

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

September 6, 2011

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present: Ralph Begleiter
Patricia Brill
Peggy Brown
Angela Dressel
Edgar Johnson
Kass Sheedy

Staff Present: Roy H. Lopata, Planning and Development Director
Maureen Feeney Roser, Asst. Planning and Development Director

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE AUGUST 2, 2011 PLANNING COMMISSION MEETING.

MOTION BY BEGLEITER, SECONDED BY BROWN, THE MINUTES OF THE AUGUST 2, 2011 PLANNING COMMISSION MEETING WERE APPROVED AS RECEIVED.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

2. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE TO ESTABLISH A SCIENCE AND TECHNOLOGY CAMPUS DISTRICT.

Mr. Lopata summarized his report for the Planning Commission which reads as follows:

“As a result of the University of Delaware’s acquisition of the former Chrysler automobile assembly plant and MOPAR parts facility site and following detailed discussions with University of Delaware officials -- including representatives of 1743 Holdings, LLC, the entity established by the University for development of the site -- the Planning and Development Department has provided below a report that calls for establishing a zoning district that would be appropriate for land in the City of Newark with the special characteristics of the proposed University of Delaware Science and Technology Campus (STC) at the Chrysler location.

Background

In establishing a new zoning category for the STC property, the Planning Commission and City Council should take into account the existing zoning and, perhaps more importantly, the Commission and Council will need to consider the relationship

between the University's ownership of the site and the City's land use regulatory authority for the location. In terms of current zoning, the site is zoned MI (general industrial) – the zoning classification in place since the property was annexed by the City in 1952. MI permits a wide variety of industrial, warehousing and related uses. Regarding the new owner of the site, the University traditionally has taken the position that its Charter (Title 14, Chapter 51 of the Delaware Code) exempts its property from local zoning codes, including Newark's. And in this regard, the Delaware courts have largely agreed. Thus, at least for those uses that fall within the University's exemption, the University is probably free to develop the STC according to its own standards. Beyond that, while the City and University might agree on uses that *clearly* fall within the exemption (classrooms, for example) or outside the exemption (a large shopping mall with no connection or benefit to the University other than financial, for example), it is very likely that there are uses that do not fall easily into either category – the middle ground (or, our favorite category, the "twilight zone"). The University and the Department, as a result, are concerned that the prospect of case-by-case debate and perhaps litigation about middle ground uses would leave us in the twilight zone. Instead, we agree that it would be preferable to establish a set of standards for *all* agreed upon permitted uses, including those uses that the University might, under current law, pursue without reference to the City's Zoning Code.

The Department, therefore, believes that the following draft proposal should be reviewed with this background in mind; that is, that the City and the University, in a sense, are accepting compromising positions that they might otherwise not take. In the City's case, we understand that the resultant zoning restrictions may not be those that we might choose if we were free to so. At the same, the University is surrendering its ability, for some projects, to ignore the City's Zoning Code altogether.

Newark Comprehensive Development Plan IV

Any proposed new zoning district and category must take into account Newark's Comprehensive Development Plan IV. In this regard, when the Plan's was fully revised and revised in 2008, the community knew that the Chrysler site would likely change hands and probably uses – we just did not know to whom or to what use. This was, of course, before we knew that the University would be the ultimate purchaser. As a result, the site was dubbed, the "Chrysler Opportunity Site," and envisioned as follows:

"The land uses recommended for this site, in addition to the continuation of the current uses at the Chrysler auto assembly plant located at South College Avenue and the Christina Parkway, are described below. These uses derive from the potential unique opportunity presented by the future redevelopment of the property and are based on the following:

- The site's size and central location.
- The potential for new high paying and high quality employment.
- The potential for the site as a center of excellence for emerging and growing 21st century industries.
- The potential for the expansion of the City's tax and utility customer base [the City currently does not sell electricity or water to Chrysler at this time].
- The close proximity to a full range of land use types.
- The continued redevelopment of Newark as a prime location to live and work.

Based on these factors, and subject to the City's rezoning and development review process, any of the land use categories outlined in this **CHAPTER** should be permissible at the location, except that a regional or super regional shopping center, defined as a retail shopping area in excess

of 30 acres containing at least one major retail store of 75,000 to 100,000 square feet, and related commercial establishments, or so-called “power centers” that could be developed with several large anchor, discount, or free standing big box retail establishments, intended to serve shoppers in a trade area in the region extending from ten to fifteen miles outside the City, would not be acceptable at the Chrysler site.

Obviously, changes in use at the Chrysler site would be subject to rigorous federal, state and local environmental review and all of the other applicable City development approval requirements. A mixed use project, for example, could be designed at this site for hi-tech research, development and educational facilities and, with the appropriate site design criteria – perhaps utilizing the City’s “Site Plan Approval,” neo-traditional planning specifications -- could include residential and commercial uses. These uses could, of course, also be considered on an individual basis. Moreover, the City – perhaps with State and County assistance – may also consider special incentive programs targeted for this location. On the other hand, any possible acquisition of portions of the site by the University of Delaware – which might remove the impacted parcels from City tax rolls (depending upon the use involved) -- should be closely scrutinized by the City.

In any case, the Chrysler site could be a show-case for a state of the art, sustainable mixed use community of one kind or another, depending upon how creative and progressive Newark’s businesses, institutions, and residents chose to be. At this location, we are only limited by our own imaginations.”

Having noted the above, the Department believes that the following proposal is consistent with much of that which was proposed in the Plan.

Source Materials

The Planning and Development Department, in addition to reviewing the establishment of the Science and Technology Campus District with University of Delaware officials, also consulted the source materials described below. It should be noted that we found, not unexpectedly, that the standards for suburban style university (or non-university) research parks did not always fit the more modern and so-called neo-traditional planning approach for the site that the Department and the University foresee for the STC -- we have developed our proposal accordingly.

Angelou Economics, Research District Land Use and Marketing Plan, Report #2, July, 2005.

University of California, San Diego, Science Research Park, Development Concept, May, 2002.

City of Columbus, Ohio, “University-College Research Park District,” Zoning Code, n.d.

John Van Gleason, “The Graduation of Smart Growth: Universities are Partnering with Towns to Create Vibrant, Campus Town Centers, On Common Ground, Washington, D.C., National Association of Realtors, Summer, 2011.

Blake Gumprecht, The American College Town, Amherst, Mass, University of Massachusetts Press, 2008.

The University of Missouri, Declaration of Covenants, Conditions, Restrictions and Easements for Missouri Research Park, St. Charles County, Missouri, April 21, 2005.

Rensselaer Polytechnic Institute, Rensselaer Technology Park – About the Park, 2011.

The Research Triangle Park, Summary of Covenants, Zoning and Restrictions, January, 2009.

“Special Report: Technology Parks,” City and State, February 11, 1999.

Stanford Research Park, Handbook, n.d.

Texas A. & M. University, Texas A. & M. University Research Park Covenants and Restrictions, February, 2004.

Urban Land Institute, Industrial Development Handbook, Washington, D.C., 1975

Urban Land Institute, Research Parks and Other Ventures: The University/Real Estate Connection, 1985.

Proposed Zoning Code Amendments

The Planning and Development Department has provided below the following suggested Zoning Code amendments that would establish a Science and Technology Campus District. Please note that Amendment One also includes areas to be designated under our MI zoning category that would not be directly incorporated into the Science and Technology Campus but rather would be considered part of the site set aside for Bloom Energy and its suppliers.

Amendment One:

The zoning map of the City of Newark is amended as follows:

The _____ acres of land zoned MI located at tax parcels _____, as shown on the attached Exhibit A, dated _____, owned by the University of Delaware and/or the University of Delaware’s wholly-owned subsidiary 1743 Holdings, LLC are hereby zoned STC (Science and Technology Campus). Any such lands sold by the University to other parties, except wholly-owned UD subsidiaries, shall be rezoned from STC to another district category as established in this chapter.

[Please note that because of on-going work to finalize the boundaries between the currently MI zoned site for Bloom Energy and its subsidiaries at the University’s Science and Technology Campus and the balance of the property to be zoned STC, the required Exhibit A will be prepared prior to the review of these Zoning Code amendments by City Council.]

Amendment Two:

Delete Article VII-B, Use Regulations for Limited Commercial Laboratory Districts, Section 32-23.1. [This is a defunct zoning category that has not been utilized for many decades but is located in the appropriate place in the Code for the new district], and replace it with the following new Section 32-23.1 to be included in Article VII-A, Use and Area Regulations for Manufacturing Office Research Districts as “Uses Permitted in the STC (Science and Technology Campus) District” as follows:

“(a) In an STC district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used except for one or more of the following uses:

(1) Any process involving cleaning, manufacture, processing, production or testing, except for the following:

- a. Manufacture of corrosive acids, gelatin, paint, oils, fertilizer, linoleum, cork products, alcohol, bleaching compounds or soap; tanning or curing of hides; crude oil refining; rubber treatment or manufacture; ore smelting; blast furnace, garbage or offal reduction or dumping; asphalt manufacture or refining; abattoir; junk storage; automobile

wrecking; animal rendering; oil storage; except for the exclusion of distribution or warehouse operations, unless such operations are incidental to and intended primarily to serve uses permitted in this District.

- (2) Laboratories and related facilities for research, basic and applied.
 - (3) Hospitals and medical clinics.
 - (4) Offices for professional services and administrative activities, including but not limited to such uses as conference and corporate training centers, financial institutions and banks, personal services, and supply and storage facilities.
 - (5) Technologically dependent or computer based facilities that are dedicated to the processing of data or the analysis of information.
 - (6) Daycare centers with the following special requirements:
 - a. At least 100 sq. ft. of outdoor play space per child shall be provided.
 - b. Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or lands unsuited by other usage or natural features for children's active play space, fencing or other enclosures shall be a minimum height of 4 feet.
 - c. 35 sq. ft. of indoor area shall be provided per child, not including toilet rooms, kitchens, offices, storage spaces, hallways, and mechanical rooms, and other areas not used by children for sleep or play on a routine basis; the minimum lot area for such uses shall not be less than 10,000 sq. feet.
 - d. This use shall be primarily intended to serve the uses permitted in this District.
 - (7) Restaurants, including restaurants, cafeteria style and delicatessens; incidental to and intended primarily to serve uses in this District.
 - (8) Recreation facilities, indoor and outdoor, incidental to and intended primarily to serve uses permitted in this District.
 - (9) Hotels and motels, with conference facilities.
 - (10) Utility distribution and transmission lines, substation, electric, gas and telephone central office.
 - (11) Public transportation facilities, including bus or transit stops for the loading and unloading of passengers; stations and depots.
 - (12) Parking, off-street.
 - (13) Accessory uses and accessory buildings.
 - (14) All residential uses, as defined in this chapter, shall be permitted.
 - (15) Retail and retail food stores up to 75,000 square feet in maximum floor area.
- (b) The following uses require special use permits as provided in Article XX, Section 32-78 of this chapter.
- (1) Tower, broadcasting and telecommunications, subject to the following special requirements:

- a. Tower applications shall be accompanied by a professional engineer's report containing the following:
 1. A technical evaluation of the utilization of existing towers for telecommunications or other equipment intended for the installation on the proposed tower.
 2. A technical evaluation of the feasibility of attaching the tower or antenna to existing buildings.
 3. Written certification of compliance with Federal Communications Commission Safety Standards for exposure to nonionizing electromagnetic radiation.
 4. Copies of all applicable state and federal permits.
- b. Any principal part of the tower, excluding guy cables, shall be set back from the nearest property line of a church, library, school, nursing home, hospital, or lot zoned residential (RH, RT, RS, RD, RM, RR, AC) not less than three times the height of the tower or 350 feet, whichever is greater. The setback shall be measured from the nearest point of the base of the tower to the nearest point of the property line of the protected use.
- c. No artificial light shall be installed upon any such tower unless required by the Federal Aviation Administration. If such light is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- d. Towers over 200 feet in height shall be guyed and not self-supporting nor consisting of lattice type structures, unless the applicant demonstrates that a guyed tower shall have a greater negative visual impact than a self-supporting tower.
- e. Towers located on existing buildings or structures shall not extend beyond 22 feet above the highest point of the building or structure. Accessory buildings or facilities for towers located on existing buildings or structures shall be located either in or on top of such buildings or structures.
- f. Landscaping shall be provided around the base of the tower and adjacent to a required security fence that shall be at least 10 feet high. The landscaping shall consist of a minimum 25 foot wide planting strip with ground cover and/or grass, including at least one row of six foot high evergreen trees providing a solid screen adjacent or proximate to the fence, and 15 foot high, two inch caliper deciduous trees, interspersed within the buffer area and no more than 20 feet apart. Applicants may substitute alternative landscape plans that meet the purposes of this subsection to limit the visual impact of the lower portion of the tower and adjoining accessory facilities. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to Council approval. Towers located on top of buildings three stories or more in height and telecommunication antennas located on existing buildings shall be exempt from this subsection, except that a six foot high solid evergreen screen shall be required between any telecommunications antenna or tower accessory building and adjoining properties. A ten foot high security fence and an adjoining six foot high solid evergreen screen adjacent or proximate to the fence shall be provided around the anchoring facilities for guy wires for guyed towers.
- g. No outdoor storage shall be permitted at the tower site.

- h. Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers shall be light gray in color. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to council approval. Telecommunication antennas with colors designed to match buildings or structures to which they are attached shall be exempt from this subsection.
- i. A tower shall be located so as not to encroach into any established public or private airport approach as established by the Federal Aviation Administration.
- j. Towers higher than 100 feet must be a minimum of 500 feet from the nearest similar tower, measured from the base of the towers.
- k. New telecommunication facilities may be attached to an approved tower without applying for an additional special use permit so long as the new facility is in compliance with the requirements and standards of this section.
- l. No interference with existing television, cable television, radio signals, or other electronic devices shall be permitted from the tower. If interference occurs, it shall be immediately remedied by the operators of the tower.
- m. If a tower is abandoned, unused for two years, or no longer operable, it shall be removed within six months of its abandonment. If a tower is not dismantled as specified in this subsection, the city shall arrange to have the facility dismantled and will assess the landowner all costs associated with the removal of the tower. If the full amount due the city is not paid by the owner, or person in control of the property, or his or her agent, within 90 days of receipt of a bill from the city, the city finance director shall cause a special assessment to be recorded in the municipal lien docket. The recordation of such special assessment shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made.
- n. That the owner of such tower shall provide proof to the city that the tower has undergone a triennial inspection for structural integrity. Said inspection is to be performed by a certified engineer, or other qualified professional, at the expense of the owner of the tower. If structural deterioration is found to be present, and such deterioration affects the physical stability or aesthetic integrity of the tower, the owner shall be required to correct such deterioration within a time limit to be established by the building department.

In addition, the operator of such tower shall provide annual proof to the city that the tower has undergone field measurements to ensure compliance with all applicable Federal Communication Commission safety standards for exposure to nonionizing electromagnetic radiation. Such field measurements, and submission of the results to the city, shall be conducted upon start up of the facility and annually thereafter; except that every third year, such proof of compliance shall be submitted on behalf of the operator by an independent nonionizing electromagnetic radiation evaluator. All such field measurements, and submission of the results, are to be performed by a certified engineer, or other

qualified professional, at the expense of the operator. If such field measurements demonstrate noncompliance with Federal Communication Commission safety standards specified in this section, transmission at the facility shall be suspended until such time as full Federal Communication Commission safety standards compliance is demonstrated to the satisfaction of the city.

- o. The owner of such tower shall give proof to the city that any damages which may occur to surrounding properties or injury which may occur to persons, which damages or injuries are caused by a failure of the tower and/or its associated structural supports, regardless of whether such failure is a result of human error or an act of God, shall be paid by the owner of the tower and/or insurers of the tower.
- (2) Restaurant with alcoholic beverages, incidental to and intended primarily to serve uses permitted in this District, except such uses, including accessory parking, shall not be permitted within 100 feet of perimeter streets as defined in subsection 2 above.
 - (3) Fast food restaurants, incidental to and intended primarily to serve uses permitted in this District, subject to the following special requirements:
 - a. Minimum lot size shall be one acre.
 - b. Minimum lot width shall be 200 feet.
 - c. Minimum depth of lot on one side shall be 218 feet.
 - d. Minimum setback from all perimeter street lines shall be 75 feet.
 - e. Minimum distance from all property lines other than perimeter street lines shall be 50 feet.
 - f. Parking requirements shall be subject to the requirements listed in Article XIV.
 - g. Exterior lighting shall be shielded so that it is deflected away from adjacent properties and from passing motorists.
 - h. A solid fence or wall and/or a landscape screen of a minimum of six feet in height shall be erected along all property lines separating the site from lots zoned residential or any lot developed or approved for development for residential use, in accordance with Article XXV of this chapter.

(4) Commercial indoor recreation and indoor theaters.

(c) *Area regulations and other special requirements.*

- (1) *Height of buildings.* In no case shall building height exceed 10 stories or 150 feet.
- (2) *Building setback lines.* Except as otherwise specified herein, each story or part of a building, exclusive of cornices and uncovered steps

and uncovered porches, shall be set back from the line of perimeter streets on which the building fronts a minimum distance of 50 feet. Perimeter streets for purposes of this subsection shall be defined as South College Avenue between the Northeast Corridor Railroad right of way and the Christina Parkway (Route 4).

(3) *Parking.* Off-street parking spaces shall be provided at locations and the number of spaces to be determined by the University.

(4) *Building Design.* Regarding building design, the following standards shall apply:

- a. Detailed elevation drawings of all proposed buildings shall be submitted including all signage; building materials; building height; the location, height and material of landscaping and screening walls and fences; outdoor trash and recyclable material storage areas; and electrical, mechanical and gas metering equipment.
- b. To maintain a high standard of construction and appearance and to provide architectural unified and interesting design, the exterior walls of each building are to be constructed of durable, permanent materials, (including appropriately selected brick, treated concrete, glass, and other architectural panels). Buildings should complement and harmonize with the overall design of the STC District.
- c. Signage, intended to guide motorists and pedestrians from perimeter streets, shall correspond to the overall design, color and finishing of the buildings upon which they are displayed; that is, signage shall be designed as integral architectural elements of proposed architecture.

(5) *Site Design.* Regarding site design, except as otherwise specified herein, the following special regulations shall apply:

- a. Sidewalk and pathways shall be installed and designed to enhance the pedestrian experience; off road bicycle circulation paths shall be designed to complement pedestrian ways.
- b. Building sites and roadways shall be designed to facilitate way finding through the District.
- c. Exterior and interior lighting features shall be integrated to help provide visual understanding of the building's composition and function based on the following guidelines:
 1. Use lighting fixtures primarily for important building elements such as entries.
 2. Favor the use of defused lighting system over those generating a strong point source of lighting.
 3. Enhance the visibility of interior building lighting to the exterior giving a sense of light emanating from the building.
 4. Avoid dramatic changes of illumination levels which can produce glare and disorientation.
 5. Enhance the illumination, where appropriate, of landscape features.
 6. Lighting shall be designed to limit impact on adjacent properties.
- d. Landscaping or screening shall be installed to screen parking areas, mechanical equipment, refuse storage areas and related

appurtenances and to enhance the visual appeal of the buildings and facilities in the district.

- (6) Review of plans to determine compliance with the provisions of subsection (c) herein shall be performed by the Planning and Development Department, which shall issue approvals upon satisfaction that all such provisions have been met. Applications for Administrative Subdivisions for the purposes of establishing lot and/or lease lines for real estate taxation and related purposes shall be subject to the procedural requirements of Chapter 27, Subdivision and development Regulations of this Code. Otherwise, all permitted uses in the District shall be subject to all other applicable Municipal Code requirements, standards and procedural requirements, except as modified herein.

Mr. Lopata: I will be happy to answer any questions, and I am sure that Mr. Manning and Mr. Lubin from the University will be happy to help out if need be.

Mr. Ralph Begleiter: Mr. Chairman, I want to say, as a matter of record, I am an employee of the University of Delaware and I would like to ask the Commission if it is okay for me to participate in this discussion and a possible vote or whether I should recuse myself for that reason.

Mr. Lopata: Mr. Chairman, in anticipation that that question might arise, I have a memo here from our City attorney, dated September 1, 2011, regarding the matter. I will read it into the record.

“You have asked me to revisit the issue of a potential conflict for members of the Planning Commission who are UD employees in reviewing land use matters affecting the University. Enclosed is a former Solicitor’s 1996 analysis of conflict of interest provisions in the Ethics Code, which has undergone no significant revisions in the past 15 years. The Code applies to members of the Planning Commission as appointed officials of the City. With regard to the specific issue raised here, the application of the three-part analysis contained on page 3 of the 1996 memorandum would not appear to require abstention by Planning Commission members who are UD employees assuming no direct job related involvement with development of the Science and Technology Campus. The Planning Commission members’ employment would not be compatible with the discharge of their duties as City officials. The members’ financial interest (compensation received as University employees) would not be impacted favorably or unfavorably by a particular vote on the zoning matter. The conflict question requires more stringent scrutiny if the Commission members’ employment duties were related to the University’s plans for the site. In such a case the members’ personal interest could be incompatible with a proper discharge of his or her official duties.”

Mr. Begleiter: I have no direct involvement in the development of the site. As a University employee it is of interest to me, but I feel that that sufficiently allows me to remain in active discussion on this matter.

Mr. Bowman: I have no problem with that. Thank you for your question.

Ms. Kass Sheedy: To respond to Roy, even though I am actually on leave from the University right now, I do intend to go back. But, I don’t see a problem. What I do has nothing to do with this property. When it was brought up before, there was a question about if the University provides a substantial portion of my income, which it does not. If no one else has a problem, I think I can move forward.

Mr. Bowman: Are there any questions for the Planning and Development Director from any members of the Commission.

Ms. Sheedy: Roy, I do have two questions. I know this is a zoning change, but does it have any impact on what is taxable by the City on the Chrysler property? Is there any

relationship between the two of these? And, if not, has a procedure from that discussion been developed?

Mr. Lopata: That is a good question because that issue comes up from time-to-time. My sense of this is there are some uses we have called for – research type facilities that are run by the University as facilities for research, basic and applied -- if they are not a business, then it would not be taxable. The best analogy I can give you is the Delaware Technology Park which is owned by the University of Delaware. It is taxed except for some academic parts of it that are not.

Mr. Andy Lubin: 5908 Valley Way in Wilmington, Delaware. I am the Director of Real Estate for the University of Delaware.

Referring to the Delaware Technology Park, one of the five buildings there is completely occupied by the Delaware Bio-Technology Institute and it is used for research purposes as part of the College of Engineering and is not taxed. The other buildings that provide services for the public or for-profit entities are taxed on their improvements.

Mr. Lopata: Similarly, the Marriott Hotel on UD property is taxed. Although, interestingly enough, there is an academic aspect to it, that property is taxed. In most instances I would think there would be taxes paid on restaurants and hotels and so on. There are some instances where there may be gray areas and that will go through the New Castle County Assessment Office, and they will make that determination. Hopefully, we will avoid squabbling about that, but that's not to say we won't. There may be cases where we may not agree.

Ms. Sheedy: I have another question, on page six, item 14 in the report, "All residential uses, as defined in this chapter, shall be permitted." I couldn't find the "as defined in this chapter."

Mr. Lopata: The chapter refers to Chapter 32. It is the whole Zoning Code. It's single family homes, single family, semi-detached . . .

Ms. Sheedy: So, essentially, anything that is permitted in town is permitted as a residential use.

Mr. Lopata: Right. By-the-way, I did not mention this in my introduction. This is a classic example of what planners today think is "cutting edge" planning. We will see when it is done, but it is what is called neo-traditional or smart growth where you mix uses.

Ms. Sheedy: Which, as you know, I am a big supporter of.

Mr. Begleiter: Aside from the taxing issue Roy, is there any other connection or relationship between the procedures that were set up for the Delaware Technology Park and the proposed STC in this instance?

Mr. Lopata: It is a little different because there that is an industrial zone. It is MOR. We didn't create a special district for it. It is owned by the University. It is taxed except for the clearly academic uses, and it doesn't have these site design rules. They may have their own internal site design rules but I am not aware of them.

Mr. Begleiter: Should there be a connection? In the best of all worlds if the two places were being developed at the same time would they be?

Mr. Lopata: That is a good question Ralph. If we were going to do it over again, perhaps, we would have done it this way then. At that time, the University was really acting as a landlord more than as a developer. As I understand it, it is actually leased to the State and the State runs it. Isn't there a separate Board?

Mr. Lubin: There is a separate Board. It is a combination of the State of Delaware, University of Delaware and the private sector and the Board is representative of all three

parties. It independently operates itself as the Delaware Technology Park NK501C3 and it is a sub-leasee or a leasee of the land of the University of Delaware to which it pays rent.

Mr. Begleiter: The reason I am asking the question is whether it could come back to bite us at some point in the future that we didn't adopt something that was already precedent setting.

Mr. Lopata: There is nothing to adopt.

Mr. Begleiter: That is what I was asking.

Mr. Lopata: We talked about in-house whether we could just leave this zoned MI. The current zone (MI or MOR) do not allow the mixed uses we want to permit. That is the problem as I see it.

Ms. Dressel: Would we retrofit and go back and suggest that . . .

Mr. Lopata: I don't think we want to do that. That is a classic example of solving a problem that doesn't exist or looking for a solution to an issue that hasn't arisen. That Park is a bit of a showcase. We are very proud of it. This STC site provides the opportunity to be something really cutting edge in terms of land use.

Mr. Begleiter: Mr. Chairman, I have a few specific things related to it. I don't know if this is the right moment to do that or whether you want the University to make some kind of a presentation.

Mr. Bowman: Basically, as I see it, they are not an applicant. This is a zoning issue so it is not like having an applicant come in and make a presentation. So, go ahead with your questions and if they need to participate in the answers we will invite them to speak.

Mr. Begleiter: Roy, let me ask a few specific things. On page 6 in your initial discussion about the tower, would any City towers, if there were any that were placed on this property, be governed by the same restrictions that the City is writing in for the University on this property?

Mr. Lopata: First, this is identical language throughout the Code for anyone who builds a tower. We are, of course, exempt. However, we have taken the position that we try to live with the same rules as it says in the Code. The Code's exemption specifically says, ". . . the City should follow the purposes of the Zoning Code where possible." So, we haven't violated these rules.

Mr. Begleiter: What I was trying to get at is, this is an opportunity, as we said in the general plan, a real opportunity site. I would hate to see a situation arise in which we've designed a wonderful plan for the University's development of the site and then the City comes along and says we need to put a tower up there and we are exempt, so, never mind, we are just going to do it. And, the only thing that sticks out like a sore thumb there is something that the City puts in. I ask the question in the good spirit of the compromise that you talked about in the background section of the proposal. This is an unusual proposal with an unusual agreement between the University and the City. Would it be an opportunity here to make an unusual agreement that the City will not only try but will actually follow the same requirements?

Mr. Lopata: You have to remember, we couldn't put a tower on this property. While we are exempt from zoning, we would have to own the property.

Mr. Begleiter: The University could lease you a space for the tower or it could trade you a tower in exchange for some other benefit that the University might want to give.

Mr. Lopata: Theoretically, that is possible, but I doubt it.

Mr. Begleiter: So, the answer to the question is no, you don't think it is a good idea.

Mr. Lopata: I am not excited about restricting us in an area.

Mr. Begleiter: Page 8, letter “m,” that one strikes me as an odd thing. Now, if it is in there already and we have lived with it for a million years then so be it. But, how can a tower be removed within six months if it was abandoned two years ago?

Mr. Lopata: Well, this is standard that hasn’t been a problem. It comes out of the text, but you have a point.

Mr. Begleiter: Maybe you could take a look at that and see whether this would be an opportunity to fix it.

In letter n. the first word “that” should be deleted. You can take a look at that later, but I think the word “that” is a cut and paste error from something else.

Mr. Lopata: I’m still not following you.

Mr. Begleiter: Paragraph n. should start with “The owner of such tower shall provide proof to the City . . .” is how I believe it should read. You can review it. I’m just calling it to your attention.

On page 9 and 10 where standards are set out for minimum lot sizes and setbacks and perimeters and all of those sorts of things, are those the same standards that are applied to other Newark businesses?

Mr. Lopata: Number 3? Fast food restaurants? Yes, that is identical. That was the point I was making before.

Mr. Begleiter: So, all of the fast food restaurants in the City of Newark have 200 ft. lot widths?

Mr. Lopata: If you know how a “fast food restaurant” is defined.

Mr. Begleiter: And the depth of the lot on one side is 218 feet?

Mr. Lopata: This was written in 1977. There are several fast food restaurants that pre-date that like the McDonalds at Kirkwood Highway and E. Main St. doesn’t meet these standards, but everyone else is supposed to, if it is a fast food restaurant, which is also defined.

Mr. Begleiter: Of course, downtown is specifically defined out of this rule. The one big exception is Main Street, right?

Mr. Lopata: There are no fast food restaurants downtown. That is why I said, if you know what the fast food restaurant definition is.

Mr. Begleiter: If the media were here, they would quote that.

Mr. Lopata: They can quote away. The media is here.

Mr. Begleiter: There are no fast food restaurants in downtown.

Mr. Lopata: Under our definition.

Mr. Begleiter: So, they are the same standards. That is my point.

Mr. Lopata: Yes.

Mr. Begleiter: And exterior lighting being shielded, and so on, is the same standard applied to all?

Mr. Lopata: Yes, this is identical language and Mr. Manning and I discussed that at some point, in using these regulations, and I said that I felt that it would only be fair that the rules shouldn't be any less or more stringent for these specially regulated uses. They should be identical.

Mr. Begleiter: I agree that that is right. The same thing on page #10, "... The building setback lines ..."

Mr. Lopata: This is new. This is all uses. In the case of this project we are trying to ensure that it meets the type of building design and site design that we want for that location. So, those rules are somewhat different. They are, however, similar to the subdivision language that you have looked at for projects but not exactly the same. 4b is very different. There are a whole series of things in item #5. They are somewhat similar to site plan approval language, and site plan approval is mentioned in the Comprehensive Plan for this site. If you go back to the Comprehensive Plan it says, perhaps we will use the site plan approval standards, which have to do with attractive building designs, site design, and so on. So, I took that language and edited somewhat and put it here so we would follow what the community said it wanted for this area.

Mr. Begleiter: I am sure I am missing something but I could go around the City and I could find a minimum of 50 foot setback distance for all building fronts on building setback lines.

Mr. Lopata: You are missing something. This is just for this property.

Mr. Begleiter: Right, so the standards are not the same.

Mr. Lopata: That is what I am saying. The fast food restaurant is and the daycare center is identical, the tower is identical, but if you go back to page #10, Ralph, (c) *Area regulations and other special requirements*, I'll give you an example. The height of buildings, most of the City is limited to three stories. This is 10 stories.

Mr. Begleiter: So, these are different standards.

Mr. Lopata: Absolutely.

Mr. Begleiter: Why would we apply different standards to area regulations and other special requirements when we wouldn't apply them to fast food restaurants?

Mr. Lopata: We are applying standards that we think make a lot of sense for fast food restaurants. We don't want ten story fast food restaurants.

Mr. Begleiter: Or fast food restaurants with less than 50 feet from the side.

Mr. Lopata: I take your point.

Mr. Begleiter: On page #10, item #4a, I think we have language that we adopted a few years ago now requiring that the detailed elevation drawings of all proposed buildings, in addition to showing the things you list here, also should show all utility poles on the site.

Mr. Lopata: That's the Subdivision Regulations.

Mr. Begleiter: Could we adopt that here?

Mr. Lopata: I'll ask the University representative if he wants to do that.

Mr. Begleiter: Well, I'm asking the City if they want to do it.

Mr. Lopata: I'm not the City; I'm just the Planning and Development Director.

Mr. Begleiter: I'm asking the Planning and Development Director.

Mr. Lopata: Do I want to require that they show that?

Mr. Begleiter: In the same way that we required it in the other procedure.

Mr. Lopata: I didn't think it made much sense then, so I certainly don't think it makes sense now.

Mr. Begleiter: Alright. Is this the place – this document – or is there some other place where it would be the opportunity to require that all utilities be located underground since there are none above ground now.

Mr. Lopata: This would be the place to do it if you were to do it.

Mr. Begleiter: Did you make a conscious decision to not do it here?

Mr. Lopata: I didn't think of it Ralph.

Mr. Begleiter: May I suggest that we think of it? If you ever thought of an opportunity, this is it – a 300 acre site that has no above ground utilities on it now for all practical purposes. To start putting them there now would be a shame.

Mr. Lopata: There is a substation. There is a large DP & L substation which is an above ground utility. You mean in addition to that, perhaps?

Mr. Begleiter: Anything that isn't built there now. I am asking the question. I think it is a reasonable question to ask. This is a real opportunity and I think we should take it.

Mr. Lopata: At this point, Mr. Chairman, on that question, I want to defer to see what the University thinks and then we can discuss it.

Mr. Bill Manning: I represent the University of Delaware. Mr. Lubin has already introduced himself. Let me speak first to the question that is on the floor right now about utilities.

There are above ground utilities on the site now. There are no plans to bury them. What you will likely see is utilities buried underground. There may be a need to get from the aerial utilities that are there now to a particular site. You may see aerial utilities. There will be a disinclination to have aerial utilities but we couldn't agree at this point to a prohibition of them. They will be used sparingly.

Mr. Begleiter: I think this is an opportunity for the City to take advantage of here. You are requiring the University to meet all kinds of other standards. This is a place to make a difference. To think of this campus being developed – 300 acres – with poles sticking up in front of beautiful building in the middle of grassy areas, in the middle of sidewalks with guy wires attached to the places in the sidewalk where people have to walk. It would be a travesty to see that and this is the moment to do it, I think.

Mr. Bowman: I think, Ralph, just for my comment, you have to be a little bit careful in making it a total requirement for all electrical distribution to be underground. First of all, I don't know of too many really high voltage substations that this place might require being put in underground. That is very, very unusual, and if you do put substations and transformers underground it is a lot of expense and a lot of work to do it and a lot of problems to maintain them. You see from time-to-time things that go on in places like New York where they blow up underground and create major havoc. If you think about it, you can't say, in my opinion, that all electrical services have to be underground. I think there has to be engineering judgment applied to that. I am not an electrical engineer and I certainly wouldn't encourage us to make that kind of a blanket statement. Let the engineers work it out. I think the University and the City can work that out on a case-by-case basis without making a blanket statement that all electrical utilities have to be underground. That is my opinion.

Mr. Begleiter: For the record, I didn't say anything about substations. I'm not an engineer either. I did specify some kinds of things that I would like to see the City take advantage of in this case. They had nothing to do with electrical substations. All the power from an electrical substation can be distributed underground as the City demonstrates as we approve new developments with underground utilities in them.

Ms. Brown: Could we add a caveat to the, where feasible, because I agree. You've got to start somewhere.

Mr. Begleiter: I think what you should do is take it back and work it out in the same way you worked out all these other agreements. You didn't come up with 218 feet out of the blue. That came from somewhere.

Mr. Lopata: That came from the current Code. If the Commission wants this, you need to make a motion. In your motion include whatever language you want to include and we will discuss it going forward, if that is what you are suggesting. That is really up to the Commission.

Mr. Begleiter: I am not intellectually equipped to specify the number of feet, the size of the wires, and the distance below the ground that the wires should be located or at what point it comes above the ground. I'm not equipped to do that. I'm simply making a statement of principle here which I think should be considered in this proposal. This is a very important proposal for the City, and as the Planning Director has quite correctly indicated, it is precedent setting agreements that are being reached here between the University and the City. And, I think this is a wonderful opportunity to set another precedent.

Mr. Johnson: I agree with Ralph. I think this is a great opportunity.

Mr. Bowman: Back to my comment. Don't build a box that you can't get out of.

Mr. Johnson: Can I just ask this question, then? Then what you are saying is that what is on this paper we can't ever amend?

Mr. Lopata: Yes, we can amend these regulations.

Mr. Johnson: And it raises another question. Is it the University's Zoning Code or the City of Newark's Zoning Code?

Mr. Lopata: This is our Zoning Code.

Mr. Johnson: Then it can stay as it is or we can make a recommendation that the zone be changed. Ralph has made a great point. Why not be consistent?

Mr. Lopata: That is why I suggested that he just make a motion.

Mr. Bowman: Just word it carefully.

Mr. Manning: The question, who's Zoning Code, is it is a good one because, actually, this one is by the consent of both parties. This is the first time the University has ever come before the City and said we want you to rezone property that is part of the University's campus. We have never done that before, but for the reasons suggested by Roy, with so many hybrid uses, hopefully, coming and so many partnerships coming, the thought was we would rather not get into the risk of having on a case-by-case basis, disputes about whether this site or that site or this project or that project is immune from the City's zoning. So, we decided to do something the University has never done before, which was voluntarily subject its campus to zoning restrictions and to the jurisdiction of the City for zoning purposes. But, that zoning classification, all the terms that you see have to be something that is agreed to by the University. The expectation is that the Board of Trustees will consider, simply because it doesn't meet until December, if there has been an amendment approved by this Commission and City Council the University Board of Trustees will ratify it so there is a record that both parties have agreed. And,

that agreement won't be able to be changed without the consent of both parties. Obviously, you would have to do amendments to the Zoning Code pursuant to your current process which includes this Commission. The University would have to agree to those changes. That is essentially what is going on here tonight. So, Edgar, this is truly historic and is the first time that the University has come to the City and said, let's work together on a zoning amendment that will apply to all. We will agree to subject our property to the Zoning Code, which it has never done before. In return, let's agree ahead of time on the restriction and if they are mutually acceptable, let's do this so that we can promise all those people who might come to the Science and Technology Campus, which is what STC stands for. Years from now we can promise them certainty. We can say to them, we won't have to have a wrestling match over whether this is a traditional academic use or not. We will be able to say, here is the Zoning Code, it permits this use, you have a use as of right, let's go. That will, we think, will dramatically assist the University in attracting the kinds of partners it wants for this Science and Technology Center. It has, as you all know probably better than I, some very exciting plans. So, that is the process by which amendments will be made. Assuming this enacted, it will be amended only with the consent of you all and the University.

Mr. Lopata: Just for the record, at least from my standpoint -- not to quarrel with my good friend Mr. Manning -- I am not sure that is correct. What he is saying is the University will go through some kind of process to ratify what, presumably, we will have already adopted. Once we adopt it and it is in Newark's Zoning Code, it is in our Zoning Code. If the University decides they are going to abide by these terms or not -- that is up to them -- then unfortunately we may wind up in court if there is some land use quarrel. But, if Council approves, we are going to zone this site STC, whether the Board of Trustees likes it or not.

Mr. Manning: I assume you wanted to avoid the risk that you always run when Newark rezones University land. You can never tell whether your zoning amendment is going to be effective. We can change that with you with this agreement.

Mr. Lopata: All I am saying, Bill, the same thing I said to you when we first had these conversations, you can't be a little bit pregnant. Once you dip your waters into the murky world of zoning, you are in our Zoning Code. The Zoning Code is part of the Municipal Code and once we put it into the Municipal Code it is the law of the land in the City of Newark and amendments in the future, theoretically, the City could make them as we make any kind of Zoning Code amendment. Would doing that be silly without consulting the University? Of course. The era of good feels that we hope to continue in this regard would certainly lend itself to working together with the University going forward, but it is my understanding, and I am not the lawyer in the room, that once this gets adopted by City Council irrespective of whatever the Board of Trustees does, we will have this language in our Zoning Code and we will change our zoning map.

Mr. Manning: It will clearly be part of your Zoning Code. The bigger question is, is it going to be effective? The University Charter protects it from local zoning codes. The University can waive or not that immunity and will do so and expects to do so. That is why it initiated this discussion with Roy. And, like the change to the Charter this Zoning Code will represent, any change to it would likewise be a Charter change and something the University would have to consider. You have heard two different points of view on this. Roy is correct; you can change your Zoning Code whenever you want to. You don't have to wait for anybody. The question that you all ask, though, is, is this amendment going to be effective and for that, at least, it is our view that there would have to be an agreement with the University.

Mr. Lopata: Absolutely, but that has little or nothing to do with the utility lines being buried.

Mr. Manning: No, and frankly, I can't imagine anyone more in line with that mode of thinking than the University. If anyone cares about the look of this thing, it has got to be the University and it is inconceivable to me that anything will remain above ground unless some engineer says you really have to do it that way. I know everyone that comes to this

microphone says you are going to be proud of this, but I really mean it. This is going to be something very special.

Mr. Lopata: And there are very few overhead electric lines on the campus.

Mr. Manning: Quite frankly, we would not resist a change to this draft that says where feasible the lines should be underground.

Mr. Lopata: That is what I was hoping you would say.

Mr. Manning: That is going to be the operating design parameter anyway. So, we would be happy to accept that amendment as long there is some opportunity for an engineer to say, I'm sorry boss, you can't do that.

Ms. Dressel: That is what I would expect from the University because walking around campus I don't see electrical pole or telephone poles all over the place.

Mr. Manning: You will see as few of them on this campus as possible. There are some above ground utility facilities now but they are not really end distribution facilities. Those are the big transformers and things like that. That is beyond my understanding of what you can do to them. But, where things can be buried, they will be. The University would be willing to see an amendment to this draft that says that.

Ms. Brown: I think it is important that we do that. This is site specific more or less but it is also a precedent setting guideline so, I think we ought to set the precedent and get it in black and white.

Mr. Lopata: You could do that by an amendment.

Mr. Begleiter: And, it is a precedent that might actually apply more to the City in the future than it does to the University which already does it anyway even without the requirement. That is my main motivation.

Mr. Manning: We will support that amendment.

Ms. Dressel: I think it is a positive step. I have one other question for you with regards to the Trustees meetings. You said that they are not meeting again until December, but we are discussing this and it appears as though this could potentially go into the Code. Is the Board of Trustees already aware of this document?

Mr. Manning: The answer is two-fold. The direct answer is yes, but what I ought to say is your pace and the University's pace don't have to coincide. Right now you have something in front of you that represents an agreement about the standards by which this property should be developed. Go ahead and enact it. You just heard an exchange between me and the Planning and Development Director. The University will take the position that nothing applies until it accepts an amendment to its Charter, which this will represent. And, that will happen as quickly as the Board can consider it. So, I actually look at this as a speedy process. The tooling up for the December meeting starts in about a month and then there is a lot of process getting ready for a meeting that only takes place twice a year – December and May. We happen to be fortunate, we are headed toward the end of year and that happens to be when the Board meets.

Ms. Brown: Roy, you have parking on page 9 where, "Parking requirements shall be subject to the requirements listed in Article XIV." Is that part of the Zoning Code?

Mr. Lopata: That is for the fast food restaurants. For everything else parking is going to be up to the University.

Ms. Brown: Including the things that we would be considering under the Zoning Code?

Mr. Lopata: All the uses we have listed here other than the ones that there are new specific regulations for.

Ms. Brown: So, for instance, if somebody went in there and built some kind of industrial building or research lab, does the University determine the number of parking spaces?

Mr. Lopata: That is one of the things that Bill and I talked about at some length. We would examine the Code and say, this is the number that is required. The University would look at it and we would decide what made sense. We are trying – and this is part of the neo-traditional planning – is to not have a locked in numbers of spaces to avoid seas of asphalt. In this case, the University's goal is to try to limit the amount of parking on these properties. So, Bill, Andy and I talked about it a great length and decided it would be better off leaving this to the University's discretion, which is unusual.

Mr. Manning: We agreed that if you look at the site as a whole, the University is obliged by this amendment to provide sufficient parking. In return for that agreement to make sure that this site will have sufficient parking for all of its inhabitants, we got some flexibility. Because there will be different parcels being developed at different time, our obligation is to have parking at all times for every use. But, we wouldn't have to, as a matter of code, put a parking facility on lot x, y or z. The obligation is to have parking that is adequate for the entire Science and Technology Campus, which if you take Bloom out will be somewhere in the order of 220 to 230 acres. We will provide parking for all of it so it won't overflow anywhere else, but within that campus you may see centrally located parking, you may see parking spread out a bit. That is the kind of flexibility that we and our partners in the future need. It is the same thing with the setbacks. We agreed to the setback for the perimeter roads. Internal to the site, we will let designers tell us what makes sense and those setbacks may be different. That kind of intra-site flexibility is an important feature of this. It is one of the reasons why the University is comfortable entering into this agreement and actually makes the site stronger for the future because those interested in the site will be able to look at the Code and say, yes, if I comply with this I am okay, yes, Mr. University, we are going to do a deal with you.

Ms. Brown: On page #11 you talk about sidewalks and pathways will be installed. Are those interior inside the campus?

Mr. Lopata: That is correct.

Ms. Brown: Is there any regulation connecting them to outside the campus?

Mr. Lopata: Outside the campus, any City street must have sidewalks is currently in the Code.

Ms. Brown: I'm thinking specifically getting from one side of Rt. 896 to the other side of Rt. 896. That could be a real challenge.

Mr. Lopata: That is not their responsibility.

Mr. Bowman: It will be no worse than it is today.

Mr. Lopata: That is DelDOT and the City and the University works on it as well, but that is a separate issue. This is internal. The language that is deliberately chosen, "to enhance the pedestrian experience," is the language you are seeing in modern codes for the type of research park we are trying to develop here.

Mr. Manning: That is actually one of the site design features that we agreed to. Roy said I think you really ought to have that and we said we can't imagine doing it any other way, so sure, put it in.

Mr. Lubin: The maturation of the site is going to be over a long time. We may start with surface parking to meet certain criteria and as we create the density of the development, we would go to structured parking. Frankly, it would be like organized chaos. If we can create organized chaos on this site that integrates students and research and graduate students along with for-market profit companies that want to engage these students, create the research, take advantage and expand the tier one research taking place on the campus in the areas that we have become extraordinarily well known for, that is the

whole goal of this site. This site gives you comfort and gives us definition to develop this over a long period of time.

Mr. Lopata: We tried to put in language to enhance that goal. Andy made a point that I forgot to mention. I think it is really important. This is for the duration. This isn't a 20 year plan. This is a 200 year plan. We are talking about way down the road. The University is going to be owning this property for decades and what we are talking about today in many cases may be irrelevant, but we are doing the best we can based on what we think is the best planning for this type of site circa 2011.

Mr. Lubin: This is not a developer mentality to see how quickly we can get in and out of this site. One of the directions we were given by the Board of Trustees is that if there is an invention that could have commercialization 25 years down the road, they want to make sure there is a parcel of land to create that opportunity. That is the goal.

Ms. Sheedy: One is a question for Roy and one is a suggestion or recommendation. Roy, if someone wanted to put in an on-site power generation system – a wind tower.

Mr. Lopata: Like Bloom.

Ms. Sheedy: That is not in here. It is not in here for this zone, but let's say the University decided to provide a space to IKEA and they wanted to generate electricity on the site.

Mr. Lopata: That is permitted as an accessory use. And that is what Bloom sells. Just like an on-site generator.

Mr. Begleiter: What about nuclear generation?

Mr. Lopata: There is a nuclear testing facility right on campus now.

Mr. Begleiter: Do we have zoning for whatever is required?

Mr. Lopata: Laboratories, research. It is listed.

Mr. Begleiter: What if it wasn't for research? What if it was for power generation?

Mr. Lopata: Any process involving cleaning, manufacturing process and so on. It is permitted now. There are regulators beyond us for that, however.

Ms. Sheedy: In the Building Code, there is the requirement that structures over 20,000 sq. ft., I believe, adhere to the minimal LEED requirements of sustainability. And, I understand the University has, at best, mixed feelings about that requirement. But, I suggest that since this is being marketed, if you will, as a cutting edge facility that, as Ralph mentioned about utility lines underground, it seems to me that this is an ideal opportunity to reference that Building Code and say, all buildings. The requirements in the Building Code are really very minimal and every year that goes by they become more state of the art.

Mr. Lopata: I believe that applies to the University.

Ms. Sheedy: I thought the University was saying it doesn't.

In any case, can we discuss moving that to all structures? As of now the Building Code, I believe, only applies to structures over 20,000 sq. ft.

Mr. Lopata: That is a whole separate issue, Kass, that I would rather not bring up in this context. That would need to be reviewed in-house or we would have to talk about it at a later date.

Mr. Bowman: We are dealing with the Zoning Code.

Ms. Sheedy: I realize we are dealing with the Zoning Code.

Mr. Lopata: We are taking baby steps in that regard. We don't know yet how that is going to work out. So, before we expand it, we want to see how it is working now. But, that is a discussion, I think, for a later time.

Ms. Sheedy: Is there some way that we can put some language in the Zoning Code for this zone that addresses sustainability as the goal?

Mr. Lopata: You can put anything in the Code if the Council approves it. It's the same discussion we just had.

Ms. Sheedy: I know. I realize that.

Mr. Bowman: I think to some extent you have to be a little bit careful in mixing apples and oranges. You make a reference in your zoning codes quite often that requirements in the Building Code be met. That should be sufficient. Otherwise, you wind up with having to cross reference and cross reference and cross reference and the poor people who come in here for applications, it is going to drive them crazy.

Ms. Sheedy: I still think you should do it.

Mr. Manning: I think what is going on here is we have managed to find 11 pages on which we agree, and I don't really think the City and the University over the long haul are going to have major disagreements over sustainability. I can tell you that the University prides itself in being a leader in that field. But, if it's not a part of the Zoning Code, I would rather keep it out of what we have managed to agree upon. I think that is the best way to handle it.

Mr. Bowman: At this time we will open discussion up to members of the public. Since there is no comment from the public, we will bring it back to the members of the Commission for a motion. I might suggest, Ralph, if you want to put an amendment in dealing with the issues that Mr. Manning has agreed to as far as the feasibility of putting electrical utilities underground, you go ahead and put that and cite where you want it to go and we will vote on that and then we will vote on the whole deal.

Mr. Begleiter: Mr. Chairman, I was going to take a slightly different tack here, so I would like to read what I would like to suggest. I think what I was going to propose is that we recommend approval of the Planning and Development Director's proposed Zoning Code amendments to establish a Science and Technology Campus district with all the recommendations included in this report and that we also recommend that the City . . . There is an open window that is open in this report, that is, we are waiting for the map, and nothing is going to go to City Council until the map occurs and there is a series of negotiations about to occur when the map is on the table. So, I am going to recommend approval of this report but also recommend that, "the City and the University as they negotiate prior to sending this Zoning Code amendment to the City Council, review carefully and in detail the potential for setting new higher standards for reducing the visual impact of utility distribution where feasible in this STC zone with an eye to setting standards that the City could find useful elsewhere in the future."

My view of that is that what I don't want to do is pretend to know all the technical details of how this should be incorporated into this agreement, but I would like to require that the City and the University address those issues before it goes to City Council and specify what the goal of what that addressing would be. It has nothing to do with burying power lines, which I never actually mentioned in my original remarks. Several other people keep bringing up. My interest is in reducing the visual impact of the utility distribution on this site, which is the same interest I have elsewhere in the City. And, I don't think it requires burial of every utility line. I have never said that in the City and don't say it now, but I think it ought to be in here somehow the same way other principles are addressed in this proposal. I think the idea of reducing visual impact of utility distribution should be in there. So, I have given you the language. I am happy to repeat it if anybody wants me to repeat it or we can discuss it or change it if you don't like it.

Ms. Dressel: Would you repeat it one time, please.

Mr. Begleiter: So, I recommend approval of this proposed Zoning Code amendment with all the recommendations of the Planning and Development Director and recommend that, “the City and the University as they negotiate prior to presenting this Zoning Code amendment to the City Council, review carefully and in detail the potential for setting new higher standards for reducing the visual impact of utility distribution where feasible in this STC zone with an eye to setting standards that the City could find useful elsewhere in the future.”

Mr. Bowman: Are you placing that in the form of a motion?

Mr. Begleiter: I am placing that in the form of a motion.

MOTION BY BEGLEITER, SECONDED BY JOHNSON, THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

- A. THAT CITY COUNCIL AMEND THE ZONING CODE AS DESCRIBED IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AND TO ESTABLISH A SCIENCE AND TECHNOLOGY CAMPUS DISTRICT;
- B. WITH THE PROVISIO THAT THE CITY PLANNING AND DEVELOPMENT DEPARTMENT AND THE UNIVERSITY REVIEW CAREFULLY AND IN DETAIL THE POTENTIAL FOR SETTING NEW HIGHER STANDARDS FOR REDUCING THE VISUAL IMPACT OF UTILITY DISTRIBUTION WHERE FEASIBLE IN THIS STC ZONE WITH AN EYE TO SETTING STANDARDS THAT THE CITY COULD FIND USEFUL ELSEWHERE IN THE FUTURE.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

As there was no further business, the Planning Commission meeting adjourned at 8:02 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission