

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

January 3, 2017

7:00 p.m.

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

Chairman: Jeremy Firestone

Commissioners Present: Bob Cronin
Willard Hurd
Frank McIntosh
Alan Silverman

Commissioners Absent: Robert Stozek
District 3 (Vacant)

Staff Present: Maureen Feeney Roser, Planning and Development Director
Mike Fortner, Development Manager
Bruce Herron, City Solicitor

Mr. Jeremy Firestone called the Planning Commission meeting to order at 7:03 p.m.

1. CHAIR'S REMARKS.

Mr. Firestone: The meeting for the Planning Commission for Tuesday, January 3, 2017 is called to order. Welcome and Happy New Year. We've got a relatively short agenda so I'm hoping we should be able to get home at a reasonable hour this evening.

2. THE MINUTES OF THE DECEMBER 6, 2016 PLANNING COMMISSION MEETING.

Mr. Firestone: And with that, we will start on Item 2, the minutes of the December 6, 2016 Planning Commission meeting. Commissioner Silverman?

Mr. Alan Silverman: The draft minutes have been posted on the City website. The Commissioners have received paper copies of the minutes. Madame Recording Secretary, have there been any additions or corrections?

Ms. Michelle Vispi: No additions. No corrections.

Mr. Silverman: Okay, no additions and no corrections. I move that the minutes for December 6, 2016 be accepted as posted and distributed.

Mr. Will Hurd: Second.

Mr. Firestone: Any discussion? All in favor, signify by saying Aye. Opposed? Motion carries.

MOTION BY SILVERMAN, SECONDED BY HURD, THAT THE MINUTES OF THE DECEMBER 6, 2016 PLANNING COMMISSION WORKSHOP BE APPROVED.

VOTE: 5-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, SILVERMAN

NAY: NONE
ABSENT: STOZEK, DISTRICT 3 (VACANT)

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE AND SUBDIVISION REGULATIONS OF THE CITY OF NEWARK AS THEY RELATE TO UPDATING REFERENCES TO THE FORMER POSITION OF BUILDING INSPECTOR AND CLARIFYING CONDITIONS FOR SUBDIVISION APPROVAL.

Mr. Firestone: Okay, Item 3, the review and consideration of amendments to the Zoning Code and Subdivision Regulations of the City of Newark as they relate to updating references to the former position of Building Inspector and clarifying conditions for subdivision approval. Maureen?

Ms. Maureen Feeney Roser: Thank you, Chairman Firestone. Happy New Year. In the spirit of the new year, I will attempt to be very brief with my summaries this year. This ordinance is intended to update and clarify the Code for land use applications and appeals to the Board of Adjustment. It is a housekeeping item in that some of the changes should have been made to the Code when the Building Department was eliminated and the Planning and Development Department took over those responsibilities in 2008. Other changes were determined advisable after the Trader's Alley appeal to the Board of Adjustment, such as specifically stating that a subdivision application must meet Code to be approved and recorded.

Since the Planning and Development Department report was written and distributed, Chairman Firestone has made some suggestions for edits, which have been reviewed and approved by the City Solicitor, so at the table tonight you have a new draft revised ordinance, as opposed to the one that was attached to your packet. All changes are in red and are mostly to improve clarity and consistency. In addition, you will see, along with Chairman Firestone's edits, we have eliminated the whereas clauses in the front of those amendments as our Code does not include whereas clauses, and we've also changed the year on the last page to 2017. Other than these changes, the amendments are proposed as distributed to you. If anyone in the audience would like an edited version, Michelle does have some extra copies to share.

With that, rather than summarize the report, and in the interest of time, unless the Commission objects, I will simply try to answer any questions that you may have for me, and the report will be incorporated into the minutes. Thank you.

[Secretary's note: Ms. Feeney Roser proceeded to answer questions regarding the Planning and Development Department report on the proposed amendments to the Zoning Code and Subdivision Regulations of the City of Newark as they relate to updating references to the former position of Building Inspector and clarifying conditions for subdivision approval, which reads as follows:]

In considering recently submitted land use applications and appeals to the Board of Adjustment, it has become apparent that our Code needs to be updated and clarified to eliminate references to the former position of "Building Inspector" and to clearly state that in response to a subdivision application, the Director of Planning and Development may issue a Code interpretation appealable to the Board of Adjustment. We also believe that the Code should specifically indicate that no subdivision application may be approved unless all requirements of the Subdivision Regulations, Zoning Code and other applicable laws are satisfied. To this end, the following amendments to Chapters 27 and 32 are submitted for your consideration:

Section 1.

Amend Chapter 27, Subdivisions and Chapter 32, Zoning, Code of the City of Newark, Delaware as follows:

Amend Subdivisions Section 27-4, Purpose, by adding the underscored text as follows:

The purpose of this chapter is to assure adequate sites suitable for residential, industrial, and commercial development within the city. Such development should be coordinated with existing streets and structures to ensure that adequate open space and efficient traffic flow are maintained. These subdivision ~~regulations~~ ordinances are designed to protect and preserve the health, safety, and general welfare of all Newark residents. No subdivision application shall be approved or recorded unless and until all applicable requirements of this chapter, the City code, and applicable law are met.

Amend Subdivisions Section 27-15, Enforcement, by deleting the stricken text and adding the underscored text as follows:

- (a) It shall be the duty of the directors of the ~~building~~ planning and development and public works departments to enforce these ~~regulations~~ ordinances and the corresponding zoning code provisions and to bring to the attention of the city solicitor and city manager any violations or lack of compliance herewith. Such departments may issue interpretations in the subdivision application review process appealable to the City of Newark Board of Adjustment.
- (b) No subdivision application approval or building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of these ~~regulations~~ ordinances or any applicable provision of the City code.

Amend Subdivisions Section 27-20, Same – Minor subdivision, by adding the underscored text to Section 27-20(b)(5) as follows:

- (5) Upon receipt of the planning commission report, city council shall review the subdivision plan for final determination. The subdivision plan and agreement shall be submitted to city council with a resolution of approval. The resolution, plan, and agreement shall be approved, approved with conditions, or disapproved by city council. City council shall approve the subdivision plan only if the plan complies with the subdivision ordinances, the building code, the zoning code and all other applicable ordinances and regulations of the City of Newark and the laws of the State of Delaware.

Approval with conditions may include recommendations by the planning commission and stipulations by city council that through the building permit process the subdivision shall conform to all or portions of the design criteria set forth in Appendix XIV of this chapter.

Amend Subdivisions Section 27-21, Same – Major subdivision, by adding the underscored text to Section 27-21(b)(2) as follows:

- f. The subdivision plan and agreement shall be submitted to city council with a resolution of approval. The resolution, plan, and agreement shall be approved, approved with conditions, or disapproved by city council. City council shall approve the subdivision plan only if the plan complies with the subdivision ordinances, the building code, the zoning code and all other applicable ordinances and regulations of the City of Newark and the laws of the State of Delaware.

Amend Zoning Section 32-62, Appeals to board of adjustment, by deleting the stricken text and adding the underscored text as follows:

Appeals to the board may be taken by any person aggrieved or by any other officer, department, board or bureau of the ~~municipality~~ City of Newark affected by a decision, order, requirement, determination or interpretation of ~~the building inspector~~ the Planning and Development Director or his or her designee or the Director of Public Works and Water Resources or his or her designee in the administration of this zoning chapter or the subdivision development ordinances of Chapter 27. Such appeal shall be taken within 30 days by filing with the ~~building inspector~~ Planning and Development Director or the Public Works Director and with the board of adjustment a notice of appeal specifying the grounds thereof. The ~~building inspector~~ Planning and Development Director or the Public Works Director as applicable shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

Amend Zoning Section 32-64, Effect of appeal upon proceedings, by deleting the stricken text and adding the underscored text as follows:

An appeal shall stay all proceeding in furtherance of the action appealed from, unless the ~~building inspector~~ Planning and Development Director or his or her designee or the Public Works and Water Resources Director or his or her designee certifies to the board after the notice of appeal is filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application on notice to the ~~building inspector~~ Planning and Development Director for due cause shown.

Amend Zoning Section 32-66, Powers of board of adjustment, by deleting the stricken text and adding the underscored text to subsection (a)(1) and (3) as follows:

- (1) To hear and decide appeals where it is alleged there is error in any interpretation, order, requirements, decision or determination made by ~~the building inspector~~ the Planning and Development Director or his or her designee or the Public Words Director or his or her designee in the interpretation, enforcement, or implementation of this chapter or Chapter 27.
- (3) To authorize such variance from the terms of this chapter as will not be contrary to the public interest upon receipt of papers transmitted by the ~~building inspector~~ Planning and Development Director or his or her designee or the Public Works and Water Resources Director or his or her designee pursuant to Article XX, Section 32-75 of this chapter, without the formality of an appeal; provided, however, that notice to all parties in interest shall be given in the same manner as upon hearing of an appeal.

Amend Zoning Section 32-67, Authority of board in exercise of its powers, by deleting the stricken text and adding the underscored text as follows:

In exercising its powers the board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the interpretation, order, requirement, decision or determination appealed from and make such interpretation, order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of ~~the building inspector~~ the Planning and Development Director or the Public Works Director. Any interpretation, order, requirement, decision or determination of the board which requires or permits a specific act to

be undertaken shall, as a condition thereto, prescribe a reasonable time limit within which such act shall be completed.

Section 2.

This Ordinance shall be effective upon adoption. This Ordinance, however, shall apply to any subdivision, zoning, appeal, building permit, request for certificate of occupancy, or other similar application heretofore or hereafter submitted to the City for review and approval.

Recommendation

In order to update and clarify Code provisions, the Planning and Development Department suggests that the Planning Commission recommend amendments to Chapters 27 and 32 as described in the Planning and Development Department report dated December 14, 2016, and more particularly as described in the proposed attached ordinance reviewed and approved by City Solicitor Bruce Herron.

Proposed Ordinance (Draft 2)
January 3, 2017

BILL NO. 17-__

1st Reading: _____

2nd Reading: _____

CITY OF NEWARK DELAWARE

ORDINANCE NO. 17-__

An Ordinance Amending Chapter 27, Subdivisions, and
Chapter 32, Zoning, Code of the City of Newark, Delaware,
By Updating Code Sections Referencing Building Inspector
And Clarify Conditions for Subdivision Approval

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

Section 1.

Amend Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, in the following respects:

AMENDMENT 1. Amend Section 27-4, Purpose, by adding the underscored text as follows:

“The purpose of this chapter is to assure adequate sites suitable for residential, industrial, and commercial development within the city. Such development should be coordinated with existing streets and structures to ensure that adequate open space and efficient traffic flow are maintained. These subdivision ~~regulations~~ ordinances are designed to protect and preserve the health, safety, and general welfare of all Newark residents. No subdivision application shall be approved or recorded unless and until all applicable requirements of the City code, including this chapter, and applicable law are met.”

AMENDMENT 2. Amend Section 27-15, Enforcement, by deleting the stricken text and adding the underscored text as follows:

- (a) “It shall be the duty of the directors of the ~~building planning and development~~ building planning and development and public works departments to enforce these ~~regulations~~ ordinances”

ordinances and the corresponding zoning code provisions and to bring to the attention of the city solicitor and city manager any violations or lack of compliance herewith. Such departments may issue interpretations in the subdivision application review process appealable to the City of Newark Board of Adjustment.

(b) No subdivision application approval or building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of these regulations ordinances or any other applicable provision of the City code.

AMENDMENT 3.

Amend Section 27-20, Same – Minor subdivision, by amending Section 27-20(b)(5) by adding the underscored text as follows:

“(5) Upon receipt of the planning commission report, city council shall review the subdivision plan for final determination. The subdivision plan and agreement shall be submitted to city council with a resolution of approval. The resolution, plan, and agreement shall be approved, approved with conditions, or disapproved by city council. City council shall approve the subdivision plan only if the plan complies with the subdivision ordinances, the building code, the zoning code and all other applicable ordinances of the City of Newark and the laws and regulations of the State of Delaware.

Approval with conditions may include recommendations by the planning commission and stipulations by city council that through the building permit process the subdivision shall conform to all or portions of the design criteria set forth in Appendix XIV of this chapter.”

AMENDMENT 4.

Amend Section 27-21, Same – Major subdivision, by amending Section 27-21(b)(2)f by adding the underscored text as follows:

“f. The subdivision plan and agreement shall be submitted to city council with a resolution of approval. The resolution, plan, and agreement shall be approved, approved with conditions, or disapproved by city council. City council shall approve the subdivision plan only if the plan fully complies with the subdivision ordinances, the building code, the zoning code and all other applicable ordinances of the City of Newark and the laws and regulations of the State of Delaware.”

AMENDMENT 5.

Amend Section 32-62, Appeals to Board of Adjustment, by deleting the stricken text and adding the underscored text as follows:

“Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or bureau of the City of Newark affected by a decision, order, requirement, determination or interpretation of the building inspector ~~the Planning and Development Director or his or her designee or the Director of Public Works and Water Resources or his or her designee~~ in the administration of this zoning chapter or the subdivision development ordinances of Chapter 27. Such appeal shall be taken within 30 days by filing with the ~~building inspector~~ Planning and Development Director or the Public Works and Water Resources Director, as appropriate, and with the Board of Adjustment a

notice of appeal specifying the grounds thereof. The ~~building inspector~~ Planning and Development Director or the Public Works and Water Resources Director as applicable shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.”

AMENDMENT 6.

Amend Zoning Section 32-64, Effect of appeal upon proceedings, by deleting the stricken text and adding the underscored text as follows:

“An appeal shall stay all proceedings in furtherance of the action appealed from, unless the ~~building inspector~~ Planning and Development Director or his or her designee or the Public Works and Water Resources Director or his or her designee certifies to the board after the notice of appeal is filed with him or her that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application on notice to the ~~building inspector~~ Planning and Development Director or Public Works and Water Resources Director for due cause shown.”

AMENDMENT 7.

Amend Section 32-66, Powers of Board of Adjustment, by deleting the stricken text and adding the underscored text as follows to subsection (a)(1) and (3):

“(1) To hear and decide appeals where it is alleged there is error in any interpretation, order, requirements, decision or determination made by ~~the building inspector~~ the Planning and Development Director or his or her designee or the Public Works and Water Resources Director or his or her designee in the interpretation, enforcement, or implementation of this chapter or Chapter 27.”

“(3) To authorize such variance from the terms of this chapter as will not be contrary to the public interest upon receipt of papers transmitted by the ~~building inspector~~ Planning and Development Director or his or her designee or the Public Works and Water Resources Director or his or her designee pursuant to Article XX, Section 32-75 of this chapter, without the formality of an appeal; provided, however, that notice to all parties shall be given in the same manner as upon hearing of an appeal.”

AMENDMENT 8.

Amend Section 32-67, Authority of Board in exercise of its powers, by deleting the stricken text and adding the underscored text as follows:

“In exercising its powers the Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the interpretation, order, requirement, decision or determination appealed from and make such interpretation, order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of ~~the building inspector~~ the Planning and Development Director or the Public Works and Water Resources Director. Any interpretation, order, requirement, decision or determination of the board which requires or permits a specific act to be undertaken shall, as a condition thereto, prescribe a reasonable time limit within which such act shall be completed.”

Section 2.

This Ordinance shall be effective upon adoption. This Ordinance, however, shall apply to any subdivision, zoning, appeal, building permit, request for certificate of occupancy, or other similar application heretofore or hereafter submitted to the City for review and approval.

MOTION for Acceptance as First Reading on _____, 2017.

by Council Member _____.

Second Reading and Final Passage on _____, 2017.

VOTE: __ to __.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor

Mr. Firestone: Commissioner Silverman?

Mr. Silverman: With respect to page 3, Amendment 3, the first paragraph in (5), the last line that's underscored as an addition, City Council shall approve etc., etc., the Zoning Code and all other applicable ordinances . . . regulations are crossed out, and I agree with that edit, however the State of Delaware has regulations as well as laws. DNREC comes to mind immediately, so should there be a reference in that last addition, City of Newark and the laws and regulations of the State of Delaware?

Ms. Feeney Roser: That's fine with me. Bruce, does that work for you?

Mr. Bruce Herron: That's fine. I think regulations might be included in laws but there's no harm in including that.

Mr. Silverman: Just for clarity because we often talk about DNREC regulations, DeIDOT regulations . . .

Mr. Herron: Right.

Mr. Silverman: And it shows that we're aware of it.

Mr. Hurd: That shows up in Amendment 4, as well.

Ms. Feeney Roser: Right.

Mr. Firestone: So I'll respond. In Amendment 4, we're adding regulations.

Ms. Feeney Roser: So we're taking it out when it refers to the City and adding it when it refers to the State. Okay.

Mr. Hurd: So I have one comment and I'm not sure quite how to [inaudible] but in the Building Code specifically there is a designated person called the authority having jurisdiction, which

every local municipality that enacts a Building Code designates in their ordinances and such. Would it make any sense to use that term for the term that you might be using in City Code here instead of the Director of Planning, in case that position or department changes?

Ms. Feeney Roser: When we adopted the 2012, we designated the Planning and Development Director as that person in the Building Code, so I think this would coincide with that.

Mr. Hurd: Well is there a term in the City Code that says the authority having jurisdiction is the Director. So could we say here . . . is there a way to refer this back to that designation so that when, say, you adopt 2017 or 2018 and they've changed the department's name from Planning and Development to something else, that can be pulled in as part of the adoption and not have to go through it and revise the Code again for this type of change. Do you see what I'm saying? If we have a section already where that person is designated, it seems to me to make sense to refer this back to that point.

Mr. Firestone: On the other hand there's going to be many, many places where you're going to have to change the name of the department name if the department changes. This would just get folded in as part of that generic change that runs throughout the entire Code. I would agree with you if it wasn't otherwise referenced in some places.

Mr. Hurd: Is it referenced in . . .

Mr. Firestone: Well the name of the division is. It says Planning.

Ms. Feeney Roser: Are you talking about the Building Code or here?

Mr. Hurd: City Code.

Ms. Feeney Roser: Well Code has a chapter for each. Chapter 7 is Building, and in Building it says that the Planning and Development Director is the building official, or whatever. And that's what we're trying to do in this chapter as well. Because someone who may be looking at Chapter 32 doesn't necessarily go to Chapter 7.

Mr. Hurd: Right, but if you said . . .

Mr. Firestone: Just for clarity sake, the Building Code is part of the City Code, so we call them Codes . . .

Mr. Hurd: Right. There's an adoption part of the City Code that says we're adopting the ICC Code of 2012 with the following amendments, and one of them is to say we're designating this person as the authority having jurisdiction because that's the term that gets used in the Building Code. So you always want to have it coming back to someone in the municipality who actually has jurisdiction. So if you said here, affected by a decision of the authority having jurisdiction as designated in Chapter 7, then in Chapter 7 every time you adopt the Building Code, you've done it once and now it's covered in this section. You don't have to come back and go, oh we forgot about Chapter 27.

Ms. Feeney Roser: The issue I would have with that is that it is not written in stone that the Planning and Development Department would always have control over the Building Department. Whereas for the Zoning and Subdivision Regulations, it's the Planning and Development Department.

Mr. Hurd: Ahh, okay. So it is different. Then that's fine.

Mr. Firestone: Are there any other comments from the Commission?

Mr. Bob Cronin: Mr. Chairman, one observation I had which is a typo, perhaps, on page 4, Amendment 6, the first line in quotations, I believe it's more correct to have the word proceeding be plural with an 's' because that's what was done two lines above that and also later in the same paragraph.

Ms. Feeney Roser: I'm sorry, can you say that again? Proceedings, there is an 's' there. Okay. Thank you.

Mr. Firestone: Any other comments from the Commissioners? Does anyone from the public wish to be heard on this item?

Mr. Silverman: It's exciting.

Mr. Firestone: Please approach the podium and identify yourself for the record.

Ms. Jean White: Jean White, District 1. Actually what I was going to say probably didn't make much difference, and I just got the corrected ones right now, so two of the things I was going to say have already been corrected. One was a typographical error of Words versus Works, and the other was that I had gone through here when you talk about Board of Appeals, Building Director and so on and so forth, they should all be capitalized. And I think they are all now. I have made a list of ones throughout it, so I think they all are, in this red version that just has come out. I had to capitalize, basically, Planning and Development Department, Public Works and Water Resources, Board of Adjustment, and when you just talk about the Board, to capitalize the Board. But I haven't had a chance to go through here with all the stuff. I just got it. And capitalize City Solicitor and City Council. So I haven't had a chance to go through it but I can go through it by the end of the meeting maybe.

Ms. Feeney Roser: The Code goes back and forth on whether or not things should be capitalized. I'm happy to correct it any way the Commission would like to see it.

Ms. White: And then once you . . . there are a couple of places where it just . . . under Board of Appeals, I guess, where you talk about just the Board. I think that should be a capital B. But I think you may have done it. And let me see, the other thing, again, this is not really important but there are certain conventions of punctuation. One is . . . and there are two conventions that are used . . . one is something, comma, something, comma and something, where you put a comma before the 'and'. And then newspapers get rid of that. For example, when they don't have a comma before the 'and' which I find very hard to read because sometimes it creates confusion. But, anyway, in the ordinance sometimes you use the one convention and sometimes you use the other convention. Even in one paragraph they're used, and I could give an example of that, if it's important to you. Let me just see here.

Mr. Firestone: We refer to those as serial commas.

Ms. White: Serial commas. Thank you very much, for the person here who knows a little punctuation. For example, in Amendment 3, which on the original page was on page 3, at the top on the fourth line it goes, the resolution, plan, and agreement. That's the convention I like. And then down in the underlined part of that same paragraph, where it goes, City Council may approve the subdivision only if the plan complies with the subdivision ordinances, the building code, the zoning code, and then it doesn't have a comma before the 'and' there. So I think consistency is important. There are a couple of other places throughout this. This might be considered a less important change. Does anybody see where I'm saying or do you want me to go through it again? In Amendment 4 there's another example of that which I could point out. And then under Amendment 5 there's another example where it's done one way and then the other way in the same Amendment 4, which I can point out if you're interested.

Ms. Feeney Roser: That could be because the way the Code is written has the serial commas and I tend to write without them.

Ms. White: Okay.

Ms. Feeney Roser: So I'll do whatever the Commission would like as far as commas and capitalization.

Ms. White: Well if the Code already has it then it would be nice to be consistent with it, I think. Also, people like me like to have the serial comma, but you're not doing it for me. And I guess since all the other changes were made, that's all I have to say.

Mr. Silverman: Mr. Chairman? Madame Director, could you . . . and this is one of my bugaboos . . . give this document we have a title and date so when, for the record, we know what we're passing. And if somebody is trying to research, they know what to look for. Is this draft 2? Do you want to call this Draft 2, Bill No. 16 and today's date?

Ms. Feeney Roser: I can. Sure.

Mr. Silverman: That way when we adopt it, it will be adopt the recommendation that came in Draft 2, Bill No 16 dated today.

Ms. Feeney Roser: Okay.

Mr. Herron: I believe that should be 17. I think that 16 indicates the year.

Ms. Feeney Roser: Yes, it would be 17 because it won't get to Council before.

Mr. Silverman: Okay.

Ms. Feeney Roser: See that, there's another change.

Mr. Firestone: Thank you. Are there any other comments from any Commissioner? Then I would entertain a motion. And just to be clear, at this point there hasn't been any attempt by any member of the Commission to adopt consistency in regards to the ordinance. If anyone wishes to do that, please clarify that in the motion. Thank you.

Mr. Hurd: I guess I'll do it. I move that we adopt the draft ordinance amending Chapters 27 and Chapter 32 referencing Building Inspector, as amended . . . and I think this has come up before and I think Bruce answered this once. Legally, there's no difference, right, where the commas go? Because I've seen it both ways.

Mr. Herron: In this context there's no difference.

Mr. Hurd: Okay.

Mr. Herron: I can't say that in every situation.

Mr. Hurd: It can make a difference.

Mr. Herron: Right.

Mr. Hurd: So I think while it would be nice to be consistent, I think we would be chasing our tails on this for a while.

Mr. Firestone: Okay, is there a second?

Mr. Frank McIntosh: Second.

Mr. Firestone: Any discussion? All in favor of the motion, signify by saying Aye. Opposed? The motion carries.

MOTION BY HURD, SECONDED BY MCINTOSH THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

THAT CITY COUNCIL AMEND CHAPTER 27 SUBDIVISIONS AND CHAPTER 32 ZONING FOR CLARIFICATION PURPOSES AS DETAILED IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT DATED DECEMBER 14, 2016 AND REVISED BY THE COMMISSION AT THE JANUARY 3, 2017 MEETING.

VOTE: 5-0

AYE: CRONIN, FIRESTONE, HURD MCINTOSH, SILVERMAN

NAY: NONE

ABSENT: STOZEK, DISTRICT 3 (VACANT)

MOTION PASSED UNANIMOUSLY

Ms. Feeney Roser: Thank you very much. Mike is on next.

4. DISCUSSION REGARDING NEXT STEPS IN STUDY OF CODE-MANDATED PARKING REQUIREMENTS BY USE AND PARKING WAIVER LEGISLATION, FEES AND PRACTICE.

Mr. Firestone: Moving on to Item 4, discussion regarding next steps in the study of Code-mandated parking requirements by use and parking waiver legislation, fees and practice. Thank you, Mike.

[Secretary's note: During the course of his presentation, Mr. Fortner referred to a PowerPoint presentation being displayed for the benefit of the Commission, Director and public.]

Mr. Mike Fortner: Alright, thank you. The last meeting that we had was September 19, was our first meeting. And we're going to try to plan the second stage of that. On the first meeting the topic policy ideas that came out of that to look into further were . . . and there could be others, we can add onto this if we'd like . . . revision of parking requirements. There was a discussion about the way we calculate the parking requirements. It's a suburban standard that maybe there should be a different standard for downtown. One idea suggested was a shopping center requirement that all, basically, maybe a district parking requirement for downtown. It was similar to a shopping center and we would use something similar to that. Or getting rid of minimum parking requirements or a variety of ideas like that. So changing downtown parking requirements.

We discussed also about the parking validation program. There was some discussion about the fees. Customers get their parking validated and the business validates their parking and they pay a discounted rate, 50% of the actual parking rate, for that, to pass onto their customers. So there was a discussion about actually getting rid of that.

Remote parking is where we better utilize University lots and private lots that aren't used during, say, evening hours. And we better utilize those and develop lease agreements with them. And so we talked about exploring that further.

Parking waivers, we talked about revising the parking waiver programs, the fees, the policies and the way it is administered.

And then we talked about policies to encourage de-coupling, where we have . . . the parking is no longer included in the cost of the apartment. So someone that's renting an apartment and doesn't have a car, they don't have to pay for the parking spaces. Whereas someone that wants to have a parking space, they would pay extra for that for multi-family units.

Finally, the end conclusion was that we wanted to have another stakeholder meeting. We wanted to invite a large group of stakeholders, particularly from the University, the business owners and developers.

And so for stakeholders, we're looking at people like the University of Delaware administration, downtown business owners, developers, members of the DNP Parking Committee and the Traffic Committee, staff of the Parking Office, DNP Design Committee, members of Bike Newark, formerly the Newark Bicycle Committee, downtown residents, downtown Newark customers and visitors, and other people that we can think of. We envision sort of a meeting within a month or so, to include this.

I looked into the dates that are available and these are the dates. On Wednesdays, all those dates are available but we would have to relocate the Newark Symphony Orchestra (NSO). They practice here every Wednesday night, but we can do that. We can. So they would go somewhere else or they wouldn't have practice that day. There's Tuesday, February 21 is the day after President's Day. I didn't know if that would be a good day with people coming back from a holiday. Sometimes it's hard to have a workshop on a day like that. And then you have March 6 and 8, and I think that's the day before the Planning Commission meeting and the day after the Planning Commission meeting. So, in short, Wednesdays are available. There's one Monday on March 6. That's the day before Planning Commission. I didn't know if you wanted to do that, or the day after Planning Commission. Or most Wednesdays are available and we'd relocate the NSO.

So I'd like to be able to finalize a date and then talk a little bit about what your expectations for that meeting would be. Who should we invite? What kind of efforts we should make to get people here? What would you like to get out of that? Also, any other issues that you remember from the meeting that maybe I didn't capture in the summary that I gave on the first slide.

Ms. Feeney Roser: May I just add, too, I looked at your regular Planning Commission meeting for February, as well, so you didn't have to have another meeting. That's scheduled for February 7, and the only thing you have on it, at this moment, is an annexation of an existing property off of East Chestnut Hill Road that's already been developed. It's requesting annexation for sewer service. But I'm not sure that that's enough time, depending on how you want this thing organized and advertised. Whether that's enough time to get it together.

Mr. Firestone: I just have one brief question. We had discussed having this with primarily having an interaction between the University and the City and its residents. There was a recent agreement, since we made that decision, between the University and the City and so is a meeting along those lines the best use of our time, or if we're going to focus on parking issues, should we focus on something else?

Ms. Feeney Roser: Just to clarify, we had reached out to the University quite some time ago about opening up their lots in the evening hours for customer parking. They had already done that, they just never advertised it. So it was after our meeting that we reached out again, and they're like, we already do it. And it was like, well give us the information and we'll get it out there. And I think there has been some interest in that.

Mr. Hurd: Do you mean customers or employees?

Ms. Feeney Roser: Employees.

Mr. Silverman: Going by what was in the newspaper, it was off-site parking for employees of businesses.

Ms. Feeney Roser: Yes, that was the intent.

Mr. Silverman: As opposed to patrons.

Ms. Feeney Roser: Yes. The question is do we need to meet with the University? Is that what you're thinking?

Mr. Firestone: Yes, would be we better off structuring it around some other parking related issue or . . .

Mr. Fortner: Well they would just be one group with us. I mean there would be, hopefully, someone representing the University. I think it would be fairly useful to have someone there. But we'd also have developers . . .

Mr. Silverman: Mike, can you go back to slide 2? Slide 3, then. There we go. There is a very important stakeholder that is missing on there. And I don't know the formal name. The Apartment Owners Association.

Mr. Fortner: The Landlord Association?

Mr. Silverman: Yes.

Ms. Feeney Roser: Well there are two different ones. There's the Newark Landlord Association and then there is the Apartment Owners Association, which is a much bigger group.

Mr. Silverman: I believe it is important that we should reach out to both of those groups because they tend to stimulate some of the parking issues, particularly with overflow parking and that kind of thing.

Mr. Fortner: Okay. I was thinking property owners with the vacant lots, some of the private-owned lots that are generally not available, like Simon Eye Associates. I mean those are business owners but specifically the Methodist Church, what kind of interest they have.

Ms. Feeney Roser: I think we need to focus on what it is we want to talk about and then we can build the stakeholder list from there.

Mr. Firestone: Do you know what the status is of the City's deliberation with the Galleria lot proposals?

Ms. Feeney Roser: Yes. There has been a proposed date for the people who submitted proposals to come before Council and make presentations. I don't know that it's been finalized but the date that was thrown to me was the 18th of this month at 6:30 and the format would be 15 minutes to make their presentation and then another 15 minutes of questions and comments, and then Council discussion. I believe this is set up so that Council can decide how we will proceed from here. But the 18th was the date that was discussed last week and I think it's still holding.

Mr. Silverman: Mr. Chairman, may I ask our legal counsel a question? Would it be inappropriate for members of the Planning Commission to attend that meeting since there's potential in the future that any of those applicants could come before us? Because I'm generally curious to see the proposals and the pitches and listen to the public comments and discussion. But would that be premature sitting as a Commissioner?

Mr. Herron: I can't say that it would be inappropriate because as citizens of Newark, you have the right to attend whatever meeting of a public body that there is.

Mr. Silverman: So it would not be considered ex parte?

Mr. Herron: No.

Mr. Silverman: Because it's in public?

Mr. Herron: Correct.

Mr. Silverman: Okay.

Mr. Hurd: I was just looking at the policy topics and if we're actually going to try to, sort of, talk over all of those points, we need almost everybody on that list because they're all going to touch on the things related to them.

Mr. Fortner: Well we wouldn't have to talk about all the things on that list.

Mr. Hurd: True.

Mr. Fortner: We could focus on, say, the parking zoning mandated requirements for parking downtown and explore . . . give us a chance, the ability to kind of focus on one.

Ms. Feeney Roser: Because they're all pretty big topics.

Mr. Fortner: They're big topics.

Ms. Feeney Roser: And they're more complicated than they seem.

Mr. Fortner: So, for example, studying and really getting into what are appropriate parking requirements for downtown, so we're not using, say, suburban ones anymore. Is there something more appropriate? We could focus our attention on that, kind of like we did with micro-breweries or whatever. Just kind of focus on it and some of that could benefit in other areas too. Like parking waivers and things like that, that are also . . .

Mr. Hurd: The thing that I see in all of the topics is that it's all very related. We can say let's use four spaces per 1,000 square feet of space. Well that covers our lot but does it, is that how we size other people's lots. If we're decoupling . . . if we're allowing them to shift employee parking to off-lots than that changes the size of the parking lot they need. We need to know where those off-lots, where we shift to and what hours we can shift. It's like, I think that when we did look at this last time, we said there is a lot of parking out there but a lot of it is locked up with specific buildings or specific uses and can't be used.

Mr. Silverman: At specific times of day.

Mr. Hurd: At specific times of day. But then you say well if we change the fee structure so that we're closer to the University, that pushes some students maybe out of our lots and into different ones and there's some capacity coming back. So it's all a very complicated knot of issues. We can't just say let's just use shopping center requirements. What about encouraging decoupling? What about encouraging off-site usage because we can't necessarily, we can't always make them build a parking lot. This is a way to shift, but where can they . . . if we haven't identified people who are willing to use their lots on off-peak, we can't have that available. Because for me it all comes down to if someone comes to me and says we want a parking waiver, we need to know where those cars that they're not parking are going. Because are they asking for the waiver because they're going to shift employees offsite and it's really just relocating. It's understanding all of those pieces. So I personally can't say let's just look at one topic. Because I think as soon as you open up one can of worms, it's all the cans of worms.

Mr. Silverman: I agree with that and, if it isn't too late, I've done some additional reading on this, we give no credit for the rather intensive public/private non-automobile transportation system we have in the City. The last annual report that I read from the University showed that they carried over 1,200,000 passengers. That's moving a lot of people around and taking a lot of cars off the road. Yet if I'm a developer of spaces rented to predominantly student body, I

get no credit for that service running right by my door. I still have to put those asphalt parking places down, creating all the problems that that hard surface puts down and passing those costs onto the renter. So do we put another element in here of how to give credit for existing, non-4-wheel transportation? I can't say public transportation because the University system is private.

Ms. Feeney Roser: I think all that could be considered in zoning mandated parking requirements. I don't think that when we say let's focus on this, it's to the exclusion of other issues. I just think that, if you look at validation and the parking waiver and revising the parking requirements, I just think it's a lot to try to tackle at one time and I would rather see us focus, recognizing that nothing is going to be set until all topics have been considered.

Mr. Silverman: I'd like to leave it up to the Chair to kind of monitor the time and focus the group and say, yes, we've spent time on this, is there any discussion on parking waiver fees? And see what that generates. That kind of thing.

Ms. Feeney Roser: There's a lot of staff work that has to go into it, though, to be prepared to have those conversations.

Mr. Firestone: And another thing, when we had our first workshop essentially we developed these for further development.

Mr. Silverman: Right.

Mr. Firestone: And if we have a long laundry list of items, I'm afraid we're just going to confuse what we already did rather than focus on one or two. It doesn't mean that some of these things might . . .

Ms. Feeney Roser: Right.

Mr. Firestone: Come into the discussion as we go forward. I would rather have us focus on one or two items. That way it's also a much more manageable task for the Department to prepare the materials and prepare them in a focused way that then helps [inaudible].

Mr. Silverman: If I had to choose two, I'd go with the one topic that precipitated all this discussion and that was parking waivers. And then I think, in balance, heading more toward what Will was talking about, encompassing things, is revising parking requirements. The parking waiver, I believe, is more of an understanding of what a parking waiver is. I know previously I've expressed that it isn't really waiving the requirement for parking. It's waiving the requirement for parking to be on the same site that the structure is.

Ms. Feeney Roser: Or within 500 feet of it.

Mr. Silverman: Or within 500 feet of it.

Ms. Feeney Roser: That's true. We haven't done a lot of parking waivers lately though. In the last couple of years, you haven't seen as many because what they're doing is building much taller buildings so they can park underneath of them so they don't have to ask for them.

Mr. Silverman: And, Maureen, if I understand, even though there's a parking waiver, there is some kind of requirement built into either the individual lease, the deed or an agreement with the City to continuously monitor what happens with that waiver, isn't there? Is there a reporting on an annual basis that I would have to report to you?

Ms. Feeney Roser: Not standard, no.

Mr. Silverman: Okay, well maybe that's something to consider.

Ms. Feeney Roser: We did for One South Main, for example. They did not need a parking waiver because they had an agreement with the University of Delaware to park in the Trabant Garage. So every year they have to prove to me, or prove to the City, that they have purchased that many permits for the year and then they put that in the file.

Mr. Silverman: Okay.

Ms. Feeney Roser: But, you know, if a parking waiver from 1987 was based on X number of seats and X number of employees, I can't tell you that there was any regular monitoring of that.

Mr. Silverman: Okay, so maybe that's the kind of thing we could roll in.

Mr. Firestone: Commissioner Cronin or McIntosh?

Mr. McIntosh: I'm just wondering, we had a discussion around the liability issue for the University lots. Where does that stand?

Ms. Feeney Roser: The liability of using University lots?

Mr. McIntosh: Yes. If I recall, we were paying for using the lots and then we were assuming the liability from the owner of the lot, on top of that.

Ms. Feeney Roser: We do that for special events.

Mr. McIntosh: Yes, but it was going to be for using those lots to take care of overflow parking [inaudible].

Ms. Feeney Roser: That would be if the City leased them from the University. Yes, we'd need to do that. But we talked about that.

Mr. McIntosh: And personally I don't see why if we are paying to use the lots, we should also assume the liability for them.

Mr. Hurd: I think, at least the reason . . . the City isn't using those spaces, and it's that individual businesses are contracting with the University to use those spaces outside of the University hours.

Mr. McIntosh: Well that's a different matter. The way I understood it, the City was considering it.

Ms. Feeney Roser: At one point we did look at doing that.

Mr. Hurd: One thing was we put more parking meters in there and after five, it's a metered lot and that did raise some issues about liability and the City.

Mr. McIntosh: Yes, so that's my point. I am very uncomfortable with paying the University to use the space and then assuming their liability for that space. That's wrong. We're paying to use the space. It's their liability, not ours.

Mr. Firestone: Commissioner Cronin?

Mr. Cronin: I don't have a lot to add, Mr. Chairman, but I do think that the two most important policy topics for the workshop would be revising parking requirements and the parking waiver, fees, policy and administration, which is what I think Alan mentioned earlier. Maybe they should be items 1 and 2 on the agenda and, if time permits, after 1 and 2 and are done as the primary topics, we can reach deeper into topics of lesser importance, perhaps.

Ms. Feeney Roser: May I suggest considering the staff work that's going to be involved in either one of those, that we focus on one, with the idea that we will do the second one at another time. I mean if you want to do this in February . . . if you want to wait until the spring, we would have enough time to do the research on both topics for you, I think. We would want to do it exhaustively and make sure you have all the information that you need. And I know, Michael, it's going to land on your lap, so if I'm giving you too much time or saying it's going to take too much . . . I just know from reviewing parking waivers that it gets very complicated because there are some parking waivers that require the developer to donate land to the City. So those spaces are now part of the City system and I think there's a lot of evaluation of that that's going to have to take place when we talk about the policies and that kind of thing. It certainly can be done. It just that I don't think it can be done well at the same time you're trying to change all the parking regulations that are mandated in the Zoning Code.

Mr. Fortner: And I say if we get the parking zoning requirements and change those or reform them, it could be that we don't really need parking waivers, or at least not as often.

Ms. Feeney Roser: But I think we'll still want to go back and see what happened.

Mr. Fortner: Yes.

Mr. Silverman: I see the logic behind that. That the parking waiver program will be a natural either fall-out or will be given shape by whatever the new parking regulations are.

Mr. Firestone: At this point, I'd like to invite members of the public, if they wish to address the Commission. Please come to the podium and identify yourself for the record.

Ms. Katie Gifford: Hi, Katie Gifford, District 3. I don't have a perfectly well thought out comment but I did read most of the discussion from the last Planning Commission workshop on the topic. I appreciate the verbatim minutes. I think it's great to have all that detail. It's a lot to go through but I do appreciate it.

So when you think about revising the parking requirements and discussing the waivers, I appreciate that I hear from pretty much everyone the realization and discussion about how inter-related all of the parking issues are. We've been doing our little citizen's science here of counting empty spaces in the different lots. And initially it was mainly motivated by the garage discussion and the curiosity around that. So we started pretty much with Lot 1 and its overflow Lot 6. And then my son actually had to do a math project for school with a real world application and he wanted to do something around parking. I can't imagine why. He's tired of hearing me talk about it and not being able to improve it. So he came up with what I thought, as his mother, was a wonderful idea of looking at how the different lots fill up during the day. So we sort of expanded our net and now I've got it down to a science and there's a 12-minute loop where I can walk through Lot 4, 3, 1 and 6, then get back to my office to count the empty spaces. And you see the ebb and flow during the day of which lots are full at different times and it's all inter-connected. And where developers build is going to impact that, too, from demand from visitors and students who often move off-campus, I think, because it's then easier for them to have a car, even if they're moving within the City limits. So I appreciate keeping those factors all in there, whatever topics you end up focusing in on.

And also Council has been sort of talking about possibly raising parking rates, maybe. I mean there's some interest in that since we are such a low cost provider compared to parking in the UD garages. I mean four hours in Lot 1 costs you \$4 and four hours in the Trabant Garage costs you \$10. So we really are, kind of, incentivizing, maybe, some student use of City lots, which, as some of you are saying, you may free up some space for the business customers if we raised our prices. But then if you talk about getting rid of validation, that ties back in, so it's not an easy . . . there's no probably perfect solution but it's great to hear you talking about all the factors that go into it. So thank you for considering this.

Mr. Firestone: Thank you very much. Anyone else? Any further thoughts from any Commissioners?

Mr. McIntosh: I think we had talked about having several meetings and I think the idea of trying to hold another one meeting, I think it's kind of Fantasyland. So I am very much in favor of zeroing in on something and then just having another meeting, and giving the overworked and underpaid . . .

Ms. Feeney Roser: And good-looking.

Mr. McIntosh: And good-looking planners the time to do their jobs, because this isn't the only thing they do all day. So, you know, focus in on one thing and hold another meeting at another time. And I'm not a meeting person, as you well know. So it grieves me to say that. And I'm willing to make that a motion.

Mr. Firestone: It would be useful if we got a more specific motion dealing with which issue or issues we want to . . .

Mr. McIntosh: How about the parking validation?

Mr. Firestone: Is there a second?

Mr. McIntosh: I guess that's a no.

Ms. Feeney Roser: I think it's because you picked parking validation.

Mr. McIntosh: Well I'll pick another – waivers. I meant waivers. Parking waivers.

Mr. Silverman: How about the revised parking requirements?

Mr. McIntosh: I don't care.

Mr. Cronin: Pick the top one.

Mr. Hurd: I'm trying to figure out which one . . . if there's a logical sequence and I don't think that there necessarily is because they are two separate . . . if we're looking at this, they're two separate things: parking waiver fees, policies and administration is sort of a standalone thing. You need to understand that process and I think we agreed that it needs some, sort of, re-working because it's not functioning as well as it should. Tied into that, at some point we need to look at the parking requirements because that's going to drive when people come to us for waivers, is whether they meet the requirements. And I think requirements is where we're going to start picking up some of these other pieces, and maybe in the waiver administration, because we're going to say here is some guidance and you can say before you come to us for a parking waiver, please consider doing these things. And if you do all these things and you still need the waiver, it's some way to sort of bring, for a developer who maybe it's their first time to go, so have you first looked at these lots, looked at these other options before you say . . . or do you come to us and say [inaudible].

Mr. McIntosh: Would that mean if I said revising the parking requirements, somebody would second that?

Mr. Silverman: I will second that.

Mr. McIntosh: Okay.

Mr. Firestone: Any discussion? Hearing none, all in favor of the motion, signify by saying Aye. Opposed? The motions carries.

MOTION BY MCINTOSH, SECONDED BY SILVERMAN THAT THE UPCOMING PLANNING COMMISSION PARKING WORKSHOP FOCUS ON THE POLICY TOPIC OF REVISIONS TO ZONING MANDATED PARKING REQUIREMENTS.

VOTE: 5-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, SILVERMAN

NAY: NONE

ABSENT: STOZEK, DISTRICT 3 (VACANT)

MOTION PASSED UNANIMOUSLY

Mr. Fortner: Is there a date? We didn't get to that.

Mr. Firestone: I mean my preference would be to have it not during one of our normal meetings because I think last time it worked quite well where we recorded in the round and more informal. And I think you might have a lot of [inaudible]. I think that, sort of, informal set-up is probably quite productive, so I think we'd be better off replicating that.

Mr. Silverman: Particularly with the Newark String Orchestra doing strings in the background.

Mr. McIntosh: Well not only that, we had cake.

Mr. Silverman: Yes.

Ms. Feeney Roser: We did have cake. Let's pick somebody's birthday.

Mr. McIntosh: I would expect that to happen again.

Ms. Feeney Roser: Mine is when I have to go to the Boards and Commissions Review Committee. We could just have cake because you felt sorry for me.

Mr. Hurd: So, Mr. Firestone, are you saying you'd want to do it on another Tuesday of the month?

Mr. Firestone: Yes. I mean, I guess they're always on Wednesdays. Not every Wednesday.

Mr. Fortner: There's not a lot of Tuesdays. Just the 21st, but that's after President's Day.

Mr. Hurd: You didn't look at March, did you?

Mr. McIntosh: Well March would be better for me, if anybody cares.

Mr. Silverman: March would be better for me, also.

Ms. Feeney Roser: Did you look at the week after the 15th, Michael?

Mr. Fortner: The week after the 15th there wasn't much available besides the Wednesday because I think you got into Council so I didn't go . . . there wasn't much after that week. But you could pretty much bet on Wednesdays. I'd have to get my calendar but then you get into the last Monday was a Council meeting. The last Tuesday is the Boards and Commissions, and so you get into that week.

Mr. Firestone: What about Tuesday the 14th?

Mr. Fortner: Tuesday the 14th?

Mr. Firestone: That's not up there.

Mr. Fortner: That's not up there so there's something on Tuesday the 14th. I think that's the CAC. It was the CAC.

Ms. Feeney Roser: In March?

Mr. Fortner: In March, yes.

Mr. Firestone: And what about Thursday the 16th?

Mr. Fortner: Thursday the 16th? That's probably Board of Adjustment.

Mr. McIntosh: Well we could invite them.

Mr. Hurd: Tuesday the 21st?

Mr. Fortner: So you want to go later? Give me some dates and I . . . I can't find it right now but . . .

Mr. Hurd: Is the third Tuesday Boards and Commissions?

Mr. Fortner: The last Tuesday . . .

Mr. Hurd: The third Tuesday.

Ms. Feeney Roser: It's the 24th this month. Is that the third?

Mr. Hurd: No, for March. The 21st. Is that Boards and Commissions? Or is that open?

Mr. Fortner: That's a CAC or something.

Mr. Hurd: Then the 24th.

Mr. Fortner: Okay, what date are we talking about?

Mr. Firestone: The 24th.

Mr. Fortner: The 24th of next . . .

Mr. Hurd: The 21st of March.

Ms. Feeney Roser: January 24 is the next Boards and Commissions.

Mr. Firestone: Or Tuesday.

Ms. Feeney Roser: So the third Tuesday might be available, Mike?

Mr. Fortner: It might be. Did you say the fourth Tuesday?

Mr. Firestone: The 24th. There are five Tuesdays.

Mr. Hurd: Oh, but you're talking about March, right?

Mr. Firestone: Yes, but we were just trying to figure out when the . . .

Mr. Hurd: Oh, okay.

Mr. McIntosh: March what? 24th?

Mr. Hurd: March 21st is the third Tuesday.

Ms. Feeney Roser: Well if we can look at other dates and offer them, we can make the decision at the next meeting if it's not going to be in February. As long as we have enough notice to get stakeholders and get the word out about it.

Mr. Fortner: But you like the 21st? I mean we like that date. If, for some reason, it's not available, we can come back, or we could choose the 21st.

Mr. Hurd: Well it seems like there's some logic to doing it on a Tuesday because that's our cycle.

Mr. Fortner: Yes.

Mr. Hurd: That's if there are any Tuesdays available.

Ms. Feeney Roser: Or you take your March meeting and you say that's what we're doing in March. And we adjourn and . . . I mean I don't know that there's any development proposal that will be on in March. I'll know that better the closer we get to February.

Mr. Cronin: I think if you want other stakeholders to come, it might be better to not combine it with a Planning Commission meeting because they're less motivated to come and sit through a portion of a meeting which is of undetermined length and then roll into the workshop.

Mr. Silverman: But I think what Maureen is saying is we have nothing scheduled for March at this point.

Mr. Cronin: At this point.

Ms. Feeney Roser: Well, at this point.

Mr. Cronin: Yes.

Ms. Feeney Roser: There are potentially things that could come in that could make that meeting.

Mr. McIntosh: But I would respectfully suggest that we should be [inaudible].

Mr. Silverman: Yes. And in the round.

Mr. McIntosh: Yes, exactly the way we did it. We were 7:00 – 9:00 and we stayed on schedule and we were done.

Mr. Firestone: Okay, so tentatively we've come up with March 21 or maybe March 7 if there's no other business on that day. And hopefully we won't have to relocate the Newark Symphony Orchestra.

Mr. McIntosh: But we could tell them that we chose not to relocate them and have them play for us.

Mr. Silverman: That's what I thought. The string section.

Mr. Fortner: They take up a lot of the room.

Mr. McIntosh: They don't have to take all the room.

Mr. Firestone: Okay. I guess, then, thank you.

Mr. Fortner: Okay.

5. QUARTERLY REPORT ON PLANNING COMMISSION 10/1/16 – 9/30/17 WORK PLAN.

Mr. Firestone: That gets us to Item 5, the Quarterly Report.

Ms. Feeney Roser: Yes. I just sent over what we've done in October, November and December for the Commission, and talked about the Work Plan items and where we are on each of them. I'll be happy to answer questions or provide more information if you'd like. I guess it's just an acceptance of it.

Mr. Firestone: I have a suggestion on Item 6, Procedural Guidelines, particularly since I'd like to schedule what would be not to have a written proposal from you but instead to have a discussion by the Commissioners on, sort of, our views of the process based on our experience, which would then go into your draft. And we would also take comment from the public as well, since we're talking about a public process and some up-front public insights into the process before presenting to us and the public with a draft.

Ms. Feeney Roser: That sounds good to me. I know that Commissioners Hurd and Silverman have talked a bit about this project. I don't know whether you have something you want to submit.

Mr. Silverman: I do have some draft material I'd like to submit through the Director.

Mr. Firestone: And I can submit some thoughts, as well.

Ms. Feeney Roser: Terrific. Well we can, if you get them to us, we'll consolidate it and we'll just have a conversation about it, then.

Mr. Firestone: So you're going to want our notes some days in advance of the meeting?

Ms. Feeney Roser: Yes, that would be helpful. Fifteen days in advance I will advertise it. The reports or whatever I'm going to compile have to go out a week ahead. So 15 days would be helpful.

Mr. Silverman: What is that cut-off date?

Ms. Feeney Roser: I don't have my phone with me to look at the calendar, but if the meeting is the 7th, that means the report is going to go out on the last day of February.

Mr. Firestone: January 31. I mean January 31 would be the 7 days.

Ms. Feeney Roser: Right. So a week ahead of that would be helpful.

Mr. Silverman: So what reference date would that be?

Mr. Firestone: That would be the 24th.

Ms. Feeney Roser: The 24th. So if you could get it to me on the 23rd, that would be helpful. That way I'll have a whole week before the packets go out. If you could. If not, I'll take it whenever you give it to me.

Mr. Firestone: I can get it to you on the evening of the 23rd.

Ms. Feeney Roser: The 24th is fine.

Mr. Silverman: Do you prefer it in electronic form?

Ms. Feeney Roser: Yes, please.

Mr. Silverman: Mr. Chairman, along with the Quarterly Report, I have a question. We have been without a citizen representative on the Planning Commission for, I believe, District 3 for a quarter of a year. I believe we may be getting into violating the due process of an applicant in that right now if someone comes before us, they have two chances of being turned down and one chance of being approved. Because if we tie 3-3, it's automatically a disapproval. So where is Council on replacing the Commissioner for District 3?

Ms. Feeney Roser: Councilwoman Wallace has indicated that she had someone who she was interested in submitting an application. I don't know that that application has actually been submitted. There was another application submitted for that district, but Councilwoman Wallace prefers to wait to see if the person she would like to nominate would consider it. So I certainly can ask where we are on that, or the Commission can formally request that we move forward.

Mr. Silverman: I think we're putting an applicant at a disadvantage by not having the full Board. I can understand a month or so, or two months, but it's been a quarter of year now. September, October, November, December and now January.

Mr. Firestone: I don't think there's any kind of due process violation. If the Supreme Court can exist without a Justice for more than a year, it seems that the Planning Commission can do so.

Mr. Silverman: Let me re-phrase that. It may discourage economic development interest from coming if they know they have two chances of losing and one of prevailing.

Mr. Firestone: I guess that would depend on who gets appointed. But anyway, I think we would all appreciate it and we don't want to get to a point where we have a meeting where we don't meet quorum as well.

Mr. Silverman: Yes, that's important.

Mr. Firestone: Although having a full complement of Commission doesn't guarantee that we'll have a full complement at every meeting and so there are still probably situations where there could be ties, but I think we would all like to be seven members.

Mr. McIntosh: It's lonely.

Mr. Firestone: I guess the advantage of six members is the meetings are shorter.

Mr. McIntosh: I like that. How about five members?

Ms. Feeney Roser: Would the Commission want to make that a formal request or would you like me just to reach out?

Mr. Silverman: Just reach out.

Mr. Firestone: I think since it wasn't on the agenda, it's better to just reach out.

Mr. McIntosh: Mr. Chairman, before we leave, I don't really want to discuss this but I'm looking at the stakeholders . . . I hate to go back to an item that we already passed over for the zoning parking requirements workshop . . . that's a long list of stakeholders and I just wonder how productive we can be without rather expert facilitation to include ten stakeholder organizations, plus the Commission itself. And because under the others, we did come up with another, as well. And it's just something that we should think about. I'm not saying we shouldn't have the stakeholders at this meeting. We have to, maybe . . . practicality is all.

Mr. Firestone: Does the City have anyone who is a facilitator?

Ms. Feeney Roser: No. You mean like a professional, somebody who could run the meeting?

Mr. Firestone: Facilitation skills . . .

Ms. Feeney Roser: Not that I know of.

Mr. Hurd: I interpreted some of Mike's comments that this is a huge list and depending on what topics we choose to discuss depends on which stakeholders we bring in. Because there's people on that list, if we're going to discuss parking requirements, they don't need to be at the table for that. But if we're going to discuss the parking validation program, they certainly do. Or if we're going to discuss, you know, using the different parking lots, certainly you want to have other people. Maybe at our next meeting we try to knock that list down to something feasible. Because if we said parking requirements are the focus of our next one, then we say who on that list can bring something of value to the table in the discussion about current parking standards and proposed parking standards. Like developers would be for sure, but residents probably not.

Mr. Silverman: Income-producing property owners would be, for example.

Ms. Feeney Roser: Whatever we do will be advertised to everyone.

Mr. Hurd: Yes.

Ms. Feeney Roser: And posted and open to the public. But you're talking about specific invitations . . .

Mr. Hurd: To make sure we get some representation so that we have the whole body of knowledge when we're having the conversation, which is crucial. But I don't think that whole list should show up every time.

Ms. Feeney Roser: Okay.

Mr. Hurd: I didn't mean to say it that way.

Ms. Feeney Roser: I think we understand what you're saying.

Mr. Silverman: There are going to be interested and disinterested parties.

Mr. Firestone: Going back to, more specifically, the Work Plan, is there any member of the public that wishes to be heard? Is there any further comments from the Commissioners on the Work Plan? Okay.

6. NEW BUSINESS

Mr. Firestone: New business. Does any Commissioner have any new business? Okay. The Chair will entertain a motion to adjourn.

Mr. McIntosh: So moved.

Mr. Firestone: Second?

Mr. Hurd: Second.

Mr. Firestone: All in favor, signify by saying Aye. All opposed, signify by saying Nay. Okay, we're adjourned.

Ms. Feeney Roser: Thank you all.

MOTION BY MCINTOSH, SECONDED BY HURD, THAT THE PLANNING COMMISSION MEETING BE ADJOURNED.

VOTE: 5-0

AYE: CRONIN, FIRESTONE, HURD, MCINTOSH, SILVERMAN

NAY: NONE

ABSENT: STOZEK, DISTRICT 3 (VACANT)

MOTION PASSED UNANIMOUSLY

There being no further business, the Planning Commission meeting adjourned at 8:06 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alan Silverman". The ink is dark and the signature is fluid.

Alan Silverman
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary