

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

July 3, 2018

7:00 p.m.

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

Chairman: Jeremy Firestone

Commissioners Present: Bob Cronin
Will Hurd
Stacy McNatt
Alan Silverman
Bob Stozek

Commissioners Absent: Frank McIntosh

Staff Present: Mary Ellen Gray, Planning and Development Director
Mike Fortner, Planner
Tom Fruehstorfer, Planner
Geena George, Deputy City Solicitor

Mr. Jeremy Firestone called the Planning Commission meeting to order at 7:10 p.m.

1. CHAIR’S REMARKS.

Mr. Firestone: Good evening. The Planning Commission meeting for July 3, 2018 is called to order. Just a few brief remarks. I want to thank everyone for coming out the evening of July 3. We are hopeful that through some careful planning of our own, that we can change our schedule from the first Tuesday of the month because we seem to always fall near a lot of holidays – the first of the year, Memorial Day, Labor Day, July 4th, and so on. So, we will see if we can change that for next year.

2. THE MINUTES OF THE JUNE 5, 2018 PLANNING COMMISSION MEETING.

Mr. Firestone: With that, we’re going to consider the minutes from the June 5 Planning Commission meeting.

Mr. Will Hurd: Alright, thank you. Michelle, have there been any further corrections?

Ms. Michelle Vispi: No, no other corrections.

Mr. Hurd: Alright, then the minutes stand as offered with two minor corrections that I had noted to Michelle.

Mr. Firestone: Motion?

Mr. Alan Silverman: So moved.

Mr. Hurd: Second.

Mr. Firestone: Any discussion? All those in favor, signify by saying Aye. Opposed, say Nay. Minutes are approved.

MOTION BY SILVERMAN, SECONDED BY HURD THAT THE MINUTES OF THE JUNE 5, 2018 PLANNING COMMISSION MEETING BE APPROVED.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

3. REVIEW AND CONSIDERATION OF A SPECIAL USE PERMIT FOR RESTAURANTS, WITH ALCOHOLIC BEVERAGES, FOR A PROPERTY LOCATED AT 253 SOUTH MAIN STREET IN THE PARK N SHOP SHOPPING CENTER.

[Secretary's Note: Item 3 was withdrawn by the Planning Department and will be heard directly by City Council on July 23, 2018.]

4. REVIEW AND CONSIDERATION OF ANNEXATION, REZONING AND MAJOR SUBDIVISION WITH SITE PLAN APPROVAL FOR THE PROPERTY LOCATED AT 0 PAPER MILL ROAD FOR THE CREATION OF 18 NEW LOTS FOR CONSTRUCTION OF SINGLE-FAMILY HOMES.

[Secretary's Note: Item 4 was withdrawn by the Planning Department until a future Planning Commission meeting.]

5. REVIEW AND CONSIDERATION OF A SPECIAL USE PERMIT FOR A TOWER, BROADCASTING AND TELECOMMUNICATIONS (INTERIM FACILITY) AT 304 RESEARCH BOULEVARD.

Mr. Firestone: That gets us to . . . both Item 3 and Item 4 were withdrawn, so that takes us right to Item 5, review and consideration of a special use permit for a tower, broadcasting and telecommunications (interim facility) by T-Mobile. Since we've already heard the full presentation for the permanent structure, I think you can probably keep it brief. Thank you.

Mr. Jonathan Jordan: That would be wonderful. I don't know if [the microphone] is on.

Ms. Mary Ellen Gray: Yes, it is.

[Secretary's note: A link to the Planning and Development Department memorandum and supporting documents for the special use permit for 304 Research Boulevard can be found at the end of this document.]

Mr. Jordan: Yes, I would like to incorporate the record, if I could, of the June 5 meeting when we talked about the T-Mobile permanent . . .

Ms. Gray: Excuse me, sir. Could you please state your name for the record? Thank you.

Mr. Jordan: Yes, my name is Jonathan Jordan. I'm the attorney for T-Mobile Northeast, LLC. We're here to talk about a temporary facility for wireless antennas at 304 Research Boulevard, Newark, Delaware. As the Chairman mentioned, we were here last month and we'd like to incorporate that into this record in terms of we had testimony and evidence about the need from a radio frequency standpoint for the tower and the fact that this site on the University of Delaware campus would be a replacement of a site that we currently have on Amtrak property. The Amtrak property is being decommissioned so we need a replacement and we need to coordinate construction on the water tower with the University of Delaware, and we're still going through permitting on that. So, this would be what we call colloquially a Cell on Wheels, where we would kind of drive a truck to a site and then telescope out a tower, and it would just

be a stopgap for a few months until we could put antennas on the water tower. So, I have some experts here to answer any questions that you have, but basically that's probably about it. I think the exhibits speak for themselves. I'd like to offer Exhibits 1 through 10 into the record.

Mr. Firestone: Does any Commissioner have any questions?

Mr. Hurd: I can't tell if Exhibit 10 is supposed to be the structural analysis that the City had requested for the project?

Mr. Jordan: It's the structural analysis that we can give at this time.

Mr. Hurd: Okay.

Mr. Jordan: We spoke with the City about kind of making a full structural analysis a condition of getting the building permit. And, as I understand it, we should have the full structural very soon, within days.

Mr. Hurd: And you're not seeing anything in the at least initial analysis that's going to require any changes to what you're submitting here?

Mr. Jordan: I'm going to ask Mike Bohlinger to introduce himself.

Mr. Michael Bohlinger: My name is Michael Bohlinger. I'm with KM Consulting Engineers and a registered professional engineer in the State of Delaware and 28 other states. We've been going through the structural that was submitted and we've changed some things. Initially, we noticed that the temporary CoW, Cell on Wheels, tower which is mounted on a trailer was going to be guyed within the proposed 40 x 60 compound. Well, that didn't work. Guyed towers with narrow guy lines have tremendous vertical pressure on the structure. An example, the ideal guyed tower would have guy lines that are horizontal, which that doesn't happen, of course. So, you always want to keep them about 45 degrees, i.e., the radius distance out about equal to the height of the tower so that it takes an equal amount of tension as well as vertical load. That was one of the things when we reviewed the structure, we said this isn't going to work. We went back, changed things, and instead of the guyed radiuses being within the 40 x 60 fenced compound, the new structural, which I received today and reviewed, has the guy wires, the anchors, out at 55 feet. In discussions with the property owner/developer, those guy locations outside the compound would be satisfactory for this. Going through the structural work, it's tight. It's at 104.7% which, in the structural tower world, is acceptable. Everything is okay with it. The structure itself, the guys, the one last item we have to refine, is the guy anchor itself, whether we're going to put a block of concrete on the earth at grade . . . in other words, not buried . . . or come in with something like a helical screw anchor that will have adequate capacity to resist the reactions of the tower. But those items can be taken care of quite easily. Any questions?

Mr. Hurd: Do you expect to expand the fenced-in compound to enclose those guy anchors or are they going to . . .

Mr. Bohlinger: It would be my recommendation to put some kind of a fencing around them so that nobody can tamper with them.

Mr. Hurd: Right. Okay.

Mr. Firestone: Are you expecting to have all of these little intricacies worked out before you go to City Council?

Mr. Bohlinger: Absolutely.

Mr. Bob Stozek: How long do you expect this interim operation to be there?

Mr. Bohlinger: It's my understanding it's 2-3 months. Is that right, Jon?

Mr. Jordan: Two to three months after the site is turned over to us and we get our permits. I'm thinking six months, total.

Ms. Stacy McNatt: How tall is the temporary chain-link fence?

Mr. Bohlinger: We'd propose an 8-foot fence.

Ms. McNatt: An 8-foot fence? Is there anything on top of that fence?

Mr. Bohlinger: We'd have to put barbed wire on it. We're just kind of hesitant. Some communities don't want barbed wire and some do. In reviewing the site, I've been to it and my engineers have been to the site, it's a very active construction site and there are a lot of people there and it looks like they probably have night security or something. So, we're not too concerned about vandalism. And that's why we would fence the guy anchors, as well as the compound.

Mr. Firestone: Any other questions at this time? Okay, we have several people from the public who indicated an interest in speaking. Sean Paul?

Mr. Sean Paul: I'm sorry. I'm actually with the applicant.

Mr. Firestone: Okay. How about John Davey?

Mr. John Davey: I am, as well.

Mr. Firestone: Okay. Jon Jordan?

Mr. Jordan: That's me.

Mr. Firestone: Okay, so does anyone else from the public wish to speak?

Ms. McNatt: Chairman, I do have one follow-up question. I'm sorry.

Mr. Firestone: Yes.

Ms. McNatt: On the plan it says the required fence height is 10 feet. So, I'm assuming someone is going to make sure that that fence is 10 feet high or higher.

Mr. Bohlinger: We can certainly make it 10-foot high.

Ms. McNatt: And someone is going to enforce the requirement of 10 feet in fencing height.

Mr. Bohlinger: Again, we can certainly make it 10-foot.

Ms. McNatt: Okay.

Mr. Firestone: Any other questions? Chair would entertain a motion.

Mr. Silverman: I move that we concur with the recommendation of the Planning Department, recommending approval of the 304 Research Boulevard special use permit for a temporary tower, broadcasting and telecommunications, with departmental conditions, as outlined in the report.

Mr. Hurd: Second.

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

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

THAT CITY COUNCIL APPROVE THE 304 RESEARCH BOULEVARD SPECIAL USE PERMIT FOR A TEMPORARY TOWER, BROADCASTING AND TELECOMMUNICATIONS WITH DEPARTMENTAL CONDITIONS, AS OUTLINED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JUNE 25, 2018.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Mr. Silverman: Mr. Chairman?

Mr. Firestone: Yes?

Mr. Silverman: I would like to offer two more conditions, or are we beyond that? I didn't want to make an amendment to cloud the recommendation.

Mr. Firestone: Let's ask legal counsel.

Ms. Geena George: I believe the vote has already been asked. The motion has been carried.

Mr. Silverman: Since I voted with the affirmative, I moved that we reopen the vote for consideration.

Mr. Firestone: Motion for reconsideration. Is there a second?

Ms. McNatt: I'll second it.

Mr. Firestone: Any discussion. All those in favor of reconsidering the decision, signify by saying Aye. Opposed, say Nay.

MOTION BY SILVERMAN, SECONDED BY MCNATT THAT THE PLANNING COMMISSION RECONSIDER THE DECISION TO RECOMMEND APPROVAL OF THE 304 RESEARCH BOULEVARD SPECIAL USE PERMIT FOR A TEMPORARY TOWER, BROADCASTING AND TELECOMMUNICATIONS

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Mr. Silverman: Okay, I would like to add two conditions to this special use permit. That the special use will terminate upon activation of the permanent water tower mounted antenna. And I don't know whether . . . this is a question for the City, is a Certificate of Occupancy issued

for that permanent structure? It seems kind of weird having an occupancy permit, but there has to be some kind . . .

Ms. Gray: Oh, no, it's a, excuse me, it's a Certificate of Completion.

Mr. Silverman: Okay, so when the Certificate of Completion is issued. And the other condition that when the Certificate of Completion is issued for the permanent structure, that the applicant apply for and receive a demolition permit for the removal of the temporary-use-associated physical structures and fencing and any transmitting and receiving devices.

Mr. Jordan: May I make one comment on that?

Mr. Firestone: Yes.

Mr. Jordan: We're totally onboard with both of those, it's just that there needs to be some period of time, whether it be a day or an hour, where they're both kind of online simultaneously. Otherwise, the whole network gets thrown off.

Mr. Firestone: And I presume you'd also need to take it down. So, I'd give them a week, I don't know . . .

Mr. Silverman: That's fine.

Mr. Jordan: Is a week enough?

Unidentified Speaker: There's going to be fencing . . .

Mr. Bohlinger: I thought it was a clarification . . .

Ms. Gray: Can you come to the microphone, please, sir?

Mr. Bohlinger: The first comment was to, upon the issuance of the permit, is that correct?

Mr. Silverman: Upon the receipt of a Certificate of . . .

Mr. Firestone: Completion. So, when it's ready to roll on the water tower.

Mr. Silverman: For the permanent tower.

Mr. Bohlinger: I thought you had your first condition . . .

Mr. Silverman: No. What I don't want to have happen is there are two structures sitting there simultaneously.

Mr. Jordan: Sure.

Mr. Bohlinger: There has to be a little bit, a week or so to take the structure down.

Mr. Silverman: That's understood. But the transition should be something reasonable. Unfortunately, with the City, these conditional kinds of things get lost, and this way it's memorialized in the subdivision agreement with the City Secretary.

Mr. Jordan: Okay, great. Perfect. Thank you.

Mr. Firestone: So I take it you're amending your own initial motion.

Mr. Silverman: Yes.

Mr. Firestone: And why don't you just restate it with the week so that we're all . . . so that we've got a clear record.

Mr. Silverman: Okay, let's . . . Michelle, do you have the statement on the original motion?

Ms. Vispi: The original one where you approved the 304 Research prior to amending it?

Mr. Silverman: Yes.

Ms. Vispi: It would be what was written in the report.

Mr. Silverman: Okay, let's see if I can get the same exact words here with my own handwriting. I move that we concur with the Planning Department by recommending approval of the 304 Research Boulevard special use permit for a temporary tower, broadcasting and telecommunications, with the departmental conditions as outlined in the report. Also, that the special use permit will terminate . . . and I want some help forming this from the applicant . . . once the permanent transmission tower operation is in full operation. Does that work for you?

Mr. Jordan: Can we say in full operation and no longer requires the support of the temporary antennas? Because we don't know, we think it's about a week.

Mr. Silverman: I agree with that.

Mr. Jordan: Okay. Thank you.

Mr. Silverman: I agree with that wording. That the permanent structure be in full operation and no longer requires the support of the service provided by the temporary special use permit. And that the applicant will also apply to the City for a demolition permit for the removal of the temporary-use-associated physical structures and fencing and transmitting and receiving devices.

Mr. Firestone: Just to clarify, they have one week after the permanent structure can operate on its own to physically remove the temporary structure?

Mr. Silverman: Let's hear from the applicant.

Mr. Jordan: We'd have to get the permit and then, as I understand typically, from the time a demo permit is issued, we need 45 days? Can we do something like that? I mean, we can work with the department and try to do it faster but as an outside date . . .

Mr. Silverman: My interest is making sure that the temporary . . . the site is restored to what it was prior to the installation of the temporary activity. That that happens.

Mr. Jordan: The site is restored prior to . . . okay, as I understood it, as I understand it, we put the antennas up, we turn on the new permanent antennas, there's some period of time, we don't know exactly, but hopefully about a week where they're both talking to each other so that they can be handed off, and then we'll apply for a demo permit to take away the Cell on Wheels and, you know, I guess we'll need to have some place to put it and everything. So it can't be, I don't think that T-Mobile can move as fast as seven days, I don't know. Do you have any . . .

Mr. Silverman: I understand the need for overlap and redundancy. The permanent tower, you think everything is going great, there's a glitch and you have to fall back on the temporary, it's working again, and you end up going back and forth between the two towers until you get things fine-tuned.

Mr. John Davey: Right. And let me introduce myself. I'm John Davey, the site acquisition manager for this project. And we have no problem with the deadline. We'll certainly get the thing off as soon as we can. My only concern is a practical matter. Once we know we're ready to take it down, we have to get purchase orders, we have to put it out to bid to get the contractors. So, if we could just have like . . .

Mr. Firestone: What if we just say with all deliberate speed?

Ms. McNatt: What about 30 days? Give them 30 days.

Mr. Davey: I was going to say 45 and, not to sound like a used car salesman, but 45 days from the initial . . .

Mr. Silverman: Forty-five days works for me. That's fine.

Ms. McNatt: From the issuance of whatever that document is.

Mr. Davey: That would be fine. Thank you for that.

Mr. Firestone: Do we have a second?

Mr. Hurd: I'll second.

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

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

THAT CITY COUNCIL APPROVE THE 304 RESEARCH BOULEVARD SPECIAL USE PERMIT FOR A TEMPORARY TOWER, BROADCASTING AND TELECOMMUNICATIONS WITH DEPARTMENTAL CONDITIONS, AS OUTLINED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JUNE 25, 2018, WITH THE ADDED CONDITIONS THAT:

- A. THE SPECIAL USE PERMIT FOR THE TEMPORARY TOWER TERMINATE ONCE THE PERMANENT TRANSMISSION TOWER IS IN FULL OPERATION AND NO LONGER REQUIRES THE SUPPORT OF THE SERVICE PROVIDED BY THE TEMPORARY ANTENNAS, AND
- B. THE APPLICANT REMOVES THE TEMPORARY TOWER WITHIN 45 DAYS OF THE TERMINATION OF THE SPECIAL USE PERMIT FOR THE TEMPORARY TOWER.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Mr. Jordan: Thank you. By the way, we did have a bet in my office that there wouldn't be a quorum, so I won the bet. Thanks for that.

6. CONTINUED DISCUSSION OF LEED CERTIFICATION STANDARDS.

Mr. Firestone: Okay, that gets us then to Item 6, continued discussion of the LEED certification standards. Tom?

[Secretary's note: A link to the Planning and Development Department memorandum regarding the discussion of LEED certification standards and supporting documents can be found at the end of this document.]

Mr. Tom Fruehstorfer: Tom Fruehstorfer, Planning Department. I just have a quick overview before you begin your discussion this evening. LEED, which is an abbreviation for Leadership in Energy and Environmental Design, is addressed in two sections of our Code – Chapter 7, amendments made to the 2012 International Energy Conservation Code, and Chapter 32, site plan approval, where having sufficient points for LEED certification can be an action towards meeting the standards for distinctiveness and excellence of site arrangements and design. Tonight, we're discussing Chapter 7. Code there indicates the following energy conservation and efficiency standards shall apply to all major subdivisions. Major subdivisions are then further divided into two categories. Commercial, institutional, high-rise residential and industrial projects must earn 25 points as specified from credits in LEED 2009 for New Construction and Major Subdivisions. Residential non-high-rise must earn 25 points as specified from credits in LEED 2009 for Homes.

Today we can begin discussing the first of these – commercial, institutional, high-rise residential and industrial projects – and you received a copy of that document in your packets, along with a spreadsheet summary of possible LEED credits and Code-allowed credits. And then LEED for Homes we will discuss at a future meeting. Generally, some of the issues I think you might want to discuss include which project should be required to meet the Chapter 7 LEED requirements. Currently, just major subdivisions are included, so you might want to consider including minor subdivisions also, or even all new construction. And, just so you understand what major subdivisions are, those are projects with six or more residential units or commercial space greater than 20,000 square feet across floor area. Also, you might want to discuss which credits the applicants should be able to utilize. So, you may wish to remove some of the credits from the list and add others to the approved list. Also, you probably want to talk about how many points should be required. The Code can become more rigorous either by increasing the required number of points, or you could take away some of the credits that are less effective at improving the building quality, or a combination of the above.

Some things you might want to keep in mind during the discussion and while making decisions is that these credits were selected in 2012 as a way to encourage buildings to be a little more environmentally sensitive than the norm at the time. We expected the number of points required would likely be raised over time, and building practices industry-wide do seem to have improved since 2012, so the current City LEED requirements may now be closer to normal than they were in 2012, so Code should probably be adjusted to again encourage buildings to be a little more environmentally sensitive than the norm without being overly-restrictive and expensive. This section of Code is not about asking applicants to build better in exchange for something else, so every major subdivision, or whatever the Code is expanded to include, must meet these requirements. And, also, you probably want to keep in mind that our building inspectors are not LEED-certified, so any credits that we choose to add to the list should be some that are easily understood by non-LEED-educated public and building officials. So, are there any questions before you start talking about it?

Mr. Hurd: I have one. We had discussed last month about whether there was a document that showed the differences between the LEED 2009 and the LEED 2018 that's . . .

Mr. Fruehstorfer: I thought we decided that was going to be a discussion in the future and that for now, we were just going to try to adjust these, decide maybe if we wanted to add some possible credits, take some away, raise the number of points, but that changing the whole base LEED standard could be a further discussion.

Mr. Hurd: Right, but there was a discussion that there might be a document out there that documents the differences between the two standards.

Mr. Fruehstorfer: We don't have that at this point, no. That might be something that's not available online free and might be something you need to pay for.

Mr. Hurd: Gotcha.

Mr. Fruehstorfer: I made a quick look for that but it wasn't my main priority. But I was not finding it.

Mr. Hurd: Okay.

Mr. Fruehstorfer: You probably know well, or as well as anyone else, that finding LEED stuff is not made simple. They kind of take you to their main website and then you login to do stuff and I have no way to log in, so all I have is Google.

Mr. Firestone: Alan?

Mr. Silverman: I'm learning as we discuss LEED, the LEED for new construction, can items that do not appear in LEED publications be included to reflect local conditions? Or do we have to pick and choose among the menu that we have in front of us?

Mr. Fruehstorfer: I think the answer to that could be kind of no, just because . . . why was that? There are some sections of LEED that LEED had opened to adding other things, and I thought there was something in our Code . . .

Mr. Silverman: So, it becomes a minimum/maximum code?

Mr. Fruehstorfer: I would think we could add, if you wanted to, if there was something that wasn't in LEED, you could probably add . . . oh, there it is . . . you could add an I. Under 7, it goes A, B, C, D, E, F, G, H. If there was something else that wasn't specifically in LEED that you wanted to add, I would think we could add another item.

Mr. Silverman: My thought here is we've been working on parking and we're going to be getting into parking ratios and parking requirements. I'd like to see one of the LEED criteria being elimination of surface on-site parking, however it's done, through rental of off-site included in the building or just getting rid of excessive surface asphalt. I don't know whether that can be one of the things. And I've also discussed with Will, and I see the pluses and minuses, we get into unique design as having LEED points. There's what's called a Chicago style courtyard site design which was developed pre-air-conditioning. It deals with cross-ventilation and building surfaces that capture moving air, light into structures, and a lot of site design and interior floor plan design that minimizes the use of electricity and air-conditioning. If we could capture an idea like that and give points for innovative, actually going back to older-type technology in lieu of energy usage, if we could add something like that.

[Secretary's Note: A link to the handout from Planning Commissioner Silverman regarding the Chicago courtyard apartment building style can be found at the end of this document.]

Mr. Fruehstorfer: My first thought on the parking, and we might have to go to the solicitor on this one, if we have parking requirements somewhere else, I don't know if there will be a way for us to use this to say that those can be ignored or not. We can talk about that between now and the next meeting to see if there's a way for that.

Mr. Silverman: I know parking is a moving target right now.

Mr. Fruehstorfer: Yeah . . .

Mr. Firestone: I would rather not pre-judge that process.

Mr. Silverman: Okay.

Mr. Firestone: We just had a report and we got it approved by the City Council. It's now in the hands of the Department, and so that's sort of the mandate. I think it's sort of on a separate, and it could function . . .

Mr. Silverman: Okay.

Mr. Firestone: And be brought in when we start looking at the, sort of, as we talked about the Phase II of LEED when we're looking, perhaps, at the newer model . . .

Mr. Silverman: Okay.

Mr. Firestone: And I think bringing it on the issue of the design of buildings, I don't know whether we have anything specifically on like passive solar design.

Mr. Fruehstorfer: There is definitely, one of the . . . if you notice, I went through and I listed all of the possible credits you can get from LEED here. And I've done this with both this one and the LEED for Homes, so at this point, I don't remember what's in which of them, but I know at least one of them did have something where you could use alternative designs.

Mr. Silverman: Okay.

Mr. Fruehstorfer: How that will get difficult is because who is going to determine how many points that's worth? We don't have a . . . our building inspectors aren't LEED-certified. They certainly know the Building Code, but I don't know if they're qualified to evaluate things like that. Certainly, there might be a good way to put it in there, but we're going to have to think about how we're going to word something like that and how we're going to enforce something like that. And I know that's somehow how this Code got the way it is now, limited the way it was now, because the Planning Director back when this was put together was, it must have been before 2012 . . .

Ms. Gray: Was it Roy? It must have been . . .

Mr. Fruehstorfer: It must have been longer than that.

Mr. Hurd: Tim Poole said it was Roy that put it together.

Mr. Fruehstorfer: It was Roy Lopata that wrote it, yes. So, a lot of what he was considering was he was picking things that he thought our building inspectors could enforce and could understand and review. So, adding something like that might be possible but it also might be difficult.

Mr. Silverman: Okay.

Mr. Fruehstorfer: So, we can think about that. And I just saw what you submitted two minutes before when I came down here, basically, so we can think about that.

Mr. Silverman: But as I said, I'm learning about this and I don't know where some of the pieces of the notions that I have fit into our process.

Mr. Fruehstorfer: Right, and passive is definitely not something that is thought of with LEED at this point, although the points of it, one of them I think is specifically tightness of buildings and insulation. But the tightness test, I think, is something you really couldn't possibly want to concentrate on adding to this because I think the current thought is that passive is big, it's probably a good way to go to the future. So, adding tightness as one of the credits is probably getting us there.

Mr. Hurd: Just to clarify, I think you're talking about the passive house standards.

Mr. Fruehstorfer: Yes.

Mr. Hurd: As opposed to passive cooling systems or natural ventilation, which is how passive has sometimes been used, for heating systems.

Mr. Fruehstorfer: I don't know a lot about the passive initiative . . .

Mr. Hurd: I just want to make sure we're talking about . . .

Mr. Fruehstorfer: But I assume it's doing that, right?

Mr. Hurd: Well, no, because way back when people were first doing more energy efficient buildings, they were using natural cooling or passive heating or solar orientation, and those kinds of systems. Passive house came along, is more recent, and that's about over-insulation and tightness and the idea being that the house can passively hold its state. So, it's a different use of the word passive.

Mr. Fruehstorfer: Okay. So, at this point, I don't know if I need to stand up here and answer your questions. I was just . . . I will, but I was just trying to . . . go ahead.

Ms. McNatt: I have a question. So, just to clarify this spreadsheet, the spreadsheet . . .

Mr. Fruehstorfer: Yes?

Ms. McNatt: Where it says LEED points, those are the number of points . . . okay, so for example, in the first item, it says LEED points 1 under Site Selection, the current Code can give you up to 4, correct?

Mr. Fruehstorfer: Yes.

Ms. McNatt: Okay so but then there are other areas where the LEED points are 1, there's no current City Code points, can we request or require or suggest more points than the 1 listed if there's nothing there yet.

Mr. Fruehstorfer: That is exactly what I think we should be doing here.

Ms. McNatt: Okay, good. Thank you.

Mr. Fruehstorfer: Deciding which ones . . .

Ms. McNatt: Yes.

Mr. Fruehstorfer: That's why there's the extra column there that's empty.

Ms. McNatt: Okay great. Good.

Mr. Fruehstorfer: Put whatever you think. So, there are definitely some of these that I . . .

Ms. McNatt: Good.

Mr. Fruehstorfer: And the one example I have is being located close to public transportation. Why are we giving someone points for that? There's a good reason to do that when you have a big area and you're trying to guide development to a certain area, but everything that's being developed is within that distance of public transportation, and people have a site. They're not picking their sites with this in mind, so that's not getting us anything. So, some of those we probably want to take away, and there are energy related points that aren't options now that

we might want to include as options. So, you know, that's up for you to discuss and figure out which should be added.

Ms. McNatt: Okay. I don't know how we do this.

Mr. Firestone: I mean I would concur with you on that 4.1, the public transportation access probably should be zeroed out.

Ms. McNatt: I support that.

Mr. Firestone: We're not Washington, DC, trying to encourage people to be near metro stations and things like that.

Ms. McNatt: Chairman, I don't know how you wanted to do this. Do you want to go down 1-by-1, or do you want to . . .

Mr. Firestone: I think at this point it makes sense for us just to sort of each say what we think, in general, and then we can maybe come to some consensus.

Ms. McNatt: I was going to say, I don't know how Mary Ellen is going to keep all this straight.

Mr. Fruehstorfer: It will be Michelle. Just speak into the mike.

Mr. Firestone: We're not necessarily going to finish tonight. So, we will have, then, a record and maybe they'll come back with a firmer proposal.

Mr. Hurd: More a sense of where each of us is kind of leaning.

Mr. Firestone: Yeah, sort of where we're thinking that we might want to subtract and where we might want to add. So, I was just saying 4.1, and then I would agree on 4.3 on the Low-Emitting and Fuel-Efficient Vehicles. I would argue for option 2, which deals with vehicle charging stations. The other ones on sort of giving out, having efficient vehicles available for people and things like that. So, I think that's probably a good long-term option for development. We saw one developer a month or two ago who said, yeah, I'm going to put in some 240V and be ready.

Ms. McNatt: How many points would you give that, as a suggestion?

Mr. Firestone: I would probably give it 3. You know, that's just me. So, we would lose 6 and gain 3 there.

Mr. Fruehstorfer: One thing I might add right now . . . I'll try not to keep interrupting . . . be aware that you're possibly taking away 6 easy points and adding 3 hard points. So, keep that in mind when you're figuring out what should be the overall allowable points.

Mr. Firestone: I actually don't think that that one is that hard on new construction. It requires some thinking in advance and it might require some expense but, long-term, I actually think it's going to make properties more attractive. So, there may be some short-term costs but, I mean, I agree that we need to think about that, as well. Going onto the next page, on Energy and Atmosphere, I think we could get rid of Credit 6, Green Power. I don't think there's probably a lot of action in this area for people signing power purchase agreements, getting their own sort of separate deals for off-site renewable energy. I would rather see it as noted under Credit 2 for On-Site Renewal Energy, as ways to encourage people to place solar panels and other things. And on Credit 1, Optimizing Energy Performance, I guess I would concur with the consideration that we might want to raise the points there.

Ms. McNatt: I would like to know what your estimated guesstimate on . . . do you like 5? Do you like 7? I don't know.

Mr. Firestone: Yeah, I mean I think optimizing energy performance is, you know, if we're thinking about renting things, too, we have market failures with landlords who have different incentives than tenants, as far as putting in energy efficiency. So, this would be good for tenants, for renters, if they're getting things that are more efficient. So, I don't know quite what the appropriate number is. We'll have to, I think, figure that all out with the balance of all the other numbers. And then I would agree probably . . . I mean I don't know how much action we're getting out of LEED Accredited Professional but it's 1 point and we might want to get rid of it, but it's probably okay, as well. That's near the very end. And I would probably also agree that on the very first page that Credits 1 and 2 are probably too high because they don't have much effect on us. Those are sort of free and easy points that are not really driving better development and moving us to a more sustainable path.

Mr. Silverman: Something that Will brought out and Code Enforcement Officer Tim Poole brought out, and I don't know whether Tom can assist us with this, which of these credits are already incorporated into existing Building Code and building material availability? For example, low-volatile adhesives. I didn't know if you can buy petroleum-based adhesives anymore. You know, that kind of thing. Some of these appear to be obsolete with respect to marketing and Building Code.

Mr. Fruehstorfer: That's my comment that some of the current building practices have gotten almost better than normal back in 2012 when this was put together and is normal now. That's why I think a lot of the spots . . . the energy ones, where there might be a 1-3 or 1-2 possible points on some of those and the applicant is only given the option of doing 2. When our Code was written, it was probably really hard to get to that 3, but now it's not that hard to get to that 3. So, raising some of those that are currently only 1 or 2 points when there's a possible 3, to saying you can get 3 there, is possibly going to be something that's going to be encouraging someone to above and beyond what's normal rather than just something that's okay, because practices have improved and gotten better.

Mr. Hurd: That just brings up a thought and I'll just throw this in while we're, sort of for all of us to think about in terms of where we want to see these credits. We want to make sure, especially in some of these bigger ones, that there's space for the developers to go beyond where we've set that, so if they come for site plan approval, we'd like a LEED silver. So that there's space for them to go and say you asked for 24% better energy, we're going to 48%. So, we don't close that . . . you know, give them space to add points.

Mr. Firestone: Stacy?

Ms. McNatt: Oh, you want me to go next?

Mr. Firestone: Sure, go ahead.

Ms. McNatt: Oh, okay. I agree with Credit 1 and 2, reducing them. I don't believe eliminating them is a good idea, but at least maybe make them a 2 or a 1. I agree with the 4.1 that it just comes off the board. I am very interested in creating and increasing points for 6.1, 6.2, 7.1, and 7.2 . . .

Mr. Silverman: Yes.

Ms. McNatt: For multiple reasons, and if you need me to give them all to you right now, I can. I know one of the comments is that 6.1 is not necessary because the City and State Code requires it, however we need to do a better job at making new construction and new development look further downstream to minimize erosive conditions, and one of the options under 6.1 is in Case 2, for example, as well as Case 1, Option 2, where if they do things to

evaluate and design to reduce excessive erosion downstream, then they would get additional credits. And, so, stopping at the property line, because we all know that water doesn't just stop at the property line and a lot of . . . some of the issues in the City are from increased development, and I think that is a very important item that needs to be added. That developers get credit if they want to go above and beyond to address downstream legacy issues and are doing it as part of a project.

Mr. Fruehstorfer: If I could jump in there because I talked, when I was looking at this, I talked to Ethan in Public Works about this, and he thought that 1, as it was written, is exactly what our Code requires, but 2 would be something really good and it would be great if we had applicants do this and it does take them above and beyond what Code has. So, 6.2 is one that Public Works agrees would definitely be a good one to add.

Ms. McNatt: I want 6.1 and 6.2. I would suggest that.

Mr. Fruehstorfer: Then you're giving them points for something they have to do anyway.

Ms. McNatt: But not necessarily because if there's a stream erosion and they go downstream and say, well, we're going to do a stream restoration to help the stream erosion that's coming from our property, that's not required by Code. So, they're doing something above and beyond because there's excessive erosion conditions that are due to issues that are . . . and that's Option 2 of Case 1 in 6.1.

Mr. Fruehstorfer: And did that have . . . was that more LEED points?

Ms. McNatt: Right now there's no points . . .

Mr. Fruehstorfer: All 6.1 was just 1 point.

Ms. McNatt: Well, LEED has 1, the City has none, and I think it we should be proposing 2.

Mr. Fruehstorfer: Well then you're rewriting LEED.

Ms. McNatt: Well, that was my question to you in the beginning because Credit 1 says LEED points is 1 but the City has 4. So, I don't understand how . . .

Mr. Fruehstorfer: I don't either.

Ms. McNatt: Okay. Well then so that was my question from the beginning. Can I suggest the same thing since it's already like that?

Mr. Silverman: If I'm a developer and I offer to do off-site improvement that's described in one of these LEEDs, can I earn my LEED point by doing those off-site improvements?

Mr. Hurd: Yes.

Ms. McNatt: I believe I'm trying to suggest that that's an option.

Mr. Silverman: Yeah, I think that's valuable.

Ms. McNatt: But my point is, I want to go above and beyond, just like Credit 1. It seems like that's do-able or allowable.

Mr. Silverman: Yes.

Mr. Fruehstorfer: Or was just a mistake.

Mr. Hurd: Or just a mistake.

Ms. McNatt: Do we know the answer to that right yet?

Mr. Fruehstorfer: I don't know the answer to that.

Ms. McNatt: Okay.

Mr. Hurd: Because Site Credit 1 doesn't have a range. It's a single point.

Ms. McNatt: Right, so how does the City have more points than . . .

Mr. Silverman: Yeah.

Ms. McNatt: Okay. Well, I mean, I guess that's a question that needs to be answered. I also agree that 6.2 needs to be added, specifically for the NPDS permitting requirements and there are other things that could be, like the White Clay Wild and Scenic, you know, they may have, if they do something to assist in that environment that helps protect that area, which includes water quality benefits, I agree that 6.2 should be included. Anyway, so mine are all associated with stormwater management and the purpose of protecting the environment. And if a developer does things that are above and beyond to protect the environment, I think it should be a LEED item. So that would be 6.1, 6.2, 7.1, 7.2. I like the light pollution requirement. I don't know how . . . oh, and in Water Efficiency credits, I don't know where this falls, if it falls in these specifically, but I think that if a developer uses all natural, non-invasive native species to Delaware, which is a huge . . . I don't know how to explain it, but it's very forward-thinking. In like New Castle County, I think that if they do those things here, because that's above and beyond, I think, the Code requirement in the City of Newark, then they could get points unless the City of Newark changes their requirements that it has to be Delaware non-native, natural, non-invasive species.

Mr. Silverman: Stacy, would you feel the same way about the use of water gardens instead of inlets?

Ms. McNatt: Rain gardens are a way to reduce water, and rain barrels, which is part of the gray water in Water Efficiency.

Mr. Silverman: Because I don't the City now requires water gardens, or rain gardens.

Ms. McNatt: Or rain barrels. If they go above and beyond and propose those, correct, then I think they should get a point.

Mr. Silverman: Get extra points because it also turns into landscaping and . . .

Ms. McNatt: And native species typically don't need a lot of . . . they adapt to our environment . . .

Mr. Silverman: Yes.

Ms. McNatt: And you don't need to extra water them if they are part of our environment.

Mr. Fruehstorfer: Maybe I could ask that . . . and this is for Stacy and for everyone else . . . if there are things that aren't listed here that you would like to add to it, make a list of specific things that you would like to have that this LEED doesn't say you get a point for, and we can try and figure out a way of listing that as a possible way of getting points, also. It won't be as simple as just adding another line to the chart because we're missing that description that LEED has in the LEED document, it isn't in our Code. So, we'll have to figure out some way to do that, maybe. I don't know if that will be possible or not. But if you get a list of the things that you think should be a point that aren't in LEED, we'll try and figure out a way to include that in Code.

Ms. McNatt: Okay, but I think that what I'm describing is in here somewhere. Like, for example, Credit 1, Water Efficient Landscaping, Option 2, Path 1 says use only captured rainwater. Rain barrels are a way to capture rainwater.

Mr. Fruehstorfer: So it's there. Okay.

Ms. McNatt: I mean I don't know if we have to say examples at some point somewhere. That you get a point if you do . . . I don't know. But I think rain barrels can be in Credit 1 but it also can be in other credits too. And the non-native invasive species can be in landscaping or other sections.

Mr. Fruehstorfer: There are definitely things that can get you points in more than one place.

Ms. McNatt: Right.

Mr. Fruehstorfer: And I think it was more in LEED for Homes that it was calling out things like that. But there are definitely things that can get you a point in more than one spot.

Ms. McNatt: Hmm, what else? Oh, Water Use Reduction, it could fall there, too. Just to let you know it's also in that one. I think Innovation in Design, Credit 1, I think that is a spot we should definitely add points. Again, how many points? I'm not sure. But that was part of the building construction topic you brought up, Tom, in the beginning about tighter homes or tighter buildings. And I know there were a couple of comments on here about, oh, that's not in your building permitting process, so it makes it hard to implement, but I guess my question to that is that if it provides a benefit, is it something that the building/permitting process is willing to figure out to make it work if we think that that's an important one to do?

Mr. Fruehstorfer: We could possibly also figure out some way to do it that's not part of the building permitting . . . maybe put something somewhere else, also. So, list what you want and we'll see if we can include it building permitting, or find another way to do it, if not.

Mr. Hurd: I'll just add a quick comment because it came up last month, I believe it was last month. Part of the issue is that at the building permit time, they submit a list of the credits so that they work against that list when they issue the Certificate of Occupancy. If one of those expected credits is a 6-month evaluation, they can't issue the Certificate of Occupancy because that's six months down the road, so it gets into a paperwork issue, really. And that was what I was asking about, too. So, if they're asking for points that are down the road . . .

Ms. McNatt: Somebody has got to track it, monitor it, and do it.

Mr. Hurd: But then you can't back the Certificate of Occupancy. You can't . . . so I think that gets into the sort of what's feasible for our department to implement without a LEED person.

Mr. Fruehstorfer: We also need to have something that's going to make us think to look at it six months down the road.

Mr. Hurd: Right.

Mr. Fruehstorfer: That's difficult. Everyone is really busy day-to-day doing what they have to do now, and remembering that they need to come back and look at something six months later and then what you said, Will, take away the Certificate of Completion at that point? You can't do it. That's hard.

Mr. Hurd: It makes sense if you're trying to get the plaque. We won't give you the plaque because you didn't complete it, but it's something else entirely when it's an occupied building by that point.

Ms. McNatt: Alright, so I think my last one was the Water Use Reduction, Credit 3, for sure. So, I think those were all my topics of ones that I think should now be added that aren't currently there, and then modifying some of the other ones.

Mr. Firestone: Anybody else want to jump in right now?

Mr. Stozek: I just had one because I agree with most of what's been said. I was curious on the last page where we give a point for providing individual or group lighting control in a building, but we don't give any points for controlling the thermal comfort of the people, and I would think the thermal comfort . . . well, there's pros and cons to all that. I remember working for a guy who I don't know what his metabolism was, but he would walk around in January in a short-sleeved shirt outside, and he had the thermostat for our work group in his office. And, you know, everybody was wearing sweaters in June and July in the office. It was crazy. But that doesn't seem to make a lot of sense that we do something about lighting but we don't give credit for somebody that does something innovative about giving comfort for working conditions.

Mr. Hurd: Thank you. I had a couple of things. I haven't had a chance to go through all the credits but I am noticing that the pre-requisites . . . well, let me start by saying, Tom, great spreadsheet. So, it's really useful to see it all here. I want to make sure I say that first. I would like to see this revised with the pre-requisites included because I think what I have said previously is I think many of the pre-requisites are things we should be looking at and requiring in our Code, as well, as a baseline. But, I think there are some of them that aren't feasible for the reasons we've been talking about in terms of training and paperwork and such. But I need to see which ones they are to know which ones make sense to keep and which ones make sense to not put out. Because I think we're missing a few points by not having them in the list.

Mr. Fruehstorfer: And my guess would be they aren't being looked at. My guess would be that whoever is reviewing this is just looking at these requirements.

Mr. Hurd: Okay.

Mr. Fruehstorfer: So, maybe you want to look through the LEED document and if there are pre-requisites that you think are really important, maybe we can add a line that we need that pre-requisite.

Mr. Hurd: Well, as an example, in Energy and Atmosphere, Minimum Energy Performance is a pre-requisite. So, they're already looking for particular energy compliance which is defined and which we're not calling out. And then from there, they're saying, okay, make it some percentage better than that. So, that's, you know, fundamental refrigerant management, for instance, is one in there, too. So, I know they're kind of getting, I mean they should be getting points, but I think we want to pull them out and say, and this and this and this, as the baseline that we're working up from. Thinking it through, I guess, I would agree I think the general comments on the site credits, I would take out Site Selection, Development Density and Public Transportation Access.

Ms. McNatt: Do you want to remove them altogether?

Mr. Hurd: Yeah, I think in this city, in the places where these are being built, that's not as much a factor for the decisions about where to build. And I'm just echoing the comments that these were really designed to drive people away from greenfield development and outside urban edges and to bring development back into . . . to do more infilling and more stuff. But that's, I think, the [inaudible] that's what you've got. I think, for me at least, on stormwater, I would agree that we want to do the Quality Control, to have good filtration. And I would almost want to keep the Quantity Control, 6.1, open for the next step of the site plan approval. That's me. And I think I would almost do the same thing with Heat Islands. I would keep 7.2 as a requirement and hold 7.1 as a step forward that they could make when they come to us and

say, I want a denser development and I'm doing it because I've got great stormwater management and I'm managing the heat island with my parking, and I'm doing all these additional site things to make this better.

Mr. Fruehstorfer: Will, so you're saying you want to add this to site plan approval, kind of?

Mr. Hurd: Well, since site plan approval is about improved, essentially, improved LEED performance, essentially, I want to give them the space to go from our Code forward. You know, I think I see those two as places where we could encourage them to push into and say . . .

Mr. Fruehstorfer: So, instead of just saying we want you to be LEED certified, or LEED certified plus 5 or 10, we would especially like if you concentrate on these credits.

Mr. Hurd: I've got a number of issues with site plan approval and the list of things we evaluate against. It may be worthwhile to say these are the LEED points that we want you to hit, the LEED credits we want you to hit, if you're going to come to us with a site plan approval because that additional density, that additional development requires mitigating those issues of stormwater and heat and energy and all that. So, I would almost be okay to say, yeah, there's a second table that says, alright, site plan approval, and then there's sort of an open chunk of credits that they could add in.

Ms. McNatt: That's not how it's done now though, correct?

Mr. Hurd: No.

Ms. McNatt: You want to change it?

Mr. Hurd: Yes. They could just say we're going to do it better, LEED better, and that's . . . right. Well and then when we sit here and go, well which better and which credits, you know, so I think if we're picking what we want to see in the baseline Code, I think we can also be picking to say that's the baseline, this is the next step that's pushing forward, and that's . . .

Mr. Silverman: And that's important with our focus areas so we don't get individual decisions as they come in per parcel. The entire focus area would have to conform.

Mr. Hurd: Yeah. And, you know, I think if we're looking at that as issues that we're seeing with higher density, we can say that these are credits that mitigate the effects of higher density as a way to balance that. I would probably push in a few credits for materials just because I'm that way.

Mr. Silverman: What number are you on, Will?

Mr. Hurd: I'm looking at MR credits. So, I agree with the Construction Waste Management. I think that's important. I think Building Reuse is not one we're ever going to really get any traction on. But I think Recycled Content, Regional Materials, and Rapidly Renewable Materials are ones where we could basically ask for 1 out of 2 credits to get some percentage of the materials being used coming from more sustainable sources. I think the Indoor Air Quality is probably good. I would agree with Bob about adding the Thermal Comfort Controllability, specifically I think for commercial and institutional buildings. I think that that's where it really comes into play. And the same for the Daylight and Views. I would say for sure in commercial and institutional buildings. I think multi-family it's less crucial to say have windows that you can see the outside, because you're going to have the windows anyway because you have to have a window in the bedroom. So, that's almost a given in a residential context. In a commercial context it's not as given that you're going to have access to views from all areas of the building.

Mr. Silverman: So, if I did a building around a central atrium . . .

Mr. Hurd: Right.

Mr. Silverman: That light well would count?

Mr. Hurd: Yes. So, it's trying to get narrower buildings or layouts that allow people in all areas of the floorplan to see the outside, and to get daylighting in. I would also concur with striking the LEED Accredited Professional. And the Regional Priority credits might be, now that we've had this conversation, might be where we would add some push for site plan approval to say site plan approval also includes 2 Regional Priority credits because, again, those are regionally-identified areas of concern and this is a place where we can kind of push some of that. Oh, and the last thing, but I know that this, as part of this whole process, I think it would be useful if the table that we end up with for the LEED credits in the Code had the Credit ID in that column so that you could identify specifically which credit so you don't have to use the page numbers. You could say, oh, it's SS.1, and that's the one we're talking about, if that makes sense.

Mr. Fruehstorfer: Ouch.

Mr. Hurd: No, no, no. In the Building Code. Currently it just numbers them, 1, 2, 3, 4, 5.

Ms. McNatt: And they're not in sequential numbering as the credit numbers on your table.

Mr. Hurd: So just, as part of this exercise, when we start putting . . .

Mr. Fruehstorfer: You're breaking each one of the credits down into multiple possibilities and getting specific on which one of the parts of each credit they can . . .

Mr. Hurd: No, no, no. I'm just saying that in the Code, we have a table that says LEED for New Construction, and it has these titled credits. I think we just need a column that says SS.1, Site Selection, 1 credit out of whatever. So, you can reference back to the standard no matter what page it's on more easily.

Mr. Firestone: Alan?

Mr. Silverman: Other than my comments with respect to paving and all, I think that's taken care of in the page 1, 7.1, with respect to parking, stormwater management, again, getting rid of surface asphalt.

Mr. Firestone: Thank you. Bob?

Mr. Bob Cronin: I have a different view on this effort, as a whole. I'm trying to encapsulate my thinking. Gosh, I mean this subject matter and these points and the topics that are laid out by LEED, if you look at some of the early, I guess, descriptions of the process in this [inaudible] for example, I know this is for new construction and maybe renovations, but I'm sure they have something similar for homes, too. I mean these topics and such have been laid out by committees that are anywhere from 13 to 19 people that all have, I think, more professional wisdom and expertise than I do, for sure, and even though we have other folks on the Commission who are more qualified than I to comment on this stuff, I think the wisdom of what they've laid out is probably . . . I don't see any reason to, I guess, diverge from it. They say at one point in here that even this 2009, for example, this result is a significant change in the allocation of points compared with previous LEED rating systems. Each credit is allocated points based upon relative importance of the building-related impacts it addresses. The result is weighted average that combines building impacts and the relative value of the impact categories. Credits that most directly address the most important impacts are given the greatest weight subject to the system design parameters described above. And here we are individually, and perhaps collectively, trying to improve upon, you know, what these folks have done. As time goes on, even their interpretation, it seems, is going to change and evolve, and the composition of our Planning Commission will change and evolve. I don't see the wisdom in

trying to have the City number diverge, really, from what the LEED people have established already. In fact, I see the City Code is only selected items, you know, 44 total points available, and you're supposed to get 25 out of 44. Whereas the LEED people have 111 points. I would probably be more in favor of, you know, allowing all the things to be . . . accept the LEED points system and maybe adjust the total points required.

Mr. Fruehstofer: If I could, Bob, that is exactly what the CAC wanted to do ten years ago. That was what we thought. We would just use LEED and pick a number of points. But evaluating a LEED project takes significant knowledge and training, and a lot of the points that someone might choose to use and say they're doing, our building inspectors have no knowledge of and have no way of reviewing. So, that is why Roy came back and said, okay, these are the ones that we think, as a City, are important to us, and these are ones that our building inspectors are capable of reviewing and verifying that they did. So, that's why we got where we are, because it was something that was enforceable.

Mr. Cronin: Okay. So, accepting what you said, Tom, then what's significantly changed from that earlier approach and analysis?

Mr. Fruehstorfer: Nothing has changed . . .

Mr. Cronin: Okay.

Mr. Fruehstorfer: Except that there is, what was normal building practice ten years ago and some of these credits were selected as a way of encouraging builders to do something better. But now those 25 required points are basically normal construction practices now. So, we're trying to make it, I think the idea is to make it . . . and that was the idea from the beginning. You know, when this was passed in the beginning, it said this is how many points we should get now. Over time, we're probably going to want to raise this. So that's, I think, the process we're going through now, where we're thinking we should raise the points required and also, maybe, reconsider which points are acceptable because the building climate has changed a little bit and something that might have been worth encouraging someone to do before isn't now. Does that make sense?

Mr. Cronin: It does. Then I guess my approach would be to identify whatever the current LEED rating is for the category we're talking about, you know, residential or commercial, allow all the points, any of the points as they prescribe or are available, and then if the City is trying to encourage people to abide by this approach then, over time, perhaps, we should raise the total number of points required, as opposed to try to adjust the weight and balance of the points themselves. Because I don't think we have . . . I don't, individually . . . the wisdom to properly do that. It's not my area of expertise, and I think that, collectively over time, the composition of the Planning Department is going to change and so forth, so I think it's better to rely on the wisdom of the more professional people that develop this. And if the City wants to adjust it from 25 points to 30 points or 50 points, or something like that, that would be my approach, Mr. Chairman. Maybe that's not what you want to hear but that's . . .

Mr. Firestone: No, I mean, I think that's a valid . . .

Mr. Cronin: The balanced perspective that I hope that I can bring to the table.

Mr. Firestone: Position. I think the intention here was to, to a certain extent, come up with an interim solution while we look at this more holistically and long-term, and look at, as was pointed out and discussed here briefly and was discussed in a little more detail last month, these are based on the 2009 LEED. There is now a 2018 LEED, and they've changed it around a lot. So that, actually, is going to take us a fair bit of time to wrap our heads around and figure out whether it makes sense and, if so, how do we move to the new LEED? So, we had, I thought, decided at the last meeting in Phase I that we would try to effectively adjust what we've got and maybe, I mean your suggestion is one way to adjust, and I think the other way to

adjust is to lower some points, raise some other points, and perhaps slightly change the thresholds, depending on how the points work out. On the other hand, there may be, again, certain things, I think, going back to Tom's original point that, for our City, maybe LEED gives something up to 5 points, but for our City it may only . . . we may decide collectively that we don't want, we're trying to move development in a certain way and 5 points would give it, potentially, too much undue weight given our City. I mean, so these are sort of national or international standards, and I think it makes some sense to try to come up with how best to move the City forward. I think we're not going to resolve anything tonight. I think yours is a good point and I think, you know, when we get to it, we'll ask the Planning Department to think about everything that's been discussed, including your point, and to begin to come back to us again with a revision and further thinking. And I think this is going to take us still several more meetings until we're sort of ready to vote.

Mr. Stozek: Mr. Chairman, might I suggest that at the next go-round, we follow-up on what we've done tonight as far as picking and choosing topics, and if people had suggestions on how many points to allocate, put a column down with that, but at the same time, for those topics, put down the points suggested in the LEED document just as a comparison. Because a lot of time we were saying, well, 1-3 or 1-6, not really based on any technical knowledge. Where if we saw that comparison side-by-side, at least we could meld this into our ideas.

Mr. Firestone: Well, I would hope that the Department is going to do some of that legwork for us.

Mr. Fruehstorfer: If I could also add, this spreadsheet does not have everything. You really should go look at the page numbers that are referenced and go down through and read what it is that you need to do to get those points. Because this is just a summary. If I had put all the information, you would have had 100 pages. But what's actually required for the points is pretty important because it's not always exactly the way the description shows. You really need to read the document to know whether they're good or not.

Mr. Firestone: Do you think we would benefit from perhaps at some meeting having a LEED expert, a LEED certifier, come and provide an overview and then also help answer some of our questions, as well, including does it make sense to go with the City's approach or should we follow Bob's approach?

Ms. McNatt: I don't think the expert is necessary until we get to the 2018/19 discussion. I think in the interim, I feel comfortable with my knowledge to have that discussion about just the interim changing some of the weightings and adding some additional points in different locations.

Mr. Fruehstorfer: And, also, we probably really do want to adjust, use things that are clear to the common person because we're asking all builders to do this, even builders that aren't interested at all in being LEED-certified or doing LEED things. We're asking everyone to do this so everyone should understand it. And one other thing about switching to the new 2018. These are versions of LEED that are available online free to everyone. If we try and make a switch to the new version, you have to pay to get it. And how is a common builder who is not involving LEED-certified people going to have access to that and be able to do that? So, there is something to say for having an older version that's free and available online for everyone, too.

Mr. Hurd: Yeah, I'll say that that was an issue, I know, with the ICC Codes and why they now have public access, because almost every municipality says, when we incorporate the ICC Codes by reference, now it's public code, except you had to pay somebody to get it, and there was a lot of backlash. So, the same problem here, we say, we want you to follow LEED 2018 and, by the way, it's going to cost you this much because you've got to go to that . . . you're going to get people who say you should put it as part of the Code on your website, and make it publicly available.

Mr. Fruehstorfer: And they won't let us do that.

Mr. Hurd: And the USGBC [U.S. Green Building Council] is going to say, no, you can't do that because it's our content. And now we're in a . . .

Ms. McNatt: Is there a . . . between 2009 and 2018, is there a middle, is there a 2012 version?

Mr. Hurd: I don't believe there was.

Mr. Firestone: No.

Ms. McNatt: No? It's just 2009 and 2018?

Mr. Hurd: The LEED standards purposely move slowly and by consensus to allow, sort of, technologies and strategies to kind of . . .

Ms. McNatt: Yeah.

Mr. Hurd: I mean, as an example, I think the versions a couple back from this, electric vehicles were big in their mind, except they weren't really being used. And a lot of people were saying how about if I had dedicated parking for hybrids instead of electric vehicles because that's what we've got a lot of, and they went, yeah, that's kind of the same thing. And now hybrids are where . . . and now EVs are coming back in. So, it's swinging. The pendulum swings a lot.

Mr. Firestone: Before we have any further discussion, I wanted to know is there anyone from the public that would like to be heard on this item? And you've got three minutes.

Mr. Hurd: You stole his microphone.

Mr. Smith: I'm Howard Smith, District 4 resident and also a member of the Design Committee, which I think might have had a little bit of input into getting this LEED stuff started. A couple of thoughts. One is I think whether we give them a point or not, I think we ought to require a LEED accredited professional architect, a LEED accredited professional engineer to certify that any points they're asking for are valid, even if they're not going for official certification, because that's the only way we're going to have any confidence that they do. I think we might be trying to nickel and dime this too much. Instead of trying to decide which individual LEED item we like or don't like, I think the idea of just raising the number and let them put them where they want might make it a whole lot easier. And what I don't know, secondly, is, for instance, since there are different organization that control all of this, LEED is one organization that makes their rules, the IBC, International Building Code, folks make theirs, which includes energy codes and mechanical codes, which may be more or less stringent than LEED, DNREC controls most of the stormwater management stuff, which may or may not be more stringent than LEED, and I don't know the comparisons. It might be a little easier to just offer them, you know, we need 40-50 LEED points now. It does make some sense to say, you know, these LEED points don't help the City so those don't count, instead of trying to nickel and dime every single one of them. I think that's it. Thank you.

Mr. Firestone: Okay, thank you very much.

Ms. Jean White: Hi. Jean White, District 1. I have a basic comment on something that you have already eliminated and that is the point, I think it was 1 point, for being near public transportation. And it was said that in Newark everything is near public transportation. Is that so? Well, I'm thinking the public transportation are the Unicity bus, which has different routes around town, the DART buses, which have some routes, and then the Amtrak and SEPTA, which you only can get on at one point. And, so, what constitutes being near to public transportation? One block away? Four blocks away? One mile away? I don't know, but even with the Parking Subcommittee report that was done, it was mentioned in other places as well

that we need to improve our public transportation in Newark. There are problems like some said the #6 bus should really run all the way to the Municipal Building and it does not, and things like that. And I also think that the developer should have to not just say, oh, there's a DART spot there, therefore I qualify. I would be willing to bet that every developer drives a car to where they want to go and doesn't use public transportation at all, like DART buses, for example, or Unicity. And, so, even having the point in there, to me, helps to publicize it to them even if, in fact, they already get the point. And to think about this, I think it's important. I mean what you could do is you could up your total points and then everybody gets that point, but I'm not actually even convinced that every place that would go in would automatically be a good place for public transportation. When you're taking a DART bus and you see the people that need to get to work that either need to get to Newark to work or they need to get out of Newark to work, I think it's not as easy as some of us might think it would be, especially when we have a car at our disposal. That's it.

Mr. Firestone: Thank you. Any other thoughts from any Commissioners?

Mr. Hurd: I just wanted to sort of address that because I think I was the one who made that comment, and I was thinking mostly about large scale development or commercial buildings or institutional buildings tend to be on major roads. But the specific requirement according to LEED is either within a half-mile walking distance of a rail station or a quarter-mile walking distance of one or more stops on a public bus route. But I think your point is also well-taken, is that we may want to keep that just to make people, force developers to just say this is the bus stop that we're near. Just keep it in people's mind about location and things. The thought that I was having, sort of based on how you were talking about this progressing, to my mind, and I think this also might go to sort of a [inaudible], the next round for us to think about might be which of these credits do we think we want to just take out of consideration? Which of these credits do we think are not either ones that could be evaluated by the Code officials or aren't really applicable to the City of Newark's specific conditions, to get the list a little shorter. To give us something to work with. And that's assuming we can reach a consensus on that.

Mr. Firestone: Okay.

Mr. Fruehstorfer: For the next meeting, I can go through and change the empty column into six empty columns and go through and put what I think I heard from each of you. And then you can go through and see three people thought we should add this, so maybe that's one we should add, and that will help you make the decision next time. Does that make sense?

Mr. Firestone: I think it does. I think to keep moving the ball forward and to sort of incorporate, the Department would incorporate all that they've heard today. Obviously, you've heard some disparate things and some things are probably inconsistent with others, but try to give your sense of the best sort of collective wisdom of this body.

Mr. Fruehstorfer: And I will try to include your . . . I'll get rid of my comments in that right column and replace it with what your comments were. And then when you see why someone thought it should be there with their comments, maybe that will help you see why. That might make sense.

Mr. Firestone: Okay, anything else? Are you clear?

Ms. Gray: Yes.

Mr. Firestone: Okay, thank you.

Mr. Fruehstorfer: Please try not to lose that LEED document. Hold onto that for future so we don't have to . . .

Ms. Gray: Yes.

Mr. Fruehstorfer: Print it over and over again. But if you do lose it, let us know and we'll replace it.

Ms. McNatt: And one final question. I know you mentioned it, if we had the native species and plants and some additional comments that we were looking to add, did you say you wanted that, as well?

Mr. Fruehstorfer: Yeah, if there's more that you'd like to have in here that isn't in there, try to see if it is in there somewhere, or think of what you want, and maybe I can figure out a way to add it somewhere. I'm not saying we will be able to but we can think about it.

Ms. McNatt: Thank you.

7. DISCUSSION OF FORMATION OF A SUBCOMMITTEE TO DISCUSS THE TOPIC OF STUDENT HOUSING.

Mr. Firestone: Okay. That then gets us to Item 7, discussion of the formation of a subcommittee to discuss the topic of student housing. For those of us who were at that mid-month student housing meeting, this is sort of what came out of our decision not to take any specific action other than to begin to put together some thoughts on a subcommittee. And I'll turn it over to Mary Ellen.

[Secretary's note: A link to the Planning and Development Department memorandum regarding the formation of a subcommittee to discuss the topic of student housing can be found at the end of this document.]

Ms. Gray: Thank you, Mr. Chair. I wanted to bring this back to the Planning Commission to ensure that I captured the sentiment and comments of the Planning Commission, as well as I felt it would be helpful to put a little bit more, to put additional structure to the recommendation and go as far as suggest a committee format and proposed participants to the subcommittee. And I thought this would be helpful to bring it back and have a discussion to make sure, see if there are any additions or deletions to this memo before we forward it to the City Council for their discussion.

Mr. Hurd: I have one comment and I don't know if this was an oversight or this is how it is.

Ms. Gray: Okay.

Mr. Hurd: On page 3 it says, once completed, the subcommittee will make a report to the Planning Commission for their review and recommendation to City Council. But if we're asking Council to form a subcommittee, a Council subcommittee, wouldn't they report to the Council? I'm not sure why they would come to us first because we have no authority.

Ms. Gray: Okay, where are you? You said you were on page 3?

Mr. Hurd: Yeah.

Ms. Gray: Got it. Second paragraph, second line. Got it. Well that was following the . . . certainly we can change it, but my logic there was that was following the format of the Parking Subcommittee, where they . . .

Mr. Hurd: Right. The Parking Subcommittee, though, was a subcommittee of the Planning Commission.

Ms. Gray: Right.

Mr. Hurd: So, again, it came through us before . . .

Ms. Gray: Correct.

Mr. Hurd: I'm not sure how the structure of City Council subcommittees are and whether they would . . .

Mr. Firestone: It seems like they would go back . . . I mean, if it's a Council subcommittee, it would go back to Council. Council might then say take it to the Planning Commission, but I guess it raises the bigger question of whether people think it should be a Council subcommittee or a Planning Commission subcommittee?

Ms. Gray: Right.

Mr. Silverman: This is going to . . . I'm just going to go right at the issue. The Rental Housing Needs Assessment committee was initiated by City Council with zero input from the Planning Commission. Virtually zero participation until we literally begged to get some of our people on the Phase II. A lot of information was lost. A lot of background was lost. And, from my point of view, there have been such changes in facts and circumstances since the origination of that Council-sponsored subcommittee, that it's virtually useless and worthless. I think that brings us, in my opinion, back to why we're here today, to get a true understanding of the impact of the University of Delaware on housing of all types within the Newark community. And I'm going to suggest a change in the title, that the impact of the University deals with students, permanent faculty, and transient faculty that come in and out of our community. Each of those groups has specific housing needs and impact the community differently, and I think they should be specifically looked at by whatever subcommittee is evolved here. The original work done by Council included virtually no hard demographic background information. There wasn't even a solid inventory of the number of rental units, let alone break-outs of within single-family duplexes, multi-family units, dormitories. There was nothing done by geographic location to see what areas of Newark were greatly impacted. The original committee relied on a lot of anecdotal information and relied on the information that was presented by the people who were interested or aggregated enough to come forward and make their opinions known. The people on that committee didn't necessarily represent, as Frank would say, the entire stakeholders in the housing community in Newark. So, I think it's necessary for the Planning Commission to take the role of the lead in this, so we get it as close to right the first time.

Mr. Firestone: Other thoughts?

Mr. Hurd: Well, I'm going to take a slightly contrary view but not, I think, to the statement of facts because I think Alan well-stated that this is a complex and shifting problem. To me, I mean in the shortest form, this is, I don't want to say above our pay grade, but it's kind of above our pay grade. Because it's dealing with the University. And the University talks to the City. That's the relationship, really, at that sort of level. It's talking about landlords. It's talking about Code policing and such. Those are all departments that I think are under the Council umbrella and not so much under the Planning umbrella.

Ms. Silverman: Yes.

Mr. Hurd: If we use parking as an example, parking, as we saw it, at least initially, and the reason I think we may have originally taken it on, is that we saw it as a Code, it's a problem that could have been generated or fixed by changes in the Zoning Code and such. So, we kind of took it on because it fit into that. The problem and the solutions were actually larger and did require, and are going to require Council-level kind of conversations. But I think we took it because it was seen as being within our domain. Because parking and development can kind of go together. I think housing and enforcement and relationships with the University, that's, I think, outside of what we're best able to do.

Ms. McNatt: Not to say that that study was a bad idea. I think it was a great idea. However, I do agree with Alan that that study was missing a lot of information. Being a new Commission

member, I couldn't . . . I agree that there was a lot of demographic information missing to help either support or not support. And the reason I say that is because I come from a student-dominated neighborhood. And that rental information, and that background knowledge of just my community itself somehow wasn't incorporated into that study. And that information wasn't utilized or analyzed to effectively come up with a good recommendation that I was, that I could get from it. I don't know if that's the best way to say this, so I do agree with some of Alan's points that . . . now where this falls, I'm not sure. But my only question, on top of that, is when it says that the proposed participants are 1-2 members of the community who live in student-dominated neighborhoods, how is that going to be chosen? Is someone going to say, okay, again, I don't know that the rental permits that are issued are identified by this rental permit is a student rental or this rental permit is a family rental, because in my neighborhood I don't think that it's broken down to that type of level, even though I can tell you it's an interesting dynamic that is not normal. And I don't even know if it's rental. I think it's purchased with more than two family-owned . . . what's the saying? More than two . . .

Mr. Hurd: Non-related . . .

Ms. McNatt: Non-related people. We've got a lot of that going on. So, I'm not sure if it's a rental issue, as well, or if it's an owner and then they sublet and, again, I just think there's a lot more information that needs to be analyzed to understand the issues as to how it relates to the University and ourselves. So, I'm not sure how that person is chosen, because I believe there are a lot of student-dominated neighborhoods, but I don't know how that works.

Mr. Firestone: Presumably, the City is going to . . . if the Council does this, they'll appoint someone as chair and they'll go out and recruit people that will figure it out.

Ms. McNatt: That they believe are in student-dominated neighborhoods, or that are truly in student-dominated neighborhoods.

Mr. Firestone: Presumably that they believe are in student . . . I mean, one thing that I . . . the proposed participants, I think, should include a graduate student and an undergraduate student. Probably someone each who are on the undergraduate student council and graduate student council, who can represent the students' interests and ideas and insights into this dilemma. It does say that there would be one or two Planning Commissioners, so that might meet some of Alan's concerns that we were not engaged in the context of the Rental Housing Needs. So, if we are, in fact, brought in from the beginning, I don't know that it really matters if it's ours or City Council's. I mean it's more turf than anything, so I don't really care that much whose group it is. I think it's important that we have one or two Planning Commissioners on it and, so, I'm happy. But I think it's important to have some students.

Ms. McNatt: I think, minimally, it should be two.

Mr. Firestone: What?

Ms. McNatt: I think, minimally, it should be two Planning Commission members, just in case one is unavailable to attend.

Mr. Firestone: Yeah, two is good.

Ms. McNatt: Minimum. Yeah, I think that's a minimum.

Mr. Silverman: And with respect to participants, we heard some interesting testimony quite a while back now when a developer was going to come in and build townhouse style units along Barksdale Road. We had two people come in and testify that they were, I'm going to use the word itinerant. They were itinerant instructors that were on six-month contracts with the University, twelve-month contracts, and they did not want to live amongst students. They wanted to be able to be in a community of like individuals. And they were stating they were

having a hard time finding those kinds of communities. With the University talking about 500 additional part-time itinerant faculty, that's a huge demand. Now, on the other side, we have the STAR Campus and we have no feel for the University and their public/private partnerships, where the University will simply offer land and say to builders, come on down. We want a Disney-esque walkable, happy-time campus down here, and we want to split the revenue with you. So, there's another piece of this University impact on local housing that needs to be very carefully looked at.

Mr. Hurd: Yeah, I was going to add that beyond the undergrad and the graduate, I think you need a faculty . . .

Mr. Silverman: Yes.

Mr. Hurd: I think Alan is right. I think you need an adjunct faculty, not permanent faculty.

Mr. Silverman: That's a better term.

Mr. Hurd: Because permanent faculty are buying houses . . . I'm simplifying, but they tend to be buying and settling. And you're looking for people who are trying to rent at a reasonable rate in areas that aren't dominated by students.

Mr. Silverman: Or may not qualify for mortgages.

Mr. Hurd: Right. For the members of the community living in student-dominated neighborhoods, could I suggest that you're looking for residents who live on or adjacent to exempt streets, currently exempt streets. I think that at least gives you a defined zone.

Ms. McNatt: But that's still putting you in the core of the City. I think there's a larger issue in residential neighborhoods way outside the core of the University that are being impacted that aren't even brought to this table. I mean, specifically, I don't believe some of these student-dominated neighborhoods aren't even rentals. They're buying these things with cash and then they come in and bring six or more of their other family or friends, or whoever, and you've got six cars and you've got . . .

Mr. Hurd: But that's kind of outside the rental . . .

Ms. McNatt: But that's what I don't know because I don't have all the rental information. So, I don't know it all. Does that make sense?

Mr. Silverman: And, see, it's housing impact. The very good work done by Mike and by Tom using the property maps, colorations, and the GIS system, gets towards describing some of those areas that we really don't know the impact.

Mr. Firestone: I mean this is going to be the objective of the group. I don't think we can solve all of these issues tonight.

Ms. McNatt: No, no, of course not. I just wanted to put them on the table.

Mr. Firestone: Yeah. So, what we're trying to do is figure out whether we're going to move forward with this recommendation or not, and whether we want to tweak it at all. But I don't think we can . . . we're just trying to get the ball rolling.

Mr. Cronin: Mr. Chairman, I think the recommendation for the subcommittee is sound and we should go forward with that. I do think the subcommittee should be, I guess, constituted from the Council and report to the Council, particularly if the Mayor is a member of the subcommittee. It might be somewhat inappropriate for the Mayor to be a member of the subcommittee and then the committee reports to the Planning Commission. And I think that if

the Council constitutes the subcommittee, the whole thing has a little more, perhaps, gravitas, particularly if you're going to get, maybe you get a higher-level representative from the University than you would for a Planning Commission subcommittee. And it maybe carries a little more weight and a little more substance or meaning if it's a Council subcommittee reporting to the Council. But I do think we should have two Planning Commissioners on there if we can. If they'll agree to that. I like Stacy's recommendation for that. That's my thought.

Mr. Stozek: I agree. I think it should be a Council subcommittee, for the stated reasons. If you're trying to pull higher level representation into this, I think the Council has the pull to do that, whether it's University or residents.

Mr. Firestone: Would anyone from the public like to be heard on this item? Chair would entertain a motion.

Ms. Gray: Would it be helpful if I articulate the changes that I heard?

Mr. Stozek: Yes.

Ms. McNatt: Yes.

Mr. Hurd: Sure.

Ms. Gray: Okay.

Ms. McNatt: Please.

Ms. Gray: So, the most substantive change I heard was that this would be a subcommittee constituted by the Council and they report to the Council. The proposed participants, there would be a couple of recommended changes to that, that the third one – one or two members of the community who live in student-dominated neighborhoods, who are residents who live on or near non-exempt streets, two Planning Commissions, and add a graduate and undergraduate from the University of Delaware, as well as an adjunct faculty member from the University of Delaware.

Mr. Mike Fortner: Mary Ellen, it should be exempt streets.

Ms. Gray: I'm sorry, what did I say?

Mr. Fortner: You said non-exempt streets.

Mr. Hurd: You said non-exempt.

Ms. Gray: Thank you. I don't know why I put the word non down there. And I wrote down non. I don't know why.

Mr. Firestone: And you want to use the word adjacent . . .

Ms. Gray: Adjacent.

Mr. Firestone: Rather than near.

Ms. Gray: Adjacent.

Mr. Firestone: Adjacent to a . . .

Ms. Gray: Live on or adjacent. Okay, very good.

Mr. Hurd: Right. So, I'll throw out a motion . . .

Ms. Gray: Is there anything else?

Mr. Hurd: Well, I'm going to throw out a motion that slightly adjusts what you said based on what I was thinking, too.

Ms. Gray: Okay. Sure.

Mr. Hurd: So, I move that we approve and recommend to send to Council the document called Formation of a Subcommittee to Examine the Topic of Student Housing in a Larger Context, with the amended changes as outlined by Director Gray, with . . . these are my changes . . . say, two members of the community, one of whom lives on or adjacent to an exempt street and one of whom is in a general area or has . . .

Ms. McNatt: Is in a neighborhood that's impacted by . . .

Mr. Hurd: A neighborhood that's impacted by . . .

Ms. McNatt: Student-dominated . . .

Mr. Hurd: By rental housing, I'll say that. I don't want to get too specific. I want to let Council kind of pick a little bit, but I want to . . . I think Stacy's got a good point. There are areas that are having impacts from rental housing shifts that aren't within the area that we think of as traditionally student rentals. And then I would say it's two Council members and the Mayor, two Planning Commissioners, not the 1-2.

Ms. Gray: Okay.

Mr. Hurd: Those were my only adjustments.

Ms. McNatt: Including the grad, undergrad, and adjunct faculty?

Mr. Hurd: Oh, yeah.

Ms. McNatt: Oh, got it. Sorry.

Mr. Hurd: Mary Ellen had already said that. I wasn't changing that.

Ms. McNatt: Sorry. Thank you.

Mr. Firestone: Is there a second?

Ms. McNatt: I'll second that.

Mr. Firestone: Any discussion?

Mr. Silverman: Discussion. Do we want to expand that . . . and I can't remember the proper word . . . the effect of the University of Delaware on student, faculty . . . student, permanent faculty, and adjunct faculty housing in the City of Newark? Or do we want to just have the narrow scope of student housing? For example, I think tenured faculty at the University with permanent mortgages and permanent residences stabilize the community. Adjunct faculty are, theoretically, adults who have a very different lifestyle than the student at the University, and they require a very different kind of housing or housing demand in the community.

Mr. Hurd: With that comment, may I make an amendment to my motion?

Mr. Firestone: Yes.

Mr. Hurd: I would propose that we change the title of this to a Subcommittee to Examine the Topic of Rental Housing in the Larger Context.

Mr. Firestone: Okay.

Mr. Hurd: And then in that first paragraph, I think I would recommend that we expand it to be student housing, low-income housing . . . or just rental housing in general, in the larger context of the growth of the University of Delaware and its impact on the City. Does that seem to fit, Alan?

Mr. Silverman: Yes.

Mr. Firestone: We had a second on the motion, does the . . .

Ms. McNatt: I'll still hold that second with those modifications.

Mr. Silverman: There's a total dynamic here.

Mr. Hurd: Yes.

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

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

THAT CITY COUNCIL CONSIDER THE FORMATION OF A SUBCOMMITTEE TO EXAMINE THE TOPIC OF RENTAL HOUSING IN A LARGER CONTEXT, AS OUTLINED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JUNE 26, 2018, AND AS AMENDED BY THE PLANNING COMMISSION AT THEIR MEETING ON JULY 3, 2018.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

8. DISCUSSION OF NEXT STEPS OF TID PROCESS.

Mr. Firestone: Okay. That, then, gets us to Item 8, discussion of next steps of the TID process. Mary Ellen?

[Secretary's note: A link to the Planning and Development Department memorandum and supporting documents regarding the next steps of the TID process can be found at the end of this document.]

Ms. Gray: Okay. Thank you, Mr. Chair. As you all are aware, the formation of a Transportation Improvement District is on the, has been on the Planning Commission Work Plan at least for this year and for last year. I can't speak for previous years. So, we've been working with DelDOT and our last meeting included the . . . a checklist, which I included in your meeting materials. It's very procedural. It has a number of processes to follow in which to put together a Transportation Improvement District for the City of Newark, and our next step is to put together a TID Review Committee, and we articulated some recommended entities to be included in the steering committee. Then, this would . . . per your recommendation, then the next step would be for it to go to Council for their approval. And then Planning staff would

convene the subcommittee and then work with DelDOT on Step 3, which is looking at basically the boundaries, if you will, the specifics of the areas that we're going to study within the City of Newark.

Mr. Firestone: Any discussion? Commissioner Silverman.

Mr. Silverman: I read through this packet, I spoke with the Director, and the phrase was used checklist. I would like to know how the specifications in this work program apply to a developed urban area with little undeveloped land such as the City of Newark. I see work items in here referring to . . . there are no page numbers on this. I'm flipping through to Paragraph 14, identify specific projects to improve existing facilities, new facilities. I'd like to see what the State of Delaware has produced for an incorporated place as an end-product to this process so I have some feel for the work product we're going to get. This looks like another nice touchy-feely thing. We're going to discuss the Level of Service, the LoS, within the City.

Ms. Gray: DelDOT has put together, I'm just handing out this hand-out, and I apologize for not including this in these documents. I discovered this document this afternoon, so, my apologies. In the last . . . these pages are not numbered, I did not put this brochure together, but on the last two pages, they do have the TIDs that have been put together or are being worked on. One is in southern New Castle County, which is certainly a suburbanizing area, Westtown in Middletown, which is, I would say, an urbanizing/suburbanizing area, and the City of Dover is another one that they have either in-process or recently completed. I can certainly find out. I would say the City of Dover is pretty akin to the City of Newark regarding they might have a little bit more undeveloped land than the City of Newark but I would say it's certainly akin to it.

[Secretary's Note: A link to the Planning and Development Department handout regarding the DelDOT TID process can be found at the end of this document.]

Mr. Silverman: That's one of the things that bothers me. The largest tract of undeveloped land is the 200+ acres that's controlled by the University on the STAR Campus.

Ms. Gray: Right.

Mr. Silverman: And then if we throw in the Ag Farm property and the Webb Farm property, that is the kind of area on the urban fringe that I think this TID is aiming for.

Ms. Gray: Well, there's kind of a couple of layers. One is the steering committee would help input on not only the section of road segments but . . . and that would be kind of the first step. And when you're stepping down to Step 6 Existing Conditions, what the analysis will entail is looking at areas that . . . I did include a map here, if you want to refer to the map. We made some, just some general circles for areas of redevelopment. So, those areas for targeted redevelopment would be considered new development, if you will . . .

Mr. Silverman: Okay.

Ms. Gray: So we would do an analysis based on the maximum density and zoning for that area.

Mr. Silverman: Good.

Ms. Gray: So let's say if it's RM and . . . it's currently RD and it's proposed to be RM, then we would do 16 units per acre for that area and do the analysis like that.

Mr. Silverman: Okay. That makes a lot of sense.

Ms. Gray: Okay.

Mr. Silverman: The other point in here that really raised a red flag with me is the mention of administrative fees. Now are the areas that are going to be subject to the TID, is there going to be a special user tax that's going to pay for these improvements?

Ms. Gray: Well this would all be worked out as part of the process, and the ultimate product, actually there are a couple of documents that are produced throughout. One is the memorandum of agreement between DelDOT and the City which articulates some of these items. And the final product, the final TID would include the fees. And the basis behind the fees is not that the City would pay into the fees. Any development within the TID and within that scoped area would pay their proportional share. So, the idea is not that the City would be paying into the improvements. The developer would be paying into the improvements.

Mr. Silverman: Only if properties are redeveloped.

Ms. Gray: Correct.

Mr. Silverman: So the local people who are there would have no additional assessment on their property?

Ms. Gray: Correct. Correct, that's the idea of a TID. It's basically taking a TIS on steroids and instead of doing a TIS, you would pay into your proportional share of that improvement for the area. And the developer going into that area would know what their proportional share of the improvements that would be needed, what their cost would be. And, if I could, also, the beauty of it is that most of our developments that I've seen do not rise to the threshold of a TIS. So, this would capture, also, smaller developments that wouldn't rise to the level of a TIS.

Mr. Silverman: Now I know Mr. Stozek has brought up a number of times the cumulative impact of all of these little parcels, little development. Will this TID allow us to take a look at that kind of thing in a holistic way?

Ms. Gray: I think I just, well I was trying to just say that.

Mr. Silverman: Okay.

Ms. Gray: Yes.

Mr. Hurd: I just have one sort of brief comment on the language for the review committee.

Ms. Gray: Sure.

Mr. Hurd: I would just say recommended entities represented on this steering committee include, just to make clear that we're looking for a representative from each of these departments or groups.

Ms. Gray: Okay.

Mr. Hurd: I did have a question about police. Were you thinking just Newark or Newark and the University?

Ms. Gray: That's a good thought.

Mr. Silverman: Yes.

Ms. Gray: I think we should, yeah.

Mr. Hurd: I would think Newark . . . you want to make it be specifically Newark because they handle traffic and such, but I don't know if the University police have input or have thoughts.

Ms. Gray: I think it would be helpful to have UD and Newark.

Mr. Hurd: I was a little disheartened to see that this is a year to 18 months.

Ms. Gray: Well that is based on, I believe that is based on DelDOT's resources because there are a number of steps here in the process that, like for example, Step 6 is all DelDOT. Once the committee and staff articulate the intersections and road segments and the horizon year, and we agree on roles and responsibilities, then DelDOT goes to Item 6, and that's all DelDOT. They do all that analysis. So, that's certainly based on their resources. And in meeting with DelDOT, they said 2-3 months, but that is very optimistic.

Mr. Hurd: Yeah. I think, for me, if I had seen this checklist back when we were first talking about TIDs, I might have gone, oh, okay, this is a long thing.

Ms. Gray: Right.

Mr. Hurd: There's more of me going, it's an easy thing and we should have had it by now, right?

Ms. Gray: Sure. Yeah, it's all . . .

Mr. Silverman: Now one other comment. The GIS . . . will the DelDOT work or part of the contract that the City has state that it will be cross-compatible with the City GIS system?

Ms. Gray: Yes. We're already working on that. Shape files have been shared.

Mr. Silverman: Thank you.

Mr. Firestone: Any other comments?

Ms. McNatt: I have one comment. I don't know if we should identify . . . it just says two Newark residents. Again, should we pick one that's internal to, like closer to downtown, and should one be picked that lives off a more further extent of town? I don't know if that matters to somebody. I know it matters to me because I live on the most, on an area of this map that's not even shown. So, I literally have to go through the entire town two times a day.

Mr. Silverman: You can't vote on this, then.

Ms. McNatt: I didn't say I could vote on it, but I'm suggesting the Newark resident on the committee, I don't know if that should be somebody internal and then somebody who lives on the outskirts.

Mr. Firestone: It is now 9:00 p.m., the witching hour. I am going to exercise my prerogative as Chair to extend us so that we can complete this present item, Item 8, and Item 9, or until 9:30 p.m., whichever comes sooner.

Mr. Silverman: No objection.

Mr. Firestone: Any further discussion on this item? Would anyone from the public like to be heard? Chair would entertain a motion.

Mr. Hurd: I move that the Planning Commission approve the memo prepared by Director Gray outlining the need for the TID review committee and the recommended entities for that steering committee. Is it steering committee or review committee, because you use both terms here?

Ms. Gray: I do, don't I? Let's see what DelDOT puts.

Mr. Silverman: Yeah, what does DelDOT use?

Mr. Firestone: Maybe we can just call it a TID committee.

Ms. Gray: There you go. TID committee.

Mr. Hurd: The memo for the TID committee, striking the steering and review, with the previously noted additions of the Newark and University Police and I think I'm just going to leave Newark residents as Newark residents. I hear Stacy's issues but I just know how hard it is to get people on committees in the first place. So that would be my motion.

Mr. Silverman: Will, before you get a second on that, in the cover there is a review commission to be established by City Council. So, this is a recommendation that City Council . . .

Mr. Hurd: Sorry, right. Approve and send to Council, our recommendation, as contained in this memo.

Mr. Silverman: But it specifically says a review committee established by the City Council.

Mr. Firestone: Yes.

Mr. Silverman: We recommend that the City Council establish a review committee for the purpose of TID and all that.

Mr. Hurd: Okay.

Mr. Firestone: Is there a second?

Mr. Stozek: Second.

Ms. McNatt: I'll second.

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

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

THAT CITY COUNCIL ESTABLISH A TID REVIEW COMMITTEE TO PROVIDE FEEDBACK AND GUIDANCE TO THE NEWARK TID DEVELOPMENT PROCESS, AS OUTLINED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JUNE 26, 2018, AND AS AMENDED BY THE PLANNING COMMISSION AT THEIR MEETING ON JULY 3, 2018.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

9. DISCUSSION OF PLANNING COMMISSION 2019 WORK PLAN.

Mr. Firestone: That takes us to Item 9, discussion of the Planning Commission 2019 Work Plan.

[Secretary's note: A link to the Planning and Development Department memorandum and supporting documents regarding the Planning Commission 2019 Work Plan can be found at the end of this document.]

Ms. Gray: I know. I'm trying to get a little bit ahead of the curve here. And this is more just food for thought at this point. I just wanted to get it out there and get it on the record that we had talked about the 2018 Work Plan back in March and there were some items that Planning Commissioners mentioned that they were thinking of seeing for 2019. So, I just wanted to kind of put it out there and I'd be happy to review those, there were a couple, and just get the Planning Commission starting to think about what they might want to see moving forward, and to indicate that I was also planning on going to the August 13 City Council meeting and getting some of their thoughts to bring back to the Planning Commission for their review, to see whether there are any items they would like to include from the City Council on the Planning Commission Work Plan. Would you like me to go over what has been previously mentioned, Mr. Chair, just as a quick review?

Mr. Firestone: Yes, why don't you go over that.

Ms. Gray: Okay, there was an indication or desire to develop a master plan or master plans for certain areas of the City, to look at the differences between the City Code and New Castle County Code regarding annexations and why developments want to annex in, and looking at it from a resource protection standpoint. Look at how we can get issues associated with stormwater capacity and runoff incorporated and look at a Code amendment to show adjacent property concerns. Let's see, this is from Commissioner Silverman here regarding having a revised requirement for site plans to not necessarily take up the site plan space to show adjacent property owners, and maybe have that articulated in another spot on the plan. That is what I have so far.

Mr. Firestone: Any thoughts?

Mr. Hurd: I'll just add I know that the development plan submittal requirements, specifically the drawings that we request, have been an item that I had sort of internally taken on but have not gotten around to doing anything with. So, I think I should step up and try to do a little bit on that. Because I find it frustrating that we get different types of images and drawings and renderings from different applicants, and I'd like to start getting that a little more standardized. Like a little more informational and a little more a stick to beat them with when they don't show up with the right stuff.

Mr. Silverman: And a companion to that is my request that we do away with listing all the property owners . . .

Mr. Hurd: Yeah. Right.

Mr. Silverman: Who have been contacted on the drawings, and maybe that's a separate addendum that's just referenced in the data column that's part of the record.

Mr. Hurd: Right.

Mr. Silverman: It frees up, visually, the site.

Mr. Hurd: Right. So, and I think we've talked around it that sometimes it's like we get site plans that have a lot of information that's important to the civil engineers and less important to us from a development evaluation and planning evaluation. So, we may or may not get into that, but I'm just thinking about that we've some very nice landscaping and grading plans. We've seen some very nice renderings. The Design Committee has a list of what they want to see when a project comes to them, but we don't have the same list ourselves. So, you know, we'd like to sort of say, take their list and add it to us, and then maybe expand if we want to.

Mr. Silverman: I'm going to use a technical engineering term. We'd like to see the drawings less cluttered.

Mr. Hurd: Yes. Though some of us, as engineers in this field, like to see all that data. So, I don't want to completely eliminate it.

Mr. Silverman: But not all on one sheet. That's the issue.

Mr. Hurd: Alright, so I'll just say that that's something I'm going to try to work on separately in 2018.

Ms. Gray: Okay.

Mr. Firestone: Any other thoughts? Do you need anything more from us, Mary Ellen?

Ms. Gray: Not at the moment. No, I'll bring something back. This would be for September. And for, you know, a list, a revised list for everyone to look at. And, certainly, if Planning Commissioners have any other suggestions, shoot me an email or communicate in some other way so we can have a good discussion. Thank you.

Mr. Firestone: Unless a Planning Commission member wants to make a motion to extend the evening, Chair would entertain a motion to adjourn, and thank everyone for coming and staying a bit over on this eve of the Fourth of July holiday.

Mr. Hurd: So, yeah, I'll move that we bump items 10, 11, 12, and 13 to a future meeting, and adjourn after Tom talks to us.

Ms. Gray: Yes, Tom has something.

Mr. Fruehstorfer: I have the LEED for Homes information in a spreadsheet just like I gave you for the other one . . .

Mr. Firestone: Terrific.

Mr. Fruehstorfer: So you'll have more time to look at it.

Mr. Firestone: Thank you.

Mr. Fruehstorfer: So, I'm going to pass that out.

[Secretary's Note: A link to the Planning and Development Department handout regarding LEED for Homes can be found at the end of this document.]

Mr. Firestone: Thank you. Is there a second on the motion?

Mr. Silverman: Second.

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. We stand adjourned.

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

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

[Secretary's Note: The Planning Commission meeting adjourned prior to discussion of agenda items 10, 11, 12, 13, 14, and 15, listed below.]

- 10. CONTINUED DISCUSSION OF REZONINGS AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS FOR FOCUS AREA 5 – SOUTH CHAPEL STREET, AS DESCRIBED ON THE PLANNING AND DEVELOPMENT DEPARTMENT COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS MAP. [Withdrawn until a future Planning Commission meeting.]**
- 11. DISCUSSION OF REZONINGS AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS FOR FOCUS AREA 2 – CLEVELAND AVENUE, AS DESCRIBED ON THE PLANNING AND DEVELOPMENT DEPARTMENT COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS MAP.**
- 12. DISCUSSION OF REZONINGS AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS FOR FOCUS AREA 3 – NEW CENTER VILLAGE, AS DESCRIBED ON THE PLANNING AND DEVELOPMENT DEPARTMENT COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS MAP, IF TIME ALLOWS.**
- 13. DISCUSSION OF REZONINGS AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS FOR FOCUS AREA 1 – NEW LONDON ROAD, AS DESCRIBED ON THE PLANNING AND DEVELOPMENT DEPARTMENT COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS MAP, IF TIME ALLOWS.**
- 14. NEW BUSINESS.**
- 15. INFORMATIONAL ITEMS.**
 - a. QUARTERLY REPORT ON PLANNING COMMISSION 2018 WORK PLAN**
 - b. PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS**
 - c. CONGESTION CAN BE GOOD (CNU.ORG)**

There being no further business, the Planning Commission meeting adjourned at 9:17 p.m.

Respectfully submitted,



Willard F. Hurd
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

- Exhibit A: [Planning and Development Department memorandum \(304 Research Boulevard\)](#)
Exhibit B: [Planning and Development Department memorandum \(LEED certification standards\)](#)
Exhibit C: [Planning Commissioner Silverman handout \(Chicago Courtyard Apartment Building\)](#)
Exhibit D: [Planning and Development Department memorandum \(Formation of Subcommittee on Student Housing\)](#)
Exhibit E: [Planning and Development Department memorandum \(Next Steps of TID Process\)](#)
Exhibit F: [Planning and Development Department handout \(Next Steps of TID Process\)](#)
Exhibit G: [Planning and Development Department memorandum \(Planning Commission 2019 Work Plan\)](#)
Exhibit H: [Planning and Development Department handout \(LEED certification standards\)](#)