaces impact the viability of the trees and I think that's probably the first starting point of ... of ...

*(Inaudible)*

Ms. Edwards: Please come to the mike.

Mr. O’Nesti: We have more stringent requirements...Gary O’Nesti again. We have more stringent requirements also that we have a code that we’re following...your building code too and your zoning code but we also have a more stringent requirement that relates to tenants who are retail. So many of the retail tenants and restaurants will base it on seats that are much more stringent than yours. A lot of that is what we’re basing our code on and what we’re basing it on is those 57 seats. These are requirements that many of the tenants have also. In addition to that, they have a stronger requirement or heavier parking requirement than what you have based on the normal seating that is associated with it. Also, as you said, there are seats or... or seating requirements outside and this is added to that so your 48 parking spaces by your code...by your code fits that requirement. We have a more stringent requirement because as I said before with respect to our tenants, we need those additional parking spaces. Now, let me address on that end... we can talk about it ... One of the things I wanted to tell you is that the parking spaces are not a tree preservation issue. It is entirely the grading portion of that. The parking lot isn’t going to change by eliminating seven or eight parking spaces. The grading because it slopes down off of Main Street is going to have a uniformed curb coming across all the way so it’s not going to impact how many of parking spaces are there. The curb line is here.

Mr. Paino: Well it’s there because that’s where you put it.

Mr. O’Nesti: The trees are here and they’re being impacted by grading...

Mr. Clevenger: May I ask a question of the legal director please?

Ms. Edwards: Does it tie into this?

Mr. Clevenger: Related to this at least this portion,

Ms. Edwards: Okay.

Mr. Clevenger: Mr. Fink, earlier in this conversation, one of the questions I asked at the very beginning of this process was and I will preference this with the fact that we live in a tree city and I look forward to raising my family in a tree city and I greatly respect that we have these century trees on this location. With that being said, one of the questions that I asked at the beginning of this process and something that I believe was confirmed by Mr. Scott Heim was that leaving certain trees in place, would in fact create an unreasonable burden to the development to this property. Is that correct?

Mr. Fink: That was his testimony. That is a quasi-judicial role. It is your job to evaluate the testimony you receive from the people in the audience, the people presenting and determine whose testimony you believe to be most credible in the situation. That is a decision you in your quasi-judicial role-have to make. It's not something the City can decide for you to just confirm he is the tree expert. You have to evaluate his credentials. I can't evaluate his credentials for you.

Mr. Clevenger: Thank you.

Ms. Susel: I would like to add to...Commissioner Paino that that requirement is not just ... There's (a) and you can also add...it goes on and it also talks about reasonable uses of the site as determined so you have to look at (a), (b), and (c) that will apply. You had just read for the record (b) so ...

Mr. Paino: Okay.

Ms. Susel: So when you look at both of those talk about similar concepts ... but there is ... it talks about the development of the site. So I just wanted to make sure you're clear for the record that the one alone is not the only one that you need to be looking at when we have unreasonable burden to the development. You stopped at (a). Then it also talks about unreasonable limit of use of the site and you have to considerate that as well.

Mr. Paino: However ...

Ms. Susel: Just reading the full ... of both sections because there's an "and"...both apply.

Mr. Paino: Okay. However, what came first? The point is...I know that... you're cutting it back so you have a nice neat curb line but there has been a building on that site for 60 years with trees with that building so there's an option of coexisting trees and a commercial development there. That's my point.

Mr. O'Nesti: And I understand your point. The plan is changing. The grades are changing to accommodate the building.

Mr. Paino: It could be changed so the trees would be okay.

Mr. O'Nesti: Then you're dealing with the unreasonable burden because you're changing the grading for us.

*(Overlapping Comments from the public)*

Ms. Susel: Point of order. When there's discussion up here, please refrain from comments from the public.

Mr. Paino: Well then I ask what does this mean.

Ms. Susel: When the Planning Commission...

Mr. Paino: I'm going to ask Eric.

Mr. Fink: You're asking what's (a) right?

Mr. Paino: Yes. I see (b) and (c) here.

Mr. Fink: "Existing landscaping or natural vegetation, as shown on a Landscaping Plan and that are in satisfactory condition, may be used to meet the standards and satisfy the requirements of this Chapter in whole or in part, if protected and maintained during the construction phase of the development".

Mr. Paino: Okay. Now I understand.

Mr. Fink: That's paragraph (a). Then there's paragraphs (b) and (c) that are in the Staff Report.

Mr. Paino: What it says if the trees don't limit unreasonable use of the site then they stay.

Mr. Fink: Correct.

Mr. Paino: Okay.

Mr. Clevenger: Could you put up the plan with trees that are going to be removed so we can see it?

Mr. Paino: The reality of it is there's been a lot of very good presentations here on all sides and...and the problem is the reality of it is that the trees are 100 years old or close to 100 years old. They've been there a long time and part of the past present and future of the neighborhood and tearing them down doesn't seem to be keeping with what the City of Kent would like to see happen. If the trees are going to coexist with the development, the site has to be designed a little bit more sensitively to fit into the surrounding environment because as it has well been stated and I've read and I agree this is zoned for that particular use but as a Planning Commission we have the charge and ability to make sure it fits into the neighborhood and doesn't adversely affect the neighborhood adjacent to it.

Mr. O’Nesti: I appreciate the comments. What we tried to do here... I mean there are a lot of things going on if...if...we are going to debate this as far as the design goes and get into technical planned stuff we have (*Inaudible*)...Mr. Commissioner that has to come into play too. You have to meet those aisle widths so you have parking spaces adjacent to the building for the...where the concrete sidewalk...

Mr. Paino: The aisle width has everything to do with the sides of the building.

Mr. O’Nesti: It has everything to do with the size of the parking lot.

Mr. Paino: No. That’s everything that determines the size of the building. I know exactly what you’re talking about. I understand the site plan quite well and how you have it laid out. You have your aisle width. You have this that and the other thing and you have to see how big of a building you can get on there and all that. I understand that but in this plan, those trees are in your way versus being made part of the project. That’s my biggest objection. And there’s too many parking places. And those trees coming out; I looked at them and they look relatively healthy to me but I don’t work for Davey Tree.

Mr. Fink: Mr. Paino, I said...I didn’t hear all of what you said...uh... before actually you are using the standard for a permitted use not a conditionally permitted use.

Mr. Paino: Well the only thing we can do is look at the site plan and if we have an objection to the site plan.

Ms. Susel: You spoke to the adjacent neighborhood factor which is actually a conditionally permitted use factor.

Mr. Paino: Okay then I’ll strike that from the record. Thank you.

Ms. Edwards: Have you been sworn in?

Mr. Fink: Do you solemnly swear or affirm that the testimony that you are about to give before this commission is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Funk: I do. I apologize.

Ms. Edwards: Please say your name and address for the record.

Mr. Funk: My name is Stephen Funk. I am the attorney at Roetzel and Andress in Akron, Ohio. I represent the applicants, Kent Investors. And I apologize for not being here on time. My daughter got into an automobile accident. She’s okay. I had to take her to the ER to make sure she’s okay. So...uh...This is a very important project and one of things

I wanted to emphasize is it's a permitted use. I think you've discussed this already. If I read this landscaping...part of the landscaping... in general what this is trying to do is set forth the standard that sort of aspires to allow for a tree to be retained as long as it doesn't burden the development. When they talk about the development, it's on a basis by which you can pick and choose what type of use you want to select. It's a permitted use. The size of the building meets the setback requirements. The parking meets the parking requirements. So now the only issue is to what extent given this particular use and this particular development can trees be preserved? And I think what we've agreed to do and what our tree expert is identifying is that they will make every effort that they can during the technical review process and the construction to preserve as many existing trees that can be preserved. But at the same time, this contention as far as the landscaping plan being complied with, which it is, it is really not a basis by which you can deny this particular use just because of the trees. Ultimately, we are going to try to preserve as many trees as we can but you can't say we're going to reject the development, the permitted use, just based upon preserving trees. So...uh...I hope that answers any questions that...I'm just going to limit to...to that issue right now.

Ms. Edwards: Thank you. Mr. Paino do you have any other...

Mr. Paino: Someone else can say something.

Ms. Edwards: Okay. Mr. Clapper?

Mr. Clapper: I have a few issues that open for discussion for the residents out there. First of all, Mr. Mayfield spoke to it and I had questions and Mr. O'Nesti, if want to come up and answer this for us. The pedestrian access from the north parking lot area is behind the building. How's that going to happen to get them up the front safely?

Mr. O'Nesti: You're talking about the existing parking behind the building?

Mr. Clapper: Correct:

Mr. O'Nesti: Yeah, they wanted (*Inaudible*)... walk around into this area on the sidewalk into the front door. Uh ... we have a very similar situation in Canfield, Ohio where we just built parking in the rear.

Mr. Clapper: So they walk through the parking lot, in front of this drive-thru entrance in front of the entrance off the street?

Mr. O'Nesti: Yeah. They come around here. They will walk around this side through here ... walk through here...careful use of that...but we have to get all the striping and part of that... the signage plan will be a part of that and will be due in the Technical Plan Review. I'm sure we will crosswalk it and make sure that it is done appropriately.

Mr. Clapper: Okay. But there isn't going to be a dedicated sidewalk is there? They'll just walk through the traffic area.

Ms. Barone: Use the mike please.

Mr. O'Nesti: Okay. They'll walk around the parking area and right up the side to the front door.

Mr. Clapper: Delivery vehicles...How are delivery vehicles going to fit in there?

Mr. O'Nesti: This is designed per your standards so the intent would be for them to back into this area here and deliver. A lot of times these will be delivered 6:00- 7:00 in the morning so they backup into these areas here or they'll back up along here on the front.

Mr. Clapper: So I guess...if I do it for a living...

*(Overlapping comments from the public)*

Ms. Susel: Please this is being recorded. Thank you.

Mr. Clapper: If I'm coming from the east of the site and there's vehicles and a 53 foot trailer, I'm going to turn onto Elmwood and then back into the drive?

Mr. O'Nesti: Yeah. We provided the loading area per your requirements. It's...it's not...I can't...I can't sit and stand here today and say well you're going to use a WV67 but it's able to accommodate those uses so the trucks in traffic can get in there to deliver. The intent is for all deliveries to be made on site. That's what we designed it for.

Mr. Clapper: Right. I understand that. I think the bigger issue is getting the vehicles to the site and there is no access from Main Street. Those commercial vehicles will have to go into this neighborhood.

Mr. O'Nesti: Well we...we...we performed auto turn on here and they can get in here and they can get in here. What we were asked to do was to perform auto turn on all these to make sure they would be accommodated by the largest designed vehicle. That's accommodating.

Ms. Susel: I can speak a little about that. There is another section outside of the zoning code that allows trucks to deliver to...they can travel through residential areas.

Mr. Clapper: For deliveries?

Ms. Susel: Yeah. So I wanted to clarify that while that is not in the zoning code, it is allowed in another section of the code.

Mr. Clapper: I don't know. Maybe the Traffic Engineer wants to speak to this ...Or who wants ...is Jim still over there? what is?...so I know you were talking about adjusting the timing on the light on Luther and Main Street as opposed to adding a turn lane.

Mr. Wohlwend: Correct.

Mr. Clapper: What...where was the cutoff range for thinking we needed an additional left turn lane and... and how is the timing going to resolve that?

Mr. Haydo: We were able to mitigate the impact with timing and it was understood that that was preferred rather than a turn lane because as someone mentioned, adding lanes to that road would cause a longer path for pedestrians.

Mr. Clapper: Okay so the pedestrians were brought into there. To add the width of that road would then cut into the west side property then. That's...that's how that would be done? If it had to be done in the plan where would...

Mr. Wohlwend: Yes. I believe it was to be cut into the...it was to cut into this side.

Mr. Clapper: Okay.

Mr. Wohlwend: What we showed in the site that was submitted to the Planning Commission packet showed the proposed left turn lane at that time was fit into the existing right of way on Luther Avenue. And again we showed it at that time just to ensure that we have the physical room in the right of way if the traffic study showed the left turn was necessary.

Mr. Clapper: You were talking about doing Luther Avenue doing just in bound traffic next to ... on Luther Avenue in the south entrance. That's one of the things up for discussion is the inbound traffic into there.

Mr. Wohlwend: That's correct. What we're discussing is just a right turn in, no north bound entry into the site.

Mr. Clapper: Okay. So the ...

Mr. Wohlwend: So no right turn exiting, no left turn exiting, no left turn in so the only access would be ...

Mr. Clapper: How would that be established? Like would it be...uh...a concrete barrier so vehicles could only go the one way?

Mr. Wohlwend: That's something that we would obviously discuss during Technical Plan Review...uh... because it's also used for fire truck access, we can't just have a very narrow drive that would delineate that. So usually...I don't want to speak for the... but usually we would see striping or something like that along with geometric design that would force the traffic that way.

Mr. Clapper: Right.

Mr. Wohlwend: Not versus a median and signage of course.

Mr. Clapper: Okay if I was going through the drive-thru there picking up whatever, I would have to go back around through the parking, back around the building in order to go to Elmwood or back onto Luther. (*Inaudible*) ways out of there. So the traffic is going to double through the neighborhood basically. So I am going to have...I'm going to have to come in, I'm going to have to loop the building again and to go back out and for example if traffic is backed up on Luther when I am going to turn left I am going to turn on to Elmwood, go around the block and then come back onto Luther?

Mr. Wohlwend: Correct. As you are coming out of the drive-thru, you have the option of coming out this access and coming down to Main Street or coming back around the site. And that's what was evaluated in the study.

Mr. Clapper: Okay. I'm just going to look over some of the stuff so just let someone else have their say.

Ms. Edwards: Mr. Gargan?

Mr. Gargan: I whole heartedly agree with everything that has been said today by the residents of the neighborhood. Unfortunately, we have to follow the rules of the Planning Commission. This is a permitted use okay, so we can't reject the project per se. We can try to mitigate as much as we can to have a less impact on the neighborhood on the site plan design so we might be able to work on it and try to find a site plan to lessen the impact on this neighborhood. I'm just throwing this out there, everything west on Main Street by the Lutheran Church, is commercial with a few minor exceptions. All have ingress and egress off of Main Street. Would it possible to have ingress and egress off of Main Street on this project, therefore not having to use Luther or Elmwood?

Ms. Barone: No. The reason why we're doing that is we included the traffic accidents. In your packet is the code where we're finding the highest traffic concerns on West Main Street in Kent. It's the fifth in the AMATS area and we have a lot of...and these...traffic

coming in and out of those businesses. The other issue at this particular site is that there isn't very much room between Elmwood and Luther and they have...there's a double left turn in the middle of SR 59/East Main Street and there really isn't room to fit that in there.

Ms. Edwards: Mr. Gargan?

Mr. Gargan: I want to do everything possible we can to try to create something there. There's lots of trees there I'd like to see something done to save as much as possible.

Mr. O'Nesti: We're going to try to do as much as we can to reduce the impact on the neighborhood.

Ms. Edwards: I'll give a couple of my comments real quick...uh...as everybody has reiterated, it is a permitted use. And regardless of what we personally think, it should or shouldn't be or how much rent we want it to be or whether it's a franchise or not it is a permitted use to have commercial buildings there. And so, looking at the site plan I'm kind of...the traffic concerns and the parking lot flow are probably my prime issue that I'm still trying to get clear in my head right now. I do agree that I would like to see more vegetative screening along Crain. I know you're trying with the landscape...that is we're trying to work with the neighborhood and community and trying to work together on some of the concerns. I would like to see more taller arborvitae to try you know to block some of the light and what not from the neighbors and make it look more appealing from all four sides...uh...And I would like to see the dumpster enclosed with some sort of masonry as well as possible. I'm still trying to figure out the parking lot.

Mr. O'Nesti: What we talked about with Architectural Review committee was that the right way to do ... Let's talk about the masonry screening of the dumpster enclosure.

The right way to do that is to indeed do that and I'm glad we're capable and able to do that is to provide viable masonry on that and then to screen around it. That's the right way to do that. That's usually how we do it. This way it solves a lot of problems as you well know. I don't have to go into any of those issues. But the screen around it, we'll plant whether it's arborvitae or work with the City to comes up with however that should be even if...where we can make it as invisible as we can. That's our intent. Now we talked about putting a 6 foot or 7 foot fence around it so you can't see into it. We're open to doing all that also. In addition to the additional landscaping Mr. Paino, we're open to doing that. We're open to working with them on the technical committee...Technical Plan Review. In addition to that, I think we're also we're open to say now at this point that any of the trees that we're going to remove...uh...we talked to Davey Tree a little about it earlier a few Transcript ago. I think we would replace those in kind. Those are Pin Oak. I think we would replace those in kind with 4" – 6" caliber trees that could be anywhere from 12' to 20' high which is quite substantial in the landscaping world.

Wouldn't you agree Scott? ...uh... We'll do that through the Technical Plan Review committee and certainly work to wherever...whatever we can relocate those trees. We can do it that way. And then in addition to that, we'll come up with a good landscaping plan that everybody is comfortable with...uh...I won't...I won't put price tags on the replacement of those trees but it will be significant. Those are expensive to do at 20 feet high...12' to 20' high...so I think that's a way to say we want to cooperate as best we can and we'll continue to work with Scott to see if we...uh...preserve any of those trees as part of the process. And we'll do that. And we'll have a...a...a memorandum that we can issue based on what we've done. Scott and I can present that in Technical Plan...what we did, how we did it...what we did it for.

Ms. Edwards: Thank you. Mr. Paino?

Mr. Paino: I have a question for Mike. None of these entries or exits line up with the traffic flow.

Mr. Wohlwend: That is correct.

Mr. Paino: And that seems to make it more dangerous in and out.

Mr. Wohlwend: That's all controlled by City code but the driveway has to be 50 feet from the corner of the right of way...Ms. Barone I believe that's how it's worded... 50 feet driveway spacing from the right of way to the edge of the driveway so that's ...so that' ... so that's....

Mr. Paino: I know the reason ... it ... it ... I don't like that. That just makes no sense to me.

Ms. Susel: Two of the driveways are existing and the one that is being changed is being changed to meet the code.

Mr. Paino: That's not the point. The point is that those driveways should line with ... with the traffic flow of the parking lot, not be eschewed.

Ms. Susel: They ... you have to remember too that the developers was not granted any variances in order for them to meet the setback and all the requirements, you have to work within that fine line.

Mr. Paino: They ... they don't work. I don't care if it's an existing...

Ms. Susel: It isn't what we would like to see but it's not a code requirement that that drive line up with ...

Mr. Paino: I can go into parking lots everywhere and they tend to line up 98% of the time. Correct.

Ms. Susel: Yes.

Mr. Paino: Okay.

Ms. Susel: I'm just trying to explain to you why they will not on this site. They were not granted variances of any kind so they need to meet setback requirements and then...

Mr. Paino: What you do you shift ... you have to be able to adjust the parking to meet where the entry goes. Not the other way around. The site plan uses every inch of the site and it's created some very poor entries and exits in a very hazardous location.

And as a Planning Commission, we have to look at the site plan and make our determination based on what's been submitted.

Mr. Fink: Are you are saying as a site plan and not as a code argument?

Mr. Paino: No. It's the site plan. On the site plan, the way you come in off East Main, turn right onto Luther, turn...execute a turn so that you don't run into the guy out of the drive-thru.

Mr. Funk: We ... we called it. I know you know this. But to be striped appropriately then ... the radius ... the radius are designed to do that and to have a double yellow line on any roadway you don't drive across ...

Ms. Edwards: Will you please speak in the microphone.

Mr. Paino: Here look. Here's my point. If you're going to design something new, design it so that it works correctly. Don't design it so doesn't work correctly. This is the time to do it correctly. Not in Technical Plan Review. That's my point. Everything's at an angle. I don't understand that. Everything...

Mr. Funk: If I may? All of these access points as well the impact of the traffic were evaluated by the traffic study that we conducted was reviewed by the City's outside planning consultant and nobody has raised any objections to the access. The only issue was whether we have a right in right out so it has not identified any negative impacts on traffic both internal to the site as well as external to the site in the traffic study that we prepared and also reviewed by the outside ...

Mr. Paino: The circulation on this site ...

Mr. Funk: That's right.

Mr. Paino: It's good circulation?

Mr. Funk: That's right. If you look at the site plans, there's an emergency access plan that was reviewed by the Fire Department and measured to make sure that the fire vehicles could circulate throughout this site; to get in and out and throughout the site itself.

Mr. Paino: That's one issue. That's the Fire Department's but I'm talking every day in and out ... people driving in and out of the site. Nothing is ... everything is askew.

Mr. Funk: You're identifying that this is somehow a critical and dangerous condition which it isn't. At no time did the traffic study ... didn't indicate adverse impacts ... the ... The fact that everything is not at a right angle does not make it unsafe.

Mr. Clapper: I'm looking at the emergency vehicle and it looks that unless they are perfectly aligned and every car aligned in their space there, they're really pushing the limit with that fire truck safely moving through that lot. I mean it seems to be the narrowest of margins if everything is perfectly aligned so they can move in and out of there with a full fire truck.

Mr. Wohlwend: We were provided the template for the fire truck that the City uses so that is a conservative estimate on what a normal driver would take to make that turn. So basically that's the worst case scenario. It's only routed through the site with the software that's commonly used. Anyways, it's accepted by the Fire Department.

Mr. Clapper: Okay. What they want the ... so the opening on Luther ... the south side of Luther will stay the same width ... the ... The Fire Department needs the width of that existing opening to move the fire truck in and out, correct?

Mr. O'Nesti: Yeah, what we propose to do is to narrow the driveway as much as possible so the truck would just fit in there so ... and then the remainder of that drive would be striped. All the traffic would just flow in from the right hand only.

Mr. Clapper: It seems like you might be at the point already and I don't understand how you're going to be able to restrict it to leave that open enough for the Fire Department in and out of there but still restrict people that are going to want to pull out that way. I understand that you're going to stripe it.

Mr. O'Nesti: So we're working from a right in only situation now.

Mr. Clapper: Right.

Mr. O’Nesti: So what ends up happening ... and I’ve done this again on another project ... what we did was we laid it out so that emergency vehicles ... uh ... what would be 67s ... can get in. What happens is this area will end up with probably a nice ... you have rather a unique driveway approach that is concrete. What can be done here is we can work with that to maybe rather than do the concrete drive apron, we can do a radius out here but ... we can tighten this up in here but then you can have 12 foot to 14 foot width pavement and stripe out more of that so when I say stripe is literally hashed out so that normal vehicles...cars, trucks and vehicles that are coming in will follow that around. If there’s ever the need for a fire truck to come in, he’s going to be able to come around and go through that striped out pavement. We’ll have a plan that will show that and I think I’ve sent it around to some of our engineers now so they can see it with the appropriate radiuses, they’ll be able to make that turn. If vehicles will stay within that, it works pretty well because it’s striped out and it can also be something that on each side there is a placard where it’s right turn only and no entry so cars are not trying to come out. I have to say that the other project was approved by ODOT and working very well.

Mr. Clapper: I understand completely what you’re saying but as somebody who drives through Kent every day and sees some crazy things I think if the space is there...if it’s there people I believe are going to drive through it to get out of there.

Mr. O’Nesti: They can’t ... I can’t enforce it but what I can...

Mr. Clapper: I know you can’t enforce it.

Mr. Wohlwend: We make sure we stripe it out so people understand that it is one way and ... we are going to a recommendation made by the City now that says we want to make this right hand only.

Mr. Clapper: Right.

Mr. O’Nesti: I mean we’re open to doing that. We just want to ... want to go ahead and design it appropriately so the Technical Plan Review is designed right but...

Mr. Clapper: I think ideally they wanted, aside from the Fire Department, I believe they wanted that gone completely. Correct?

Ms. Barone: That was the City Engineer’s recommendation.

Mr. Clapper: Right. And is there a way to restructure the plan where we can make the City Engineer and the Fire Department happy?

Ms. Edwards: Is there a way not to use that entrance but still have it accessible for the Fire Department?

Mr. O’Nesti: Remember what you have happen the vehicles are going to come in here either from this direction...this direction and it’s immediately going to go in here. Nothing is ever going to come out that way. It’s ...if it’s tempted to go in here and let’s assume that passerby traffic this is...this development traffic when it makes that turn it’s going to immediately go in here and do whatever it’s going to do at first. It’s not going to come back out this way because it can’t. But if it’s not intending to use this development, it’s going to go off and do what it’s always done and that’s in the neighborhoods back here...in the neighborhoods back here. It’s not going to do that. Closing the entrance just to close it doesn’t accommodate it or accomplish it.

Mr. Clapper: Well I think it makes the overall area safer not having another access point especially when pedestrians can use that.

Mr. O’Nesti: If it’s designed appropriately based on what the City’s saying you’ll accommodate everybody.

Mr. Clapper: The City Engineer recommended removing it. There’s a worry about getting emergency vehicles in there so I don’t know why we can’t look at a way to get emergency vehicles in and out.

Mr. O’Nesti: We are going to get emergency vehicles in here to do that.

Mr. Clapper: But the City Engineer wanted it removed. Is there a way to make everyone happy from the Engineer’s office and from the Fire Department?

Mr. O’Nesti: We’re open to ... agreed to a right in only ... no access ... we’re open to ... right in only. We’ll design it to accommodate the Fire Department

Mr. Clapper: I understand that. I just wondered...it’s just yes or no. Is there a way to make it so there’s no entrance there at all? And can the fire trucks get in and out safely and efficiently?

Ms. Barone: Are you talking about a fire access only?

Mr. Clapper: If there’s nothing there at all, is there a way to do?

Ms. Barone: Well, if there’s nothing there at all, a fire truck can’t get in. If you’re talking about a fire access only entrance, I guess that’s a possibility.

Mr. O’Nesti: We’re in agreement to make it right it only. We’re not in agreement to close the entrance.

Mr. Clapper: I know you are.

Ms. Susel: Excuse me. You're getting into a little bit of Technical Plan Review. The issues versus the site plan.

Mr. Clapper: Okay.

Ms. Susel: The recommendation typically of safety trumps a recommendation of another division. That's the way we usually operate. The Fire Department has recommended or

not recommended has requested that drive not be removed. The right in only will mitigate some of the traffic and there are other ways to limit the flow. You can put mountable curbs that a large fire apparatus can get over that a vehicle cannot. But those are matters that are not decided here. Those are matters that are decided during Technical Plan Review so that is where they would be determined. If we don't think that striping is enough ... then it will still have people. We have mountable curbs actually in a lot of locations often times with projects that require movement through a multi-unit facility. We have mountable curb which means big trucks can get over and nobody else can.

Ms. Edwards: In regards to that the right in only, I'm still concerned about if you're driving east down S.R. 59 and somebody who is busy on their cell phone, or you know checking out the girls walking down the street or whatever he makes a left and then swings there right into the parking lot that with the line of traffic that's going to be sitting on Luther, they might not see a pedestrian that is walking south on the sidewalk by that driveway. I think with it being...even though it is more than 50 feet from the corner, that traffic light that's going to be sitting there, is going to create somewhat of a blind spot. So I'm still slightly concerned about that right turn in only from the pedestrians' standpoint.

Mr. O'Nesti: Again that is a right turn it...you...you can't make

Ms. Edwards: I understand. this movement. The movement I was speaking of...

Mr. Haydo: So that I can understand, people turning left have their vision being blocked by people who are queued...well not in this...it's not there. Not seeing pedestrians coming down.

Ms. Edwards: Correct. And just making that quick right into the parking lot. The drivers are distracted. They can't see them because of traffic and they drive quickly and they're going to make that little s loop right into parking lot.

Mr. O'Nesti: This left turn lane to here, you're talking about 80 feet so it's just not a quick little turn. Once the driver starts to get into this left turn lane, he's in the appropriate entry lane. He's at the intersection looking down here ... this traffic is not in

his line of sight. He's here. He's coming around this way and avoiding that so he's going to see that pedestrian way up here.

Mr. Clevenger: Vehicles making this left turn will be traveling at over speed on Main Street even if they weren't turning into this facility even if they are turning into this facility making a left and then a quick right they will be traveling at an increased amount of speed.

Mr. Funk: I just want to add that's the reason you have the code requirement is 50 feet so we designed it to meet the code.

Ms. Edwards: Mr. Clevenger do you have any more thoughts?

Mr. Clevenger: Personal feelings aside, from everything I have seen here, everything that they have done on this site plan is up to code. Everything here is a permitted use.

Everything here meets the requirements of the City of Kent and has met the requirements of the Architectural Review Board and some recommendations that we might make later on. I have a great deal of respect for the people who took the time to come out today and talk and to explain to us why they love their neighborhood That is why I live in Kent. I love my neighborhood but we do not have the ability through this body to make decisions based solely off of personal feelings. We have to make our decisions based off of the code. Regardless of how we feel about how the parking lot lines up or how the brick work on the side of the building looks or how certain trees are going to be cut down. This site is a permitted use that meets zoning code requirements. So while I respect what we are doing here, I feel like we are wasting the time of some of the individuals in this room because we have to make a decision based off of that code.

Ms. Edwards: Mr. Clapper?

Mr. Clapper: I have nothing further.

Ms. Edwards: Mr. Gargan?

Mr. Gargan: I agree. It meets everything. I still think it is a bad site plan that is going to be a cluster of cars going in and out of the drive-thru and walking through it so I think it could have been planned better.

Mr. Paino: I'm going to continue on with what John just said. I think the site plan could have been planned better and it is our responsibility to make sure that it is. So, there are too many things wrong with this site plan. Voting against a site plan doesn't mean you are voting against someone's right to use the property. You are voting ... however you

vote... but it is our responsibility to make sure that we get the best site plan out of a very difficult site that as a body we think the developer should do and to us accept it because it meets the zoning code. In my opinion, it is not the right thing to do. It is not denying someone's right to use the property. It's that saying we want the site plan to be looked at and redone and that is my opinion.

Mr. Gargan. This is our primary responsibility as a board. Our only thing is to look at the site plan.

Mr. Paino: Correct. This is the time to make sure that it is done correctly rather than regret it 10 years from now. I do not know how we proceed in that. I will leave that to Mr. Fink. Personally, I see too many contrived entry and exits and there are some contradictions between a couple of the departments in the City that I think should be worked out. Personally, I think the trees should be saved.

Mr. Gargan: The trees should be saved. The delivery trucks should not be going through the lines of traffic for the drive-thru.

Ms. Edwards: Okay. From here we can either approve a motion ... we can approve with conditions or we can disapprove the application.

Mr. Paino: Or table it. Talk to Eric.

Ms. Edwards: Or we can table it. Can you give some guidance?

Mr. Fink: Okay. Give me one second.

Ms. Barone: Yes, you can table it.

Mr. Paino: What do we do?

Mr. Fink: As Chair Edwards just stated, you have the right to make a motion to approve, a motion to disapprove, the right to do further studies, as the Planning Commission you have the right as well. If you are going to vote in favor of the plan, then you need to articulate when the motion is made in the final discussion that you believe that it follows the code and therefore that is the basis for voting for final approval. If you believe that it does not meet the code, you need to make sure you articulate that so that should this wind up in the Court of Common Pleas, I can articulate, as Mr. Flynn stated at the beginning, I can articulate how this does not meet the code so that I can defend that decision to the Court of Common Pleas.

Mr. Funk: I just want to say in response to your comment about the site plan review process, I think what you articulated, is correct. Your job is to review the site plan and make sure it meets the code and I think that echoes what Eric has just said that this plan meets the requirements of the code and the traffic issues although there is no requirement to require the traffic study but we have done a traffic study. The traffic study has not identified any negative impacts. The landscaping plan meets the code. The setbacks meet the code. It has been reviewed by the Fire Department so there has to be a basis by which you determine that it does not meet the code before you can deny a permitted use.

Mr. Clevenger: Madam Chair, I would like to make a motion to request a five minute recess so that we as a committee can confer with the Law Director and the City.

Ms. Susel: We don't do that. Eric will...

Mr. Clevenger: I need them to point me somewhere in here. I am not going to ask... anyone is welcome to hear it. I just need to know where to go to look. I have a question about a portion of the code.

*(Overlapping conversation – comments – questions in the background from various Planning Commissioner's)*

Ms. Susel: If you deny it, you have to find where in the code why you are denying.

*(Overlapping Conversation – comments – questions in the background from various Planning Commissioner's)*

Ms. Susel: Point of Order please. It is a permitted use. That is all we are explaining to you. If you take a vote, you need to articulate where it does not meet the code under a permitted use.

Mr. Clevenger: We have to have a reason to deny it. I absolutely respect that we all are here have several problems with the way the plan is laid out. We all have problems with the way this looks. I agree that the traffic flow in my opinion is absolutely terrifying for college students to be zooming through Starbucks's parking lot. It is bad enough where it is now. If this becomes Starbucks... the congestion that we are going to see... I absolutely agree that your neighborhood is going to be drastically affected. You are going to see individuals coming in at all hours of the night. It is going to be loud. It is going to be noisy. This is not ideal under any circumstances, however, as the Planning Commission, we do not have the ability to deny this project based solely off of those aspects. We have to look at the law of the City. We have to look the zoning code. We have to look as the way this is legally drawn out. In the event that we vote against this, which I would very much like to do, Mr. Fink has to defend it in court. If he does not have a legal leg to stand on, Mr. Fink loses and the City loses in court and does us no good. At this point in

time there is no legal standing in my opinion for this Planning Commission to vote this issue down as much as I would personally like to. There is no zoning requirement that is not met in the plan as it is currently laid out.

*(Overlapping comments from the public)*

Ms. Susel: Comments are closed.

Ms. Edwards: Mr. Clapper do you have any ...

Mr. Paino: Can we add conditions to ... ?

Mr. Clevenger: Yes.

Mr. Paino: Could I ask that there be a condition that the City Engineer ...

Mr. Fink: I'm not sure I can answer but you can always ask and I can tell you ...

Mr. Paino: Can I add ... if we make a motion to approve with condition, that a condition is added that Engineering and Safety need to come to a conclusion about entrances and exits to the site.

Ms. Susel: They would anyway through Technical Plan Review. It is actually with a condition like that, you can definitely articulate that but it will occur anyway.

Mr. Paino: Okay.

**MOTION: Mr. Clevenger moved that in Case PC17-001, the Planning Commission approve the Site Plan for construction of a three tenant commercial building at 1005 East Main Street subject to the following conditions:**

1. Review & approval of the technical plans.
2. Implement suggestions from the ARB.
3. Make the southern entrance on Luther Avenue right in only.
4. The left turn lane on Luther Avenue is not to be constructed.
5. Relocate the sidewalk along East Main Street away from the street pavement where possible and create a concrete area at the intersection of East Main Street and Luther Avenue where pedestrians may safely pause or wait to cross the street.
6. Provide a minimum of one bicycle rack.

**Mr. Gargan seconded the motion.**

There was further discussion among the Commissioner's regarding additional conditions.

**Amended Friendly Motion:**

**Ms. Edwards moved that the dumpster is screened in with masonry.**

**To use their best effort to save the two century trees on the west side of the property and if they do not survive, to replace with new mature trees.**

Mr. Fink asked Mr. Clevenger if he accepted the amendment to the motion - Yes.

Mr. Fink asked Mr. Gargan if he accepted the amendment as a second - Yes.

Ms. Edwards proceeded with a roll call vote.

**ROLL CALL VOTE:**

|                            |                         |                         |
|----------------------------|-------------------------|-------------------------|
| <b>Mr. Clevenger - Yes</b> | <b>Mr. Paino - No</b>   | <b>Mr. Clapper - No</b> |
| <b>Mr. Gargan - Yes</b>    | <b>Ms. Edwards - No</b> |                         |

**Ms. Edwards: The motion carries 2 to 3.**

Ms. Susel: For the record, those of you who voted against the motion; you will need to articulate the rationale behind the no vote against the motion.

Mr. Paino: I voted no not to deny the property owners the right to develop their property. I voted no because there are too many questions about the site plan; the circulation within the site and the circulation and traffic into the neighborhood. I don't think it has been addressed properly. I don't think that it has been looked at enough and think there are some serious questions about it that have to be addressed by the City and engineering staff. I fully understand the right to develop this property but I am not voting against the project. I am voting against the site plan that I am looking at right here.

Ms. Edwards: I also have concerns with the traffic flow in and out of the parking lot and around the property. I don't think that this project is not doable but I think there are some safety concerns with pedestrians and other cars and if those details can be worked out then it could be a feasible project.

Mr. Clapper: I agree. I have tremendous concerns about the safety. Not only with getting in and out of the parking lot but what it is going to create in the neighborhood. I think there are much better solutions out there. I believe the property can be developed

but there needs to be a much better plan put in place in front of us before we can approve it.

Ms. Edwards: Moving on to New Business...there appears to be none.

*(overlapping conversations in the background .... unidentified Planning Commission member said Amanda you messed up ... you said it was approved ... you need to correct that ....)*

Mr. Fink: Madam Chair I believe their attorney has a motion at this point in time which he has the right to bring forward at this time.

Mr. Funk: As I understand your vote, the motion was to approve with the conditions that were set forth and there was a vote against that 3 to 2. Nobody made a motion to actually reject the site plan.

Mr. Fink: Correct

Mr. Funk: In light of that fact, I would like to ask you to reconsider your denial of that motion, table it for two weeks and let us come back in two weeks. In the meantime we can sit down with staff to see if any improvements that can be made to the site plan. Given that you have not actually voted yet to deny the site plan, I would ask you to consider that. Let me make it clear, what I am asking you to do is for you to reconsider, withdraw your vote on your motion to deny and instead ... a motion to approve that was reject and instead table it for two weeks.

Mr. Fink: I can't endorse the attorney's request that you withdraw your vote. That has happened and that is part of the record but there has not been any vote to deny it at this point in time. So either until there has been a motion to deny or it dies for lack of a motion, the case is not entirely dead. He does have the right to request that it be tabled so he can present new information that cause a vote in the future to be a motion to approve or a motion to deny.

Ms. Edwards: Mr. Paino?

Mr. Paino: I don't know if this is true or not, but if your plan has been denied don't you have the right to submit a revised plan.

Mr. Fink: His plan has not yet been denied. Although he lost a motion to approve, there has not been a motion to deny yet.

Ms. Edwards: Would I move forward with a roll call vote asking each Commissioner if they want to withdraw their vote.

Mr. Fink: No, I don't support the attorney in asking to withdraw your vote but right now there has only been a motion to approve. That motion failed but it is not the same thing as a motion to deny.

Mr. Gargan: Can I make a motion to table.

Mr. Fink: Yes

**MOTION:** Mr. Gargan moved to table PC17-001/Kent Investors for two weeks.  
Mr. Clevenger seconded the motion.

**ROLL CALL:**

Mr. Clevenger - Yes      Mr. Paino - Yes      Mr. Clapper - Yes  
Mr. Gargan - Yes      Ms. Edwards - Yes

Ms. Edwards: The motion carries 5-0.

**VII. New Business**  
None

**VIII. Regular Summary Transcript:**      March 21, 2017

**Motion:**      *Mr. Gargan moved to approve the Transcript of March 21, 2017 as submitted. Mr. Clapper seconded the motion. The motion carried 3 – 0. (Mr. Clevenger and Mr. Paino abstained)*

**IX. Other Business**  
NONE

**X. Adjournment**

**Motion:**      *Mr. Clevenger moved to adjourn. Mr. Paino seconded the motion. The motion carried 5-0.*

The meeting adjourned at 10:40 p.m.