HARTZ RAYMOND BOULEVARD LIMITED PARTNERSHIP, A New Jersey Limited Partnership,

Plaintiff

v.

ZONING BOARD OF ADJUSTMENT OF THE CITY OF NEWARK, and 28 MCWHORTER STREET, LLC,

Defendants

-and-

ADA CARO, CAROLINA CISNEROS, JENNIFER GIRARDIER, STEFANIE GOMES, EVELYN KALKA, LISA DEWEY-MATTIA, BENNETT A. MEDOFF, SCOTT MICHALCZYK, MICHAEL PANZER, MATEO PINTO, JASON STEFFENER, ANKER WEST,

Plaintiffs-Appellants

v.

28 MCWHORTER STREET, LLC and THE ZONING BOARD OF ADJUSTMENT OF THE CITY OF NEWARK,

Defendants-Respondents

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

Docket No. A-003648-13T3

On appeal from the Superior Court of New Jersey, Law Division, Essex County
Nos. ESX-L-8161-12 and
ESX-L-8484-12

Sat below:
Hon. Stephen J. Taylor, J.S.C.

BRIEF IN SUPPORT OF MOTION TO APPEAR AS AMICI CURIAE AND ON BEHALF OF AMICI PROFESSOR DARIUS SOLLOHUB, AIA; PROFESSOR ANTHONY W. SCHUMAN, RA; PROFESSOR BRIAN MCGRATH, RA; PROFESSOR ANA BAPTISTA, PhD.; IRONBOUND COMMUNITY CORPORATION; GREATER NEWARK CONSERVANCY; AND, NEW JERSEY SIERRA CLUB, GATEWAY GROUP.

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INTEREST OF AMICI

This Brief Amicus Curiae is submitted on behalf of a group of four academics, who are specialists in the areas of architecture, urban planning and/or public health, and who work, live or grew up in the City of Newark, and three Newark based nonprofit organizations, whose mission and work focuses on environmental and/or public health issues within the City (the "Amici"). The Amici submit this brief in support of their position that the Court below and the Newark Zoning Board of Adjustment in this matter erred in upholding the use variance and other land use approvals granted to 28 McWhorter Street, LLC by the Zoning Board of Adjustment of the City of Newark to permit it to use the land for a commercial surface parking lot.

Amici all have a special interest in this matter pursuant to R. 1:13-9 because the Zoning Board's decision (1) threatens the early demise of the comprehensive planning that Newark has undertaken over the past few years; (2) directly contravenes Newark's land use framework that strongly discourages surface parking in the City as a whole, and this zone in particular; and (3) fails to consider the interests of Ironbound residents who are negatively impacted by the decision. Amici also believe that if upheld, the Zoning Board's decision will set a precedent that will negatively impact principles of planning, urban design

and public health that each of the academics and organizational amici propound.

Professor Darius Sollohub, AIA, is the Director of the New Jersey School of Architecture, College of Architecture and Design, New Jersey Institute of Technology, Newark. Professor Sollohub teaches architecture and infrastructure planning courses and studios, and coordinates community outreach. He conducts funded research, lectures and publishes on design and planning at a variety of urban scales. His research focuses on transit-oriented development, parking, earth art and alternative transportation systems. He has worked collaboratively with many institutions and agencies including the Regional Plan Association, the New Jersey State Council on the Arts, the Urban Land Institute and New Jersey Transit; and has been a visiting lecturer at the Bloustein School of Planning and Public Policy at Rutgers University. Professor Sollohub has provided advice on zoning for housing, parking and bus rapid transit in Newark. His special interest in this matter arises from his professional interests as well as the fact that he works in the City.

Professor Anthony W. Schuman, RA is Associate Professor of Architecture in the College of Architecture and Design, New Jersey Institute of Technology, Newark. Professor Schuman has taught in Newark for 35 years and watched the city struggle to redevelop. He teaches courses on housing and urban

development, including one on the City of Newark. Professor Schuman's research and teaching supports the unanimous consensus in the architecture and planning communities that surface parking not only impedes positive growth but has a deleterious impact on the current social and economic life of the city in terms of economics, environment, public safety, and public image. Professor Schuman is the past president of the Association of Collegiate Schools of Architecture where he has also been named Distinguished Professor. Professor Schuman's special interest in this matter is apparent from his research agenda and professional relationship to Newark.

Professor Brian McGrath, RA is the Dean, School of Constructed Environments, Parsons, The New School of Design, New York. He is also the founder and principal of Urban-Interface, LLC, an urban design consultancy fusing expertise in architecture, ecology and social media. The firm combines new research in urban ecosystems and digital technologies to provide urban design models that engage a broad range of local participants in flexible, innovative approaches to urban densification and revitalization. He is a principle researcher in the Baltimore Ecosystem Study, a National Science Foundation's Long Term Ecological Research, where he leads the Urban Design Working Group. Professor McGrath's special interest

in this matter arises from his work on urban revitalization and design.

Professor Ana Baptista, PhD., is the Assistant Professor at the Milano School of International Affairs, Management and Urban Policy, The New School, New York. She is an Assistant Professor of Professional Practice in Environmental Policy and Sustainability Management. Professor Baptista was most recently the Director of the Energy and Environment Program at the Regional Plan Association where she oversaw a diverse portfolio of issues ranging from climate change to greenspace preservation across the New York metropolitan region. Prior to RPA, Professor Baptista was the Director of Environmental and Planning programs for the Ironbound Community Corporation ("ICC") for over seven years. At ICC she oversaw a wide range of environmental justice, community development and community based planning and research projects, including projects that focused on air quality. She grew up in the Ironbound where she was part of the environmental justice struggles that later shaped her professional and academic interests. Ms. Baptista's special interest in this matter arises from her continuing interest in the Ironbound community and her efforts to improve the public health and quality of life of its residents.

The Ironbound Community Corporation ("ICC") is located at 317 Elm Street, Newark. In addition to serving nearly 1,000

people daily with social services and education programs, ICC plays a leadership role in organizing and collaborating with community members and with stakeholders on a range of neighborhood issues – from affordable housing and economic development to safe streets, clean air, and educational opportunities for adults and children. The addition of yet another surface parking lot in the East Ward adversely impacts the neighborhood and residents that ICC serves.

Greater Newark Conservancy is located at 32 Prince Street, Newark. Greater Newark Conservancy promotes environmental stewardship to improve the quality of life in New Jersey's urban communities. It works to educate, train and support communities by creating environmentally safe neighborhoods, encouraging and highlighting community empowerment, pride, sustainability and self-sufficiency. It strives to involve the citizens of Newark in creating sustainable neighborhoods for their families through community gardens, urban farms, environmental education, and tree planting. Greater Newark Conservancy monitors the City of Newark's revision and implementation of its Master Plan and encourages residents to participate in ward meetings and city meetings to express their concerns and discuss issues that they would like to see addressed in the new Master Plan. These efforts have been ongoing over many years now and are stressing the need for reserving land for parks, recreation, urban farms,

community gardens and schools. The Zoning Board's decision to grant yet another use variance despite the adoption of the Master Plan undermines the Conservancy's efforts and mission.

The New Jersey Sierra Club, Gateway Group consists of urban and suburban members in the Newark area of the New Jersey Chapter of the Sierra Club. Its mission includes educating and advocating to protect and restore the quality of the natural and human environment. The Sierra Club is a national, member-supported environmental organization, which seeks to influence public policy in both Washington and the state capitals through public education, grass-roots political action and litigation. The Gateway Group views surface parking lots as a stain on Newark's environment.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

The Board of Adjustment's Resolution

The Zoning Board of Adjustment of the City of Newark (the "Board") held a regular Public Hearing on September 6, 2012 in which Application 15-12-C was reviewed and approved. The applicant, 28 McWhorter Street, LLC (the "Applicant") requested the demolition of an existing building and construction of a new paid parking lot with 158 spaces located at 28-50 McWhorter Street. A variance was required because parking lots are not permitted as a primary use in the 1st Industrial District or anywhere else in the City. The Board approved the resolution for

the application on October 11, 2012. It based its decision on testimonies delivered at the Public Hearing, concluding that the relief requested by the applicant could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and the zoning ordinance of the City of Newark.

The Board cited a number of reasons for its decision. Of particular interest in regards to planning issues are the following:

Surface parking is a "relatively benign" use. The Applicant had a planner testify that a surface parking lot would be less of a nuisance than many land uses allowed under the zoning ordinance. To support this argument, the planner read off a list of allowed uses, focusing on ones that would be obnoxious such as bars, warehouses, fish markets and lumberyards. As the planner put it, a parking lot was seen to be better than those land uses and was seen to be better than the existing vacant and rundown building.

The property is particularly suited for the proposed use because of its proximity to transit hubs, the Prudential Center and Ferry Street.

On street parking for non-residents is unavailable due to permit parking for residents, causing a significant shortage of parking and the Future Land Use Plan of the 2004 Land Use

Element acknowledges the need for parking. However, in Applicant's planner's testimony, he had no idea how many parking spots were in the immediate vicinity of the surface parking lot. The planner based his conclusion of need for more parking on the traffic expert's hearsay report, and his personal observations of the area. The planner also testified that the surface parking lot use is consistent with the intent and purpose of the Master Plan and Zoning Ordinance.

The parking lot was seen to not cause an increase in traffic volume.

Retail businesses in the Ferry Street corridor require more parking to ensure their continued viability. The Applicant's planner testified that retail businesses on the Ferry Street Commercial Corridor require more parking to ensure their continued viability. He testified that the surface parking lot provided "an opportunity for people to come in, shop, park to get out of their vehicles," which he argued does "promote pedestrianism in the downtown of Ferry Street." Additionally, to support the need for parking, the planner testified that when he went through the neighborhood he saw institutional and commercial uses such as bars and taverns that had absolutely no accessory parking.

Based on testimony during the hearing, the Board decided that the variance would result in the site being utilized to

enhance the surrounding business corridor and would have less detrimental effect on the surrounding area than many uses permitted in the 1st Industrial zone in which the property is located.

Newark's Current Land-Use Framework

The current 2012 Master Plan, which was adopted at the time the Board's Resolution was memorialized, and the proposed zoning ordinance associated with that Plan have their foundation in the 2004 Land Use Element. Through these plans there are several repeating themes that relate to the appropriate amount and type of parking in Newark.

Theme 1: Need for Modern and Comprehensive Planning

At the time of the 2004 Land Use Element, the Newark Zoning Ordinance dated back to the 1950s. The antiquated nature of the zoning ordinance resulted in land use decisions being made through Redevelopment Plans and Variances rather than through a comprehensive plan. The City of Newark adopted the 2004 Land Use Element to more closely reflect modern land use planning techniques as well as to take a comprehensive approach to land use regulation.[1]

In 2009, the City of Newark drafted a re-examination of its Master Plan. In this document, the city noted that the previous

[1] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 1-2

comprehensive revision of the Master Plan was in 1990 and that the Zoning Ordinance dated to the 1950's. Both items were considered to be out of date. It furthermore noted that a comprehensive approach to land use regulation was needed instead of the piecemeal approach through Redevelopment Plans and zoning variances.[2]

The 2012 Master Plan mentioned progress that had been made towards a comprehensive vision for the city while noting that a new zoning ordinance had not been adopted. The goal of this Master Plan was to lay the basis for a zoning ordinance that would follow and serve as a guide for the development and growth of the City.[3]

The first two documents noted the *ad hoc* land use decisions being made by Redevelopment Plans and zoning variances because of the outdated nature of the Master Plan and the Zoning Ordinance. The latter document worked to end this trend by setting the foundation for a new Zoning Ordinance that can serve as the basis for future land use decisions.

Theme 2: Too Much Parking

In the 2004 Land Use Element, parking was combined with vacant land uses and described as underutilized. Recommendations

[2] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 12-13.
[3] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 10.

included reducing the presence of surface parking lots and multi-structured parking garages. It was determined that underground parking and reduced parking requirements due to transit accessibility were a better solution to parking needs.[4] The 2009 Master Plan Re-Examination described an excess of surface parking lots as a challenge to making downtown an attractive place for people to live, work and spend time. This re-examination was skeptical about the ability of structured parking to be the solution not simply because of the cost, but also because parking in general "hinders efforts to improve the character and vitality of downtown."[5]

The 2012 Master Plan also noted the excessive amount of parking. "Within a half-mile of Penn Station alone, there are more than 20 acres of underutilized sites primarily being used as surface parking." It recommended discouraging new surface parking lots, promoting shared parking to reduce parking space demand, reducing downtown parking ratio requirements, increasing parking prices to increase turnover and using student parking permits to promote transit use and walking among students.[6] A goal of the Master Plan was to balance parking needs and desires

[4] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 150.
[5] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 68.
[6] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 53.

of various users by developing appropriate parking standards for new development, limiting commuter parking in downtown through zoning and land use, and allowing reduced parking requirements near transit facilities.[7]

Each one of these documents, accordingly, sees parking in negative terms. Parking is considered to be an underutilized land use and is given the same treatment as vacant land. The amount of parking around Penn Station is decried as excessive. Recommendations include limiting parking demand and supply, particularly in cases where high quality public transit is available.

Theme 3: Walkability

The 2004 Land Use Element viewed pedestrian-oriented development as a way to reflect Newark's cultural and national diversity, to reduce parking demand, and to strengthen existing retail areas;[8] and the 2009 Master Plan Re-Examination built upon this view of walkability. Strategy #1 of its "Healthy and Safe Neighborhoods" goal was to create "Safe, Active and connected places; public investments throughout our neighborhood that help prevent crime and improve pedestrian safety." Part of this

[7] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 128-129.

[8] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 147, 150 and 178.

section recommended creating a well-defined street environment.[9] Strategy #1 of the "Newark as a City of Choice" goal is "making downtown more attractive to people who are interested in living and working in walkable, vibrant places…" including making a "Plan for safe, attractive, and pedestrian friendly street environments."[10] To do this, the plan recommended to, "[s]trengthen the identity of smaller pedestrian-scale local retail streets." One of the streets recommended for this treatment is Edison Place up to where it connects with Ferry Street.[11] In this way, the 2009 Master Plan Re-Examination viewed walkability as an essential aspect of city life and one that should be planned for.

The 2012 Master Plan also focused on walkability. It noted that seniors can benefit from pedestrian safety and expanded transit services, and that streets that accommodate all users (including pedestrians) promote healthy and active lifestyles.[12] The focus on walkability in the Master Plan can be most easily seen in the Mobility Chapter of the plan. In the Mobility Chapter's section on Public Transit, it stated, "This shift to

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[9] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 19

[10] Id. at 20.

[11] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 69.

[12] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 24-25.

the automobile has created congestion, which has a detrimental effect on all aspects of surface transit, pedestrian safety, and ultimately, Newark's economic vitality."[13] The next section of the Mobility Chapter focused on Local Accessibility, Pedestrians, and Bikes.[14] This entire section was dedicated to making life easier for cyclists and pedestrians. The Mobility Chapter's section on Safety focused a great deal of attention on pedestrian safety and states: "One of the biggest concerns expressed by Newark residents was the need to improve the safety of streets and intersections for all users - but most especially for pedestrians."[15] Over this 5 page section, "pedestrian" was mentioned 29 times. Throughout the 2012 Master Plan, there was a recognition of the importance of pedestrians and walking in the city. This is not relegated to the Parks & Natural Resources chapter, but rather is scattered throughout the entire plan with a large concentration in the Mobility Element. The 2012 Master Plan thus framed walkability as a vital form of transportation.

In short, when moving from the 2004 Land Use Element, through the 2009 Master Plan Re-Examination and 2012 Master Plan, one must note that Newark's planners placed an increasing

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[13] Id. at pg 101.
[14] Id.at 110.
[15] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 120.

amount of attention on improving conditions for pedestrians.

Theme 4: Transit Oriented Development

Another issue that is brought up through these documents is Transit Oriented Development. Transit Oriented Development involves concentrating development around transit hubs and improving the pedestrian sphere. The goal is that more people can live and work around transit hubs and that the provision of public transit will reduce automobile use.

The 2004 Land Use Element recognized that transportation oriented development can be used to reduce the demand for parking.[16] In the section on Residential Land Use Designations, the Land Use Element stated, "In designating the higher-density residential designations, the City also recognized the principles of 'transit-oriented development'—that is, locating higher-density development close to public transit facilities, wherever appropriate."[17] 28-50 McWhorter is listed as S-T Transitional zone in the Future Land Use Plan.[18] When describing the S-T Transitional zone, the Land Use Element states:

> One of the major purposes of this designation would be to enable Newark to develop higher-density residential uses in close proximity to mass transit, notably Penn Station, NJ Transit rail stations and the proposed NJ Transit light rail stations. While such locations

[16] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 150.
[17] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 170.
[18] Id. at 159.

> would allow for reduced car ownership and hence on-site parking requirements, nevertheless the provision of sufficient parking to meet the needs of residents and guests (such as in below-grade garages and off-site locations) must be provided. Moreover, the provision of parking garages at the street level would be strongly discouraged unless those portions of the building facing onto streets are occupied by retail uses or by residential apartments.[19]

The 2009 Master Plan Re-Examination also supported Transit Oriented Development. It viewed dense, mixed-use development around Penn Station as a strategy to improve resident mobility to jobs.[20] It also saw higher-density, mixed-income neighborhoods that leverage transit assets (of which Penn Station would be one) as a strategy to ensure access to quality housing choices for residents of Newark.[21] The Re-Examination also proposed leveraging downtown's public transit assets to develop commercial and residential uses as a way to make the downtown area a place that people want to live and work.[22] Specific recommendations included rezoning to support density and mixed use around Penn Station, encouraging higher density along major transit routes, and revising parking standards to encourage transit use.[23]

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[19] Id. at 193.
[20] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 18.
[21] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 19-20.
[22] Id. at 20.
[23] Id. at 42.

The 2012 Master Plan continued the City's support for transit oriented development. When discussing ways to increase business and industry in downtown, the first strategy listed was "Encourage dense mixed-use development around downtown transit hubs."[24] When discussing housing, the first strategy was to create new development. Here the Master Plan stated, "In other areas, there are opportunities to leverage transit assets to increase densities and create walkable, mixed-use environments…"[25] The Mobility Chapter of the Master Plan also supported Transit Oriented Development, particularly through the use of the Urban Transit Hub Program. Even the Mobility Chapter's section on parking promoted Transit Oriented Development: "Allow and encourage increased densities and reduced parking requirements at and near transit facilities."[26] The Land Use Coordination section of the Mobility Chapter was dedicated to the promotion of Transit Oriented Development, specifically noting the presence of more than 20 acres of underutilized land within a half mile of Penn Station, the ability of land use regulations to play a role in changing

[24] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 51.
[25] Id. at 69
[26] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 128.

travel behavior and Newark's eligibility for the Urban Transit Hub Tax Credit Program.[27]

Once again, there is a large amount of agreement between the three planning documents: they all supported Transit Oriented Development. Each document supported increasing development densities and decreasing parking supply around Penn Station.

Theme 5: Permitted Uses

The uses permitted through the 2004 Land Use Element, 2009 Master Plan Re-Examination and the 2012 Master Plan share a great deal of similarity. Before discussing this similarity, it is important to realize the extent of land use choice that the owner of 28-50 McWhorter could have used for this property.

While the planner testifying on behalf of 28-50 McWhorter emphasized that the land was zoned for uses such as warehousing, theaters, fish markets and lumberyards, there were a great deal of other uses permitted in this zone. Other uses permitted in the current Zoning Ordinance included 1-4 family dwellings, low to mid-rise multifamily buildings, apartments above first floor commercial spaces, artist live/work spaces, community centers, and offices. There were thus many permitted uses that would have

[27] Id. at 130.

been more appealing to local residents than the unpermitted surface parking. [28]

The 2004 Land Use Element had its own view of what land uses should be allowed on this land near Penn Station. 28-50 McWhorter was placed in the S-T Transitional zone. This zone was set up to be a transition between downtown and surrounding neighborhoods; more dense than the neighborhood, but less dense than downtown. Development was targeted at "mid-rise residential with a height limitation of six (6) stories." Also allowed was mixed use, office, retail and other support services. Due to the transit proximity of the area, parking requirements were expected to be decreased and any required parking be provided in "below-grade garages and off-site locations." Above ground parking was expected to be hidden by retail or residential uses.[29]

While the 2009 Master Plan Re-Examination did not specify specific land use changes (and rather put forward a broad framework for analyzing land use), the 2012 Master Plan did specifically call for specific land uses for the City. For the site of 28-50 McWhorter, the Master Plan determined that Mid-Rise Multifamily Residential (R-MM) was the best use for this

[28] Zoning Board Transcript date 9/6/2012 (T:53-54).
[29] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 193.

land.[30] R-MM was intended "to promote more intense residential development within walking distance of transit and other surfaces." Allowed uses would include low and mid-rise apartments, live-work spaces, daycare facilities, ground floor retail, service and office, nursing homes, places of worship and municipal uses including parks, playgrounds, gardens and open space. Maximum height of buildings would be eight stories. Parking requirements were set to one space per residential unit, except for buildings with 50 or fewer residential units within 1200 feet of major transit hubs such as Penn Station.[31]

In this way, the preferred land use for 28-50 McWhorter as explicitly seen in the 2004 Land Use Element and the 2012 Master Plan is mid-rise residential buildings with ground floor retail and office space. Surface parking is not simply unpermitted as its own use, but accessory parking is expected to be hidden from sight.

Theme 6: Parking Solutions

As was noted in the testimony heard on September 6, 2012, there is a blanket prohibition on surface parking.[32] This, however, is not to say that parking is not allowed in the Zoning Ordinance nor the 2012 Master Plan. In addition to the

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[30] City of Newark, Newark's Master Plan: Volume 2 (City of Newark 2012) at 189.
[31] Id. at 27-28.
[32] Zoning Board Transcript (T: 54-55).

multitude of strategies laid out in the 2004 Land Use Element, the 2009 Master Plan Re-Examination and the 2012 Master Plan that are aimed at decreasing the demand for parking through increased parking prices, regulations and transit improvements, there are two primary ways in which these plans addressed the need for parking: underground parking and screened parking. Underground parking was recommended as a way to "reduce the presence of surface parking lots and multi-structured parking garages" in the 2004 Land Use Element.[33] Height bonus incentives to promote underground parking were also recommended.[34] With respect to screened parking, the 2004 Land Use Element stated, when describing the S-T Transitional zone, that "parking garages at the street level would be strongly discouraged unless those portions of the building facing onto streets are occupied by retail uses or by residential apartments." Here, ground level parking was not a problem so long as it was screened from view by these uses. The 2009 Master Plan Re-Examination also supported the creation of "parking structures with streetscape appropriate uses (e.g. retail, residential) fronting streets and pedestrian areas."[35] The 2012 Master Plan adopted the same

[33] City of Newark, Land Use Element of the Master Plan for the City of Newark (City of Newark 2004) at 150.
[34] Id. at 151.
[35] City of Newark, Shifting | Forward 2025 Newark Master Plan Re-Examination Report (City of Newark 2009) at 70.

language.[36] In both of these solutions, the pedestrian sphere is not interrupted by wide expanses of parking. Rather, parking is provided, but the worst aspects from an urban design perspective are avoided. The City has therefore made clear that parking can be developed, but it simply needs to be developed in a way that is appropriate for an urban context.

ARGUMENT

I. SURFACE PARKING LOTS ARE NOT A SOLUTION TO A CITY'S NEED FOR PARKING AND ARE DETRIMENTAL TO THE PUBLIC WELFARE AND NEWARK'S MASTER PLAN AND ZONING ORDINANCE.

A. SURFACE PARKING LOTS INHIBIT AN AREA'S WALKABILITY.

The 2012 Master Plan set the goal of making Newark a walkable place. It noted progress with making the city more walkable, it noted that the city has amenities that make it attractive to people who want to live in walkable areas, and set the goal of providing "residents with a safe, interconnected system of pedestrian and bicycle paths."[37] As will be discussed later, the promotion of walking benefits individuals' health, the health of the environment and helps to reduce crime. Although increasing walkability will improve almost any location, Newark has a particular need to improve walkability for its residents. Ultimately surface parking lots detract from

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[36] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 128.

[37] City of Newark, Newark's Master Plan: Volume 1 (City of Newark 2012) at 10, 14, and 25.

a city's walkability, something recognized by the American Planning Association.

It is a fact that many Newarkers do not have cars. When discussing walking conditions in Newark, one must consider the area's transportation mode split. According to the 2012 US Census Bureau ACS Data, 30% percent of Newark's 99,498 working residents do not have access to a private vehicle and 38% commute to work by either public transit, walking, cycling or other alternative transportation means.[38] These numbers contrast starkly with the rest of New Jersey where 7% of working residents do not have vehicle access and less than 20% use alternative transportation.[39] This means that building parking lots in other New Jersey municipalities may benefit commuting residents, but in the city of Newark, increasing parking lots is most likely not beneficial to its working residents but instead beneficial for the commuters who travel to and through the City.

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[38] Means of transportation to work by vehicles available, Universe: Workers 16 years and over in households. 2012 American Community Survey 1-Year Estimates, Newark city, New Jersey. Table B08541. Online. Accessed 9/7/2014. http://factfinder2.census.gov/.

[39] Means of transportation to work by vehicles available, Universe: Workers 16 years and over in households. 2012 American Community Survey 1-Year Estimates, Newark city, New Jersey. Table B08541. Online. Accessed 9/7/2014. http://factfinder2.census.gov/.

Of the 154,292 people who work in Newark, 14% do not have vehicle access and 26% use alternative transportation.[40] These statistics do not take into account the number of "Park and Ride" commuters who utilize the parking lots surrounding Newark Penn Station and then take advantage of its 17 rail lines and 25 bus lines to complete their work commute.[41] Between the sheer number of Newark residents that use alternative transportation and the number of commuters who use public transit, a huge percentage of area users are either full-time pedestrians or part-time pedestrians (since one must at some point exit his vehicle and walk to a transit stop), making the argument that "walkability" in this area is of utmost importance.

While some people have no choice but to walk, many have the ability to drive. Promoting walkability amongst this population requires creating an urban environment favorable to walking. The requirements necessary for a street to be great include: Places for People to Walk with Some Leisure, Physical Comfort, Definition, and Qualities that Engage the Eyes.[42] Streets that do not meet these conditions repel pedestrians and feel dead.

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[40] Means of transportation to work by vehicles available for workplace geography, Universe: Workers 16 years and over in households, Table B08541. 2012 American Community Survey 1-Year Estimates. Online. Accessed 9/7/2014. http://factfinder2.census.gov/.

[41] Google Maps, Online, Accessed 9/4/2014. www.google.com/maps. Accessed 9/4/2014.

[42] Alan Jacobs, "Great Streets," at pg. 269-285 (The MIT Press, 1995)

People choose to not walk through such streets and those who have no choice do not linger. These essential qualities are all harmed by the presence of surface parking lots.

Surface parking lots do not provide a leisure destination. They are a place of arrival and departure, with the actual destination being somewhere other than the parking lot. This lack of activity creates a void in the neighborhood whereas areas without surface parking have a greater cluster of potential activities. Surface parking lots do not provide physical comfort. The lack of structure allows cold winds in the winter to whip through the area and the dark surface in the summer increases local temperatures. The lack of major structures on surface parking lots destroys any spatial definition of the street. Instead of a street enclosed on both sides by buildings, which shape the space, surface parking lots create the feeling of a vacant and undesirable land. Finally, parking lots do not provide qualities that engage the eyes. On a developed city block, pedestrians can view objects for sale through windows, people enjoying themselves at cafes, front lawn gardens and more. Parking lots on the other hand do not provide visual enjoyment. Surface parking lots create an environment avoided by pedestrians.

Surface parking lots also increase walking distances for pedestrians. A neighborhood's walkability is typically defined

in terms of its degree of physical accessibility, the variety and proximity of destinations to its residents.[43] Preferred walking distance will vary from user to user, but most researchers agree that a 5-minute walk (0.25 miles) is ideal. Walk Score, an online tool that measures walkability, recognizes the 5-minute mark and depreciatively awards points for amenities up to 30 minutes (1.5 miles) away.[44] The creation of surface parking lots forces pedestrians to walk longer distances to their destinations and may force some into different modes.

Donald Shoup also noted that "[o]ff-Street parking requirements increase mobility by car, but they also reduce mobility by walking, cycling and public transit. By reducing propinquity and non-car mobility, the parking supply creates its own demand because a car is needed to get most places," and "parking spaces and cars are complements, which means that free parking increases the demand for cars, and more cars in turn increase the demand for parking."[45] Though Shoup refers to "free" parking, the same thinking may be applied to "low cost" parking, and for many commuters the price tag is undoubtedly considered "low cost." Alternatively, creating disincentives to parking may actually decrease the number of vehicles competing for a parking

[43] Lavey, J, and Hill, J., Community Builders. 2014. Online. Accessed 9/4/2014. http://communitybuilders.net/walkability/.
[44] Walk Score, 2014. Online. Accessed 9/4/2014. www.walkscore.com.
[45] Donald Shoup, "The High Cost of Free Parking," at pg. 93 (APA Planners Press, 2005)

spot. A mode choice model in Portland, Oregon found that if it changed its parking from free to $6 per day, there would be 21 fewer vehicles driven per 100 commuters.[46]

In urban neighborhoods, vehicular movements tend to conflict with pedestrian activity, necessitating that separate facilities be created for each mode. Parking lots have the potential to create a particularly hostile environment for pedestrians. More parking lots, by nature, generate more vehicular traffic. More vehicles means greater congestion and more opportunities for vehicle-pedestrian conflict. Moreover, many motorists tend to be distracted while searching for the closest, cheapest, and most appropriately-sized parking spot and may not be as aware of other street activities. Additional active driveway entrances also create another potential source of vehicle-pedestrian conflict.

The negative impact of surface parking lots on walkability has been noted by many planners. "Parking lots in front are of course forbidden: there is little that is more destructive to

[46] Hess, D. 2001 "The Effects of Free Parking on Commuter Mode Choice: Evidence from Travel Diary Data" University of California Los Angeles. Online. Accessed 9/4/2014. http://city-council.cityofdavis.org/Media/Default/Documents/PDF/CDD/Downtown-Parking-Task-Force/Mtg7/Att-3--Hess--Effect-of-Free-Parking-on-Commuter-Mode-Choice.pdf.

pedestrian life."[47] "...when the density of cars passes a certain limit, and people experience the feeling that there are too many cars, what is really happening is that subconsciously they feel that the cars are overwhelming the environment, that the environment is no longer 'theirs,' that they have no right to be there, that it is not a place for people, and so on."[48] "Vast parking lots wreck the land for people," and "large parking lots have a way of taking over the landscape, creating unpleasant places, and having a depressing effect on the open space around them."[49]

Among the model ordinances that the American Planning Association developed for smart growth in 2006, the ordinance for mixed use developments requires off-street parking spaces to be located at the rear of the building or to be screened from view.[50] The model ordinance for Town Centers includes reduced parking requirements and once again requires all off-street parking to be located at the rear of buildings or screened from view.[51] The model ordinance for a Pedestrian Overlay explicitly prohibits surface parking lots. Each one of these model

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[47] Duany, Plater-Zyberk, Speck, "Suburban Nation," at 206 (North Point Press, 2001)
[48] Alexander, et al. "A Pattern Language," at 122(Oxford University Press, 1977)
[49] Id. at 504-505.
[50] Am. Planning, Model Smart Land Development Regulations. (Am. Planning 2006), Section 4.1 at 5-6.
[51] Id., at Section 4.3 at 8-9

ordinances reduces or eliminates surface parking.[52] The academic knowledge and understanding of the harm that surface parking inflicts on walkability has been reflected in recommendations of the American Planning Association, the professional organization for city planning. Furthermore, this knowledge and the recommendations of the American Planning Association are reflected in the 2004 Land Use Element, the 2009 Master Plan Re-Examination and the 2012 Master Plan.

B. **SURFACE PARK LOTS FACILITATE STREET-CRIME ACTIVITY**

Surface parking lots provide an easy environment for criminal activity within their property as well as their vicinity. While surface parking lots can be beneficial to commuters, residents and businesses, they can be a public safety risk in urban settings. Parking lots in city centers are typically only actively used in the morning and evening during rush hours. During the day, they may be occupied at peak levels, but this occupation does not generate significant activity. In the evening and overnight hours these spaces are significantly underutilized. The National Institute of Justice noted, "Key Issues: Because parking facilities compromise a large volume of space with relatively low levels of activity, violent crime is more likely to occur in a parking facility than in other

[52] Am. Planning, Model Smart Land Development Regulations. (Am. Planning 2006), at Section 4.8, at 8-9.

commercial facilities."[53] Jane Jacobs, when talking about the safety of cities noted the importance of street activity and eyes on the street for maintaining public safety.[54] A dead and dull place makes it easier for crime to occur unobserved.

The National Institute of Justice estimates that parking facilities represented the third most frequent place in which violent crime (e.g. rape, assault, robbery) occurred in 1992. Security is one of the most critical issues facing owners and operators of parking facilities as well as surrounding neighborhoods. Securing a parking facility is difficult for several reasons:

- Parked vehicles can be used to hide as they block views and impede lighting. Some parts of a surface parking lot will receive good light while various parts will contain shadows created by vehicles.
- Parking facilities are easily accessed from the street level by both foot and vehicle. They are open to the public.
- Most parking lots are not equipped with extensive video monitoring systems. Since a parking lot is generally open

[53] Mary S. Smith, Crime Prevention Through Environmental Design in Parking Facilities. Nat'l Inst. of Justice, https://www.ncjrs.gov/pdffiles/cptedpkg.pdf (last visited Oct. 19, 2014)

[54] Jane Jacobs, The Death and Life of Great American Cities at 35 (Random House, 1961)

space, it is difficult to locate cameras around the facility. Other than light posts and an entrance booth, there are not many options for installing video surveillance.

- Lack of Natural Surveillance- The Crime Prevention Through Environmental Design (CPTED) model states that Natural Surveillance is the ability to observe one's surroundings. People provide natural surveillance which increases security. Parking facilities will typically experience the most inactivity during evening and late night hours. During the night, the least amount of natural surveillance is present, leading to higher public safety risks.[55]

The abundant crime data regarding surface parking lots (or park & rides) is consistent throughout the country, without bias to class or race. Here are some examples:

- Houston, Texas- From January to October 2006, there were 119 reported crimes at METRO's 25 Park & Ride lots and had been increasing each year. Vehicle thefts and break-ins

[55] Mary S. Smith, Crime Prevention Through Environmental Design in Parking Facilities. Nat'l Inst. of Justice, https://www.ncjrs.gov/pdffiles/cptedpkg.pdf (last visited Oct. 19, 2014)

were the most common crimes reported. Other crimes include assault, vandalism and narcotics.[56]

- Cypress Creek, Houston, Texas- METRO, Houston's bus agency claims that the majority of crime throughout the METRO system in the Cypress Creek section of Houston occurs at the local Park & Ride station. Most of those crimes are theft related.[57]
- Portland, Oregon- Throughout all mass transit in Portland, police activity was most common at parking lots. Gateway Transit Center was the scene of 48 reported crimes. Twenty of those crimes involved auto thefts or car break-ins at the park & ride.[58]
- Denver and Vicinity, Colorado- Additional security has been required at Park & Rides across Denver and its surrounding areas according to the Colorado Department of Transportation. CDOT installed video surveillance at various Park & Rides but the system had several gaps where

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[56] Jim Parsons, Tracking Crime Stats at Park and Rides. Houstonist, http://houstonist.com/2006/10/03/tracking_crime.php (last visited Oct. 19, 2014).

[57] Crystal Simmons, Most METRO Crimes Occur at Park & Ride Centers. Cypress Creek Mirror, http://www.yourhoustonnews.com/cypresscreek/news/most-metro-crimes-occur-at-park-ride-centers/article_3ca629a2-23e2-5fd3-b208-c6e5d0db0ec7.html?mode=jqm (last visited Oct. 19, 2014).

[58] Joseph Rose, What's Portland's Most Crime-ridden Bus Line? 10 Facts About TriMet's Latest Crime Stats. Or. Live, http://www.oregonlive.com/commuting/index.ssf/2014/04/whats_portlands_most_crime-rid.html (last visited Oct. 19, 2014).

crimes were still occurring. Crimes reported include theft, vandalism and sexual assault. Despite the decreasing crime rate since cameras were installed, multiple vehicle thefts have been captured on video.[59]

- Along the Green Line, a light rail transit line in Los Angeles, crime occurred most in Park & Ride lots and included mostly vehicle theft and break-ins.[60]

Research shows how good visibility and pedestrian presence are important variables in reducing crime. Adequate visibility and lighting of places can decrease violent crimes or theft as well as the perception of danger. [61]

C. SURFACE PARK LOTS HAVE A DETRIMENTAL IMPACT ON THE CITY'S ENVIRONMENT.

Parking lots attract vehicles that further degrade the area's environmental and human health conditions. Due to years of industrial activity and its proximity to the airport and the port, Newark already has relatively high water and air pollution levels. The additional influx of motor vehicles as well as the parking lots themselves increase the pollution levels and

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[59] CBS Denver, CDOT Adds More SEcurity at Park-N-Ride Lots. CBS Denver, http://denver.cbslocal.com/2013/05/30/cdot-adds-more-security-at-park-n-ride-lots/ (last visited Oct. 19, 2014).
[60]Neal Broverman, Crime on LA's Metro: Worse Than Boston, Much Better Than DC. Curbed Los Angeles, http://la.curbed.com/archives/2011/09/crime_on_las_metro_worse_than_boston_much_better_than_dc_1.php (last visited Oct. 19, 2014).
[61] Ceccato, Vania, "The Urban Fabric of Crime and Fear," (Springer, 2012)

ultimately affect the health of the environment and Newark's residents.

1. Air quality: Motor vehicles and parking lots both detract from the area's air quality.

1.1. Vehicles: Motor vehicles emit a variety of pollutants such as carbon dioxide (CO2), oxygen nitrates (NOx), volatile organic compounds, and particulate matter (EHHI), all of which negatively impact air quality. Most of these chemicals are released in tailpipe exhaust (i.e., while the vehicle is in motion or idling), but some pollutants like hydrocarbon emissions, can also be released when the fuel delivery systems of a parked vehicle is heated. The concentration of vehicles driving to and from as well as being stored during their cool down period, leads to increased localized air pollution.

1.2. Parking lots: Parking lots contain pollutants that become detrimental to human health once they vaporize and become airborne. One of these pollutants is polycyclic aromatic hydrocarbons (PAHs), used in tar-based coal sealants that many parking lots use to preserve the asphalt. This chemical is so harmful that it has been banned in many states.[62] PAHs may become airborne even many years after the sealant application.

[62] Coal Tar Free Am., Coal Tar Sealant Bans, Coal Tar Free America, http://coaltarfreeamerica.blogspot.com/p/bans.html (last visited Oct. 19, 2014).

1.3. Impacts: The EPA's designation of the Newark area as having marginal ozone concern means that the 8-hour ozone concentration is deemed to be "Unhealthy for Sensitive Groups."[63] Ozone depletion and other harmful emissions contribute to a myriad of health problems for Newark residents, including asthma, heart and lung disease, diabetes, and cancer. In fact, Newark has one of the state's highest rates of asthma, nearly four times the rate of the rest of Essex County. One study found that ground-level ozone in the New York metropolitan area would increase incidents of asthma in children by 7.3% in the 2020s.[64]

2. Ambient temperature: Parking lots and their associated vehicles contribute to increased localized temperatures. In a June 2013 report by the New York City Panel on Climate Change (NYCPCC), the metropolitan region is expected to raise an average of 6.5 degree F temperature.[65]

2.1. Parking lots Parking lots that are not properly shaded or constructed with heat-reflective materials that absorb the sun's heat and release it back into the atmosphere. This is known as the urban heat island (UHI) effect. Increased

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[63] Am. Lung, State of the Air (Am. Lung 2014). at 41, 101

[64] Sheffield PE et al., Modeling of Regional Climate Change Effects on Ground-level Ozone and Childhood Asthma., 41 Am. J. of Preventative Med. 251 (2011).

[65] Newark Water Grp., Bringing the City of Newark's Stormwater Management System into the 21st Century. Newark Water Grp., http://newarkstormwater.com/stormwater-flooding/ (last visited Oct. 19, 2014).

summertime temperatures typically are associated with higher energy demand for cooling systems. Research estimates that 5-10% of a community's energy demand is used to offset UHI effects. The power plants from which this energy is derived in turn emit various pollutants, including sulfur dioxide (SO2), NOx, PM, carbon monoxide (CO) and mercury. Many pollutants become more harmful when they are heated. For example, NOx and VOCs react to sunlight and hotter temperatures and form ground-level ozone.[66]

2.2. Vehicles: Vehicles parked in non-shaded lots similarly absorb and release solar heat.[67]

2.3. Impacts: The overall impact of increased temperatures is highly negative and includes: heat cramps and exhaustion, respiratory problems, heat stroke and heat-related deaths. For example, one study projected that by the 2080s, temperature changes in the Northeast would account for a 50-90% increase in heat related deaths in nearby Manhattan. The related increase in power plant emissions contributes to air quality health impacts.[68]

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[66] Envtl. Prot. Agency, Heat Island Impacts. Envtl. Prot. Agency, http://newarkstormwater.com/stormwater-flooding/http://www.epa.gov/heatislands/impacts/index.htm (last visited Oct. 19, 2014).

[67] Effects of Tree Cover on Parking Lot Microclimate and Vehicle Emissions. Scott, Simpson and McPherson, 1999 http://www.fs.fed.us/psw/programs/uesd/uep/products/11/cufr_68.pdf

[68] Envtl. Prot. Agency, Heat Island Impacts. Envtl. Prot. Agency, http://newarkstormwater.com/stormwater-

3. Water quality:

3.1. Parking lots: Though some parking lots are partially made of pervious materials, most use non-pervious pavement. Non-pervious pavements prevent rainwater from absorbing into the ground; the rainwater run-off instead flows into the sewer system, joins larger bodies of water such as lakes or rivers, or is collected in a retention basin. In heavy rains, the water volume associated with rainwater run-off may potentially surpass the holding capacity of the sewer system and overflow into local bodies of water. Rainwater run-off from parking lots often contains harmful pollutants, including: suspended solids, chloride, phosphorus, nitrogen (NH2), nitrates (NO3 and NO2) BOD5, COD, lead, zinc, copper and cadmium.[69]

3.2. Vehicles: Many of the pollutants found in parking lot run-off originate from elements of motor vehicles, such as brake lining, batteries, rubber, gas, and other vehicle metals.[70] The harmful pollutants released from vehicles collects not only in the parking lots, but also in the streets they use to travel to the parking facility, leaving a trail of chemicals that will eventually wash off into the sewer system and potentially run off into nearby lakes and rivers.

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flooding/http://www.epa.gov/heatislands/impacts/index.htm (last visited Oct. 19, 2014).

[69] Burton and Pitt, Stormwater Effects Handbook, (Lewis Publishers, 2002), pg. 37

[70] Id. at 5

3.3. Impacts: Solids like plastic bags and cigarette butts can suffocate birds, fish and turtles; excess nutrients can cause algae blooms that dissolve oxygen levels for aquatic organisms; motor oil and other hazardous materials can poison wildlife; and sediment can damage aquatic habitats.[71] Another impact of water contamination is a deterioration of quality of life for area residents, such as restricted water-related activities (i.e.: water sports, fishing, swimming) and unpleasant sights and smells. The overflow effects of water *quantity* can also be quite devastating, as demonstrated in flooding from recent storms.

D. SURFACE PARKING LOTS DISCOURAGE DEVELOPMENT AND NEGATIVELY IMPACT LAND VALUES.

Urban planning and design professions widely agree on the detrimental nature of surface parking lots to a City's economic vitality. Cities that enable or encourage surface parking through zoning, granting variances, and parking policies (minimum requirements, for example) are suppressing economic growth potential and discouraging development and investment. As one architect simply put it, "an overbuild of parking is

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[71] Envtl. Prot. Agency, After the Storm. Envtl. Prot. Agency, http://www.oregonlive.com/commuting/index.ssf/2014/04/whats_portlands_most_crime-rid.htmlhttp://water.epa.gov/action/weatherchannel/stormwater.cfm (last visited Oct. 19, 2014).

absolutely the worse investment…both from a sustainability standpoint and a profit standpoint."[72]

In an article summarizing their academic study on the effects of car use and parking infrastructure on historically dense, small American cities, Garrick and MacCahill note that "the amount of land used for parking is a key indicator of how seriously automobile infrastructure has impacted an urban environment." The authors' research shows that "even if the function of parking in these places was to enable growth and development, the data suggests they were abysmal failures. The number of people and jobs dropped by as much as 15 percent and the median family incomes fell by 20 to 30 percent in some places. Today, these places still struggle to compete in their regions" (Ibid). On the other end of the spectrum, Garrick and MacCahill note that "cities likes Berkeley, Arlington and Cambridge experienced something different. Even as they cut back on surface parking, the number of people and jobs climbed upward, as did incomes."[73]

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[72] Amy Crawford, One Woman's Quest to Design Parking Lots People Don't Hate. Citylab, http://www.citylab.com/commute/2014/08/one-womans-quest-to-design-parking-lots-people-dont-hate/375472/ (last visited Oct. 19, 2014).

[73] Norman Garrick & Chris McCahill, Cars and Robust Cities Are Fundamentally Incompatible. Citylab, http://www.citylab.com/commute/2013/02/cars-and-robust-cities-are-fundamentally-incompatible/4651/ (last visited Oct. 19, 2014).

Mirroring the results of the Garrick and MacCahill study, in northern New Jersey, we see cities such as Jersey City and Hoboken, as well as smaller transit accessible communities throughout the State, encouraging development in the city (or town) center and limiting surface parking. These communities are thriving with businesses investing and building, and residential real estate values are skyrocketing. These examples reiterate findings throughout professional literature that surface parking lots are more likely "to reduce the economic success of a downtown than to improve it."[74]

Private parking does produce some tax revenue for cities. However, "these benefits must be weighed against both the lost tax revenue of more valuable economic development and the lost opportunity to encourage greater transit ridership and to create more pedestrian-friendly areas."[75] The Transit for Livable Communities report goes on to discuss how redevelopment efforts are hampered by excessive parking and parking requirements. A planner in Detroit, reflecting upon the drain that surface parking has had on his City describes this self-perpetuating cycle "in which you sort of drain the vibrancy out of an area by

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[74] Robertson, 2001, as cited by CMAP, 2014 http://www.cmap.illinois.gov/about/2040/supporting-materials/process-archive/strategy-papers/parking/impacts-of-parking-strategies

[75] Transit for Livable Communities, 2003, pg 11 http://www.tlcminnesota.org/pdf/mythoffreeparking_PUBLIC.pdf

adding more parking...which then makes the area seem unsafe, which makes you feel a little more uncomfortable in the space, which makes you add more parking."[76] This cycle impedes economic growth and development and stressed land values in the process.

Excessive surface parking, especially when in close proximity to transit, "displaces potential economic development by occupying land that could be used for more productive or higher amenity uses."[77] This sentiment is echoed by the Tri-State Transportation Campaign: "dedicating vast amounts of land for parking near transit stations instead of housing and commercial space is literally paving over tremendous economic development potential."[78] In a recent article entitled "American Cities are Haunted by Too Many Parking Spaces", Caroline Winters cites two forthcoming Transportation Research Board (TRB) studies that conclude "car-centric cities forfeit more than a thousand dollars per parking space per year in potential municipal revenues by using land for parking rather than more lucrative

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[76] Lin, as cited in Badger, 2013, CityLab.com http://www.citylab.com/commute/2013/08/how-too-much-parking-helped-strangle-motor-city/6585/

[77] Transit for Livable Communities, 2003, p. 11 http://www.tlcminnesota.org/pdf/mythoffreeparking_PUBLIC.pdf

[78] Cutrufo, 2013, Tri-State Transportation Campaign http://blog.tstc.org/2013/09/24/access-to-rail-stations-cant-just-be-about-parking-for-cars/

alternatives."[79]

Tri-State's associate director Ryan Lynch succinctly summarizes the economic loss of an over-paved, over-parked city center: "too much surface parking can create 'dead zones in the middle of urban centers' where housing, offices, retail and restaurants – the type of development that provides both vitality and tax revenue – could be situated instead."[80] In Newark, we see a creation of just that - a dead zone in the middle of the urban center, a district void of people and full of squandered economic potential.

II. THERE ARE OTHER SOLUTIONS TO NEWARK'S NEED FOR PARKING.

There are several ways for a City like Newark to deal with its residents' and visitors' need for parking. Underground parking structures place vehicles beneath a city's surface. Underground parking conserve land and provide covered parking for people who may be residents, business owners, patrons or vehicles parked short-term. In most cases, these structures are located directly under a building or facility and provide quick access by stairways or elevators from the parking spots to the facility and/or surface.

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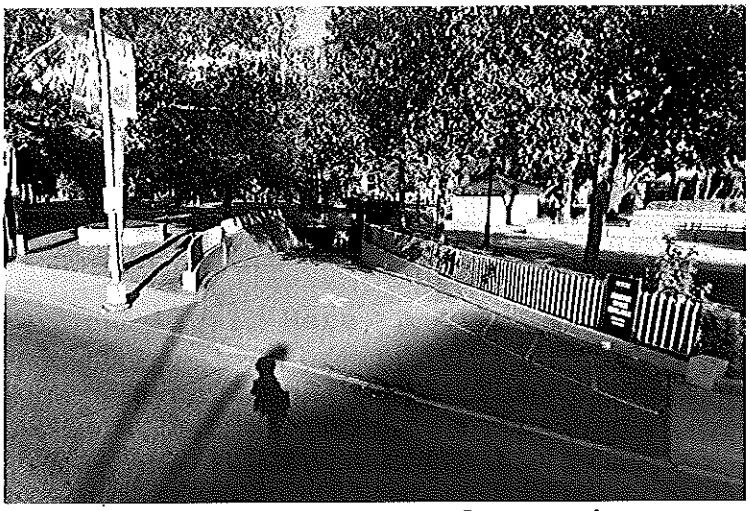
[79] Winters, American Cities are Haunted by Too Many Parking Spaces 2014 http://www.businessweek.com/articles/2014-04-01/american-cities-waste-space-and-money-on-car-parking-say-studies.
[80] Cutrufo, 2013, Tri-State Transportation Campaign http://blog.tstc.org/2013/09/24/access-to-rail-stations-cant-just-be-about-parking-for-cars/

CAPTION: Military Park Garage, Newark, New Jersey. Beneath Military Park in Downtown Newark lies a subterranean parking structure. With two entrances and two exits, this garage can be accessed from Broad Street (northbound only) and Park Place on the east side of the park. Employees from PSE&G, Prudential and other nearby businesses are within a five minute walk. Parking for the New Jersey Performing Arts Center is also available as its events attract thousands of patrons from outside Newark.



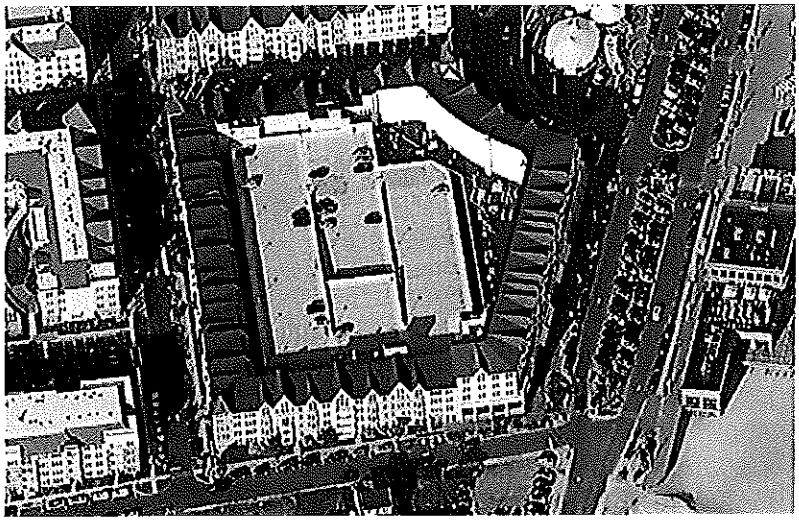
Source: Google Earth

Alternatively, surface parking can be wrapped by development, with a parking lot in the center and a development on its perimeter. The parking lot will require at least one entrance from the street so active uses will wrap at least two (2) sides of the parking lot. The surface lot should be located in the rear or on the sides in order to enhance streetscape appeal. This removes any physical or physiological barriers to pedestrian activity created by parking in front.

CAPTION: Pier Village North Building, Long Branch, New Jersey. In the image below, an aerial view of Pier Village is shown. The northern building encloses a surface parking lot. The parking is provided without significantly interfering with the pedestrian environment.

street. Active uses can wrap up to all sides of a building since tunnel entrance is required for access to parking.

CAPTION: Pier Village South Building, Long Branch, New Jersey. In the image below, an aerial view of Pier Village is shown. The southern building encloses a parking garage. High density parking is provided without significantly interfering with the pedestrian environment.



Source: Bing Maps

To better understand these concepts, we set forth some examples of parking solutions. Parking structures built adjacent to streets with sidewalks should provide active uses along the street to create a pedestrian-friendly atmosphere. An example of this concept is the Washingtonian Center in Gaithersburg, Maryland. This complex is a large parking structure that incorporates retail and commercial uses at street level. See photo on following page.

(Source: UrbanPhile)

Disguising parking was a unique design strategy in the construction of Pier Village, located one block from the beach in Long Branch, New Jersey. Pier Village is a mixed-use development featuring retail, restaurants and housing. Parking is wrapped by two buildings and is not visible from Ocean Avenue. The north building has one visible entrance to its parking located behind the building on Landmark Place. The south building features a wrapped garage.[81]

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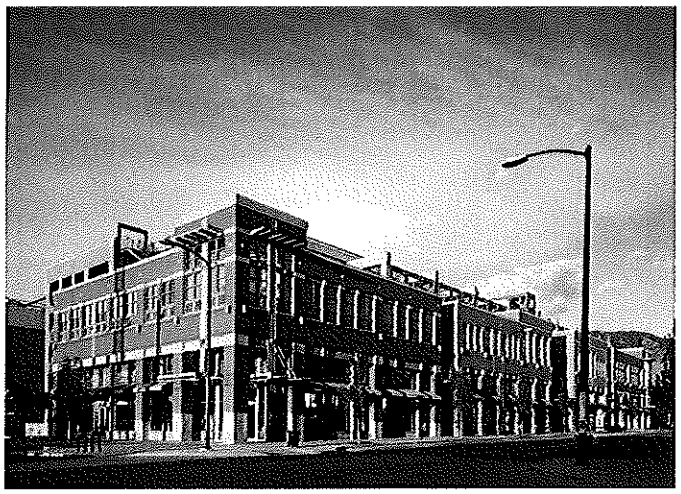
[81] Leonard Bier et al., Parking Matters 17. NJEDA, http://www.state.nj.us/state/planning/publications/180-parking-matters-070106.pdf (last visited Oct. 19, 2014).

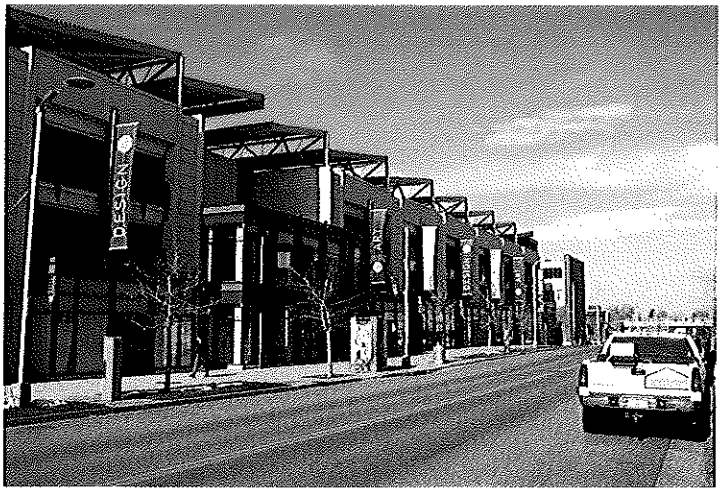
(Source: MWilk Consulting)

Built in accordance with the City of Boulder's Downtown Growth Plan, the 15th & Pearl parking garage is wrapped with a mix of office and retail uses. According to the growth plan, this facility contains just enough parking spaces to meet the needs of the parking requirements. The garage is wrapped by four separate structures. As seen in the photo below, the parking rises above the first and second levels but is still mostly hidden from street view.



(Source: MLDesign)

Once the Villa Italia Mall, a suburban shopping destination in Lakewood, Colorado approximately 8 miles west of Denver has been redeveloped into Belmar, a national model for suburban site redevelopment. Though Lakewood is a suburb (and Newark is New Jersey's largest city) Belmar's concept features wrapped parking garages. In Block 7 of this suburban retrofitted project, a parking garage is fronted by several art and design studios. Belmar also features wide sidewalks and narrow roads, contributing to the calming of traffic and safer walking.



(Source: Intercultural Urbanism)

Another fine example of active uses wrapping parking in New Jersey is the Spring Street Garage in Princeton Borough. This garage contains four levels of parking and is "hidden" by a public library, housing and a handful of ground-level retail stores. A pedestrian plaza also connects these uses at the surface. See photo on next page.

CONCLUSION

For the foregoing reasons, Amici assert that surface parking lots are a bad idea as a matter of urban design and urban planning. Over the years, Newark's Central Planning Board has gotten it right; and the Zoning Board of Adjustment should not have substituted its own opinions as to what constitutes an appropriate land use.

Respectfully submitted,

Aaron Kleinbaum

Dated: