

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

September 4, 2019

7:00 p.m.

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

Chairman: Alan Silverman

Commissioners Present: Bob Cronin
Will Hurd
Karl Kadar
Stacy McNatt
Bob Stozek
Tom Wampler

Commissioners Absent: None

Staff Present: Mary Ellen Gray, Planning and Development Director
Mike Fortner, Planner II
Paul Bilodeau, City Solicitor

Mr. Alan Silverman called the Planning Commission meeting to order at 7:01 p.m.

1. CHAIR’S REMARKS.

Mr. Silverman: The City of Newark, Delaware Planning Commission meeting for Wednesday, September 4, 2019 will come to order. The first item of business on our agenda is Chair’s Remarks and I would like to turn the microphone over to our Director.

Ms. Mary Ellen Gray: Very good, thank you. Michelle, do we have the . . . oh, we have the microphone over here. Great. So, if we all could rise and assemble in front of the dais, please. We have a presentation to make. And, Mr. Cronin, if you could join me over here.

Mr. Bob Cronin: We don’t have to do all this.

Ms. Gray: Yes, we do.

Ms. Stacy McNatt: We’re going to have to squeeze in.

Ms. Gray: Yeah, come on over to this side. Balance it out, please.

Mr. Mike: Fortner: We have this podium right here. It’s kind of in the middle.

Ms. Gray: Yes.

Mr. Silverman: Are we supposed to be friendly?

Ms. Gray: Yes, you are supposed to be friendly.

Ms. McNatt: Guys, we have to stand sideways.

Mr. Fortner: Alright, here we go. One, two, three. One, two, three.

Mr. Silverman: Thank you.

Ms. Gray: Thank you. Okay. Alright, so Planning Commissioner Bob Cronin has decided to not be reappointed to the Planning Commission after his term expires on September 15, 2019. Consequently, this meeting is his last. So, we're very sad. Planning Commission Chair Silverman and I would like to take a moment to recognize Mr. Cronin for his service to the City of Newark. This is your certificate, which we have right here, which I shall read. It is in grateful recognition for seven years of dedicated service as a member of the City of Newark Planning Commission. Your contributions to the Commission helped to make the City of Newark a better place to live, work, and play. Presented on this fourth day of September 2019. This is presented with a deep sense of gratitude and a little sense of regret that you're leaving.

Mr. Cronin: Thank you very much, Mary Ellen.

Ms. Gray: Okay. It also comes with some Newark swag that Jenny recommended. It's also wrapped with some plans.

Mr. Cronin: That who recommended?

Ms. Gray: Jenny . . .

Ms. McNatt: She sits at the front desk.

Ms. Gray: Sits at the front desk. So, if it doesn't fit, just come back and she will fit you with another, something else that might be suitable for you. But I did wrap it in, I think, Mara's Landing's old plans to remember us by.

Mr. Cronin: Very good.

Ms. Gray: So, thank you, sir.

Mr. Cronin: Thank you very, very much. Thanks everyone.

Ms. McNatt: That's awesome.

Mr. Karl Kadar: That's it?

Ms. Gray: That's it, unless you'd like to say anything, Mr. Cronin. Okay.

Mr. Paul Bilodeau: Congratulations. Was it me?

Mr. Kadar: It had to be me.

Mr. Bilodeau: It was you, Karl.

Ms. Gray: Stacy just went to the restroom, so do you want to do the meeting minutes while she's in the restroom?

[Secretary's Notes: Ms. McNatt exited the Council Chamber at 7:04 p.m.]

2. THE MINUTES OF THE JULY 30, 2019 PLANNING COMMISSION MEETING AND THE AUGUST 6, 2019 PLANNING COMMISSION MEETING.

Mr. Silverman: Okay, continuing to Item 2 on our agenda, we have two sets of meeting minutes to approve. Let me get these in order. We have the July 30, 2019 Planning Commission meeting minutes. Madam Secretary, have we had any additions or corrections?

Ms. Michelle Vispi: We have not.

Mr. Silverman: Do the Commissioner's have any additions or corrections? Hearing no exceptions, the minutes stand approved.

THE MINUTES OF THE JULY 30, 2019 PLANNING COMMISSION MEETING ARE APPROVED.

Mr. Silverman: The second set of minutes are for the August 6, 2019 Planning Commission meeting. Madam Secretary, do we have any additions or corrections?

Ms. Vispi: No, we do not.

Mr. Silverman: Okay, do the Commissioners have any additions or corrections? Okay, without objection, the minutes stand approved.

THE MINUTES OF THE AUGUST 6, 2019 PLANNING COMMISSION MEETING ARE APPROVED.

Mr. Silverman: The Director has an announcement to make with respect to a future meeting.

[Secretary's Note: Commission McNatt reentered Council Chamber at 7:06 p.m.]

Ms. Gray: Yes, thank you, Mr. Chair. As happens around every time this year, the Capital Improvements Plan, per the Code provision 2-89 . . . per our Code provision in our Charter, it indicates that the Planning Commission shall review the Capital Improvements Plan and make recommendations to City Council on that. So, we have, internally, the Finance Director and the City Manager can make the date of October 15 for that meeting, but I wanted to check with the Planning Commission to see whether that date of October 15 at 7:00 p.m. will work for the Planning Commission.

Ms. McNatt: Are you taking a poll?

Ms. Gray: Yes, ma'am.

Ms. McNatt: I am not available.

Ms. Gray: You're not available. Okay.

Ms. McNatt: But thank you.

Ms. Gray: You're welcome.

Mr. Silverman: Okay, Commissioner Stozek is available and Commission Hurd is available.

Mr. Wampler: That's this October? Yes, I am available.

Ms. Gray: Okay.

Mr. Silverman: Commissioner Wampler is available.

Mr. Karl Kadar: I'm be here.

Mr. Silverman: Okay. And Commissioner Cronin is not available.

Mr. Cronin: I'll be in Florida.

Mr. Silverman: Good for you.

Ms. Gray: Oh, okay.

Mr. Silverman: And I'm available, so it looks like we have a quorum.

Ms. Gray: Okay, very good.

Mr. Silverman: Madam Director, you'll get the necessary notification and announcement out?

Ms. Gray: Yes, sir, absolutely. Thank you.

3. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE RELATING TO CHAPTER 27, APPENDIX IV, SECTION V. ENFORCEMENT AND PENALTIES.

Mr. Silverman: Moving on to Item 3 on the agenda, review and consideration of amendments to the Zoning Code relating to Chapter 27, Appendix IV, Section V, enforcement and penalties. This is an action item for tonight.

Ms. Gray: Thank you, Mr. Chair. By way of background, this is . . . the City had an occurrence a while back where we would have liked to have been able to issue a fine via the penalty section of the Sediment and Stormwater Ordinance of the City Code but were unable to do so. The Public Works and Water Resources Department asked us to revise this part of the Code to allow the City to issue fines in the penalty section of the Sediment and Stormwater section of the Code. So, we modeled this process after the amendments to our Property Maintenance Code, which was revised a few years back to permit the issuance of a civil citation subject to the right of appeal in Alderman's Court by the Code Official, whereby it gives the Code Office the power to impose a fine and file a lien if the fines are not paid. So, the proposed revisions in Chapter 27 indicate the addition of fines either by the Alderman, the Code Official, and/or the Public Works and Water Resources Department as an enforcement remedy, add fines to a lien, and to allow related fees and expenses to be added to the lien. And those are all described in the attachment labeled Draft 1, dated August 28, with the additions indicated in underline. Mr. Chair?

[Secretary's Note: A link to the Planning and Development Department memorandum on the amendments to the Zoning Code relating to enforcement and penalties can be found at the end of this document.]

Mr. Silverman: Mr. Bilodeau, do you have any comments or additions?

Mr. Bilodeau: None. This goes back to my predecessor. Mr. Herron issued a memo or legal opinion back in 2015 that said that we could not include liens and fines the way this ordinance was written, so that's why we're changing it now. I was involved with the drafting of this ordinance, so I have nothing against it.

Mr. Silverman: Okay. Do the Commissioners have any comments?

Ms. McNatt: I just wanted to clarify . . .

Ms. Gray: Yes?

Ms. McNatt: The Public Works and Water Resources section has reviewed this, and believes this is the appropriate language they need to be able to enforce . . . I mean, your language . . .

Ms. Gray: Yes.

Mr. Bilodeau: That is correct, and I worked with them, as well, on this language.

Ms. McNatt: And this language, from what I understand, allows the Public Works section in the City to impose liens onto properties if they don't pay a fine? Is that correct?

Ms. Gray: Yes.

Ms. McNatt: Thank you. I'm very supportive.

Ms. Gray: You're welcome.

Mr. Silverman; Commissioner Wampler?

Mr. Wampler: Thanks, I just have a question about the wording in Lines 35 and 36. I find it a little confusing. It says, showing as of the date the lien document is prepared, all related fines that have been imposed as of the date the lien document is prepared by the Alderman. Does that, as of the date the lien is prepared, does that need to be in there twice?

Mr. Silverman: Mr. Bilodeau?

Mr. Wampler: It seems confusing to me. Line 35 and 36, page 1. Maybe nobody else thought that was confusing, so . . .

Ms. McNatt: It does seem redundant. Maybe there's a reason that the Alderman has to be specifically noted. I'm not sure.

Mr. Bilodeau: I see what it says. It says it both times. I was just trying to be, probably I overdid it on that. I just wanted to make sure because a lot of times these fines are daily fines, so that I wanted to be able to capture the fines as of the day that this lien document is created. That's why I put it in there twice.

Mr. Silverman: So, it links it back to the actions of the Alderman's Court, particularly if it's a continuous action.

Mr. Bilodeau: It is. There are daily fines.

Mr. Wampler: So, this reads as you intended, right?

Mr. Bilodeau: Correct.

Mr. Wampler: Okay, I just wanted to make sure that, you know, to me it seemed redundant. But if you had a specific reason for doing it, I'm fine with that. I just wanted to bring it to people's attention.

Mr. Silverman: Commissioner Hurd?

Mr. Will Hurd: Nothing.

Mr. Silverman: Commissioner Stozek?

Mr. Stozek: No.

Mr. Silverman: Okay. Mr. Kadar?

Mr. Kadar: I have a few questions and most of them are around, there's a lot of ambiguity in here in terms of it says, for example, Line 21, notification of violation. A certified letter explaining the Code violation with a timeframe set forth to cease the violating action. Who determines the timeframe?

Mr. Bilodeau: That would generally be the Code Official. And that part of this ordinance is the same, we're not changing it.

Mr. Kadar: So, it could be anything from 15 minutes to 15 years, right? It's pretty wide.

Mr. Bilodeau: It is. For instance, an example could be tall grass. They could say you've got five days . . .

Mr. Kadar: Yeah.

Mr. Bilodeau: Or it could be, you know, it could be raining, and we could say you've got to cut your grass as soon as it's dry enough. So, I think the Code Official is the one that determines the timeframe.

Mr. Kadar: Okay. Then on Lines 32 and 33, there's a question about the timeframe required to pay the fines. And that's not specified either. And then, further on Line 44, 45, and 46, fines and/or expenses may be, may be imposed and may include. Again, may is pretty ambiguous. And then the fine can be anywhere, on Line 53 or 52, can be anywhere from \$100 to \$1,000. Who determines that?

Mr. Bilodeau: Once again, the Alderman certainly can determine the fine. The Code Official will basically put in their language what the fine would be and they have the ability to impose a fine. If someone wants to appeal it, then they go to the Alderman. So, it's kind of . . .

Mr. Kadar: So, there are no guidelines specified behind this that say, you know, if someone doesn't cut his grass it's \$100. If someone doesn't repair a wall that's about to fall down on the house next door, it's \$1,000. There's no guideline? It's whatever the Alderman decides?

Mr. Bilodeau: Well, it's similar to let's say a misdemeanor charge in Alderman's Court. The fines range anywhere from \$0 to \$500 and actually includes jail for up to 30 days, or up to less than a year. So, there is some leeway that whoever the judicial person is, whether it's the Alderman or the Code Official that's enforcing as to the amount of fine that is going to be imposed.

Mr. Kadar: So, it's an official specifies a fine, it's taken to the Alderman, and then as any judge would do, they make the decision and that's what it is? Okay. I just see it as kind of broad.

Mr. Bilodeau: Right.

Mr. Kadar: On purpose.

Mr. Bilodeau: On purpose.

Mr. Kadar: Okay, I have no further questions.

Mr. Silverman: Are there any questions from the public? Hearing none, are we ready to, we are voting to recommend?

Ms. Gray: Yes, sir. There's a proposed motion, a recommended motion . . .

Mr. Silverman: Okay, I see it.

Ms. McNatt: Do you want, who do you want to do that? Do you want me to make a motion?

Mr. Silverman: It's on Page 2 of the memo. The Chair entertains a motion.

Mr. Hurd: Sure, I move that the Planning Commission recommend approval of the proposed changes to Chapter 27, Appendix IV, Section V, Enforcement and Penalties, the City of Newark Code, as described in the Draft 1 dated August 28, 2019.

Mr. Silverman: Okay, is there a second?

Ms. McNatt: Second.

Mr. Silverman: Okay, it's been moved and seconded. Are there any questions? Hearing none, we'll move directly to the vote. All those in favor, signify by saying Aye. All those opposed, Nay. The motion carries.

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

THAT CITY COUNCIL AMEND CHAPTER 27, APPENDIX IV, SECTION V OF THE CITY OF NEWARK CODE AS DESCRIBED IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED AUGUST 28, 2019 AND ATTACHMENT TITLED AN ORDINANCE AMENDING CHAPTER 27, APPENDIX IV, SECTION V, CODE OF THE CITY OF NEWARK, DELAWARE, ENFORCEMENT AND PENALTIES, REGARDING LIENS AND RELATED FINES IMPOSED BY THE CODE OFFICIAL, THE ALDERMAN OR PURSUANT TO CITY CODE, DRAFT 1, DATED AUGUST 28, 2019.

VOTE: 7-0

AYE: CRONIN, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER

NAY: NONE

MOTION PASSED

4. DISCUSSION OF PLANNING COMMISSION 2020 WORK PLAN.

Mr. Silverman: Okay, moving on to Item 4 on our agenda, discussion of Planning Commission 2020 Work Plan.

Ms. Gray: Okay.

Mr. Silverman: Madam Director?

Ms. Gray: Mr. Chair, thank you. So, based on the discussion from the July 30 meeting, I put together a draft work plan for 2020, for the 2020 Planning Commission Work Plan for discussion.

[Secretary's Note: A link to the Planning and Development Department memorandum on the Planning Commission 2020 Work Plan can be found at the end of this document.]

Ms. Gray: Mr. Chair, do we want to kind of go through item-by-item or how would you like to do it?

Mr. Silverman: Do the Commissioners want to go through item-by-item?

Ms. McNatt: I don't need it.

Mr. Hurd: No, I have comments but . . .

Mr. Silverman: Okay, let's just open it up for general comments. And when you make your comments, please refer to the page number so we can follow for the record.

Mr. Hurd: Sure. I guess I'll open. One is just a correction to Item 6 on Page 1, review and make recommendations on proposed revisions to the Green Building Work Group, which more formally would be amendments to the IECC Code that's adopted by the City. Because we don't have specifically, I think, Green Building Code. We adopt the International Energy Conservation Code and have made amendments to it for the, currently using LEED credits. I'm assuming you're talking about the work product coming out of that committee.

Ms. Gray: Yes, sir. I'm sorry, what page are you on, Will?

Mr. Hurd: Page 1, Item 6.

Ms. Gray: Yes.

Mr. Hurd: So, you're saying make recommendations on proposed revisions to the Green Building Work Group, which we're not making revisions to the Work Group, we're making revisions to the Code.

Ms. Gray: Yes, you are. Okay, so how would you like that to read?

Mr. Hurd: Just, I guess . . .

Ms. McNatt: As proposed by the Green Building Work Group.

Mr. Hurd: Yeah, review and make recommendations on proposed revisions to the IECC, amendments to the IECC as proposed by the Green Building Code Work Group.

Ms. Gray: The I . . .

Mr. Hurd: The IECC. It's the Code that we are amending. We're using that as our . . . and then on Page 2, our wish list of items that we'd love to get included into things. I'd just like to make my pitch again for taking a look at site plan approval and seeing if we can develop a secondary sort of approval for redevelopment projects as opposed to greenfield development. I wrote a memo a while ago about it.

Ms. Gray: Yes, you did, but it's been a while. So, what wording would you like to have in there?

Mr. Hurd: I guess . . .

Mr. Silverman: Do you want review or revisit the site plan approval process?

Mr. Hurd: The thing is that I think the existing site plan approval process is fine for greenfield development. Where I feel it breaks down is when we're redeveloping existing properties within the City because several of the provisions for consideration don't often come into play on the sites that we're looking at. There's no open space to be maintained. There's no green, no connection to nature. There's no, you know, several of these things can't be addressed when it's all parking and building. So, I think there are aspects of redevelopment, there are issues around redevelopment that we see in things like stormwater, parking, connections to the network, and some other sort of things that I would like to see basically a secondary similar sort of Code section, a secondary section using similar language but different criteria.

Mr. Silverman: Will, if I can help you with the wording on that, I think I can capture the essence of what you're saying.

Mr. Hurd: Okay.

Mr. Silverman: Research and make policy recommendations on the application of the site plan approval process for redevelopment areas.

Mr. Hurd: Love it.

Ms. Gray: Okay, research and make policy recommendations . . .

Mr. Silverman: Recommendations on the application of the existing site plan development . . .

Mr. Hurd: Site plan approval.

Mr. Silverman: Approval process for areas involving redevelopment.

Mr. Hurd: And as a side note, if we could consider a better title for that section, I think it may make it clearer for people.

Mr. Silverman: Okay, so we've got two things.

Mr. Hurd: Right, but I think site plan approval is a bad title, because that's what we do all the time. We approve site plans. But then there's this secondary process that involves, you know, approving variances and . . . I just think it could have a better name.

Mr. Silverman: Yeah, site plan approval gets confusing. Is it capitalized or is it lower case?

Mr. Hurd: I think I tend to lean toward discretionary site plan approval as the title . . .

Mr. Silverman: Okay.

Mr. Hurd: Because then that says, you know, we're using our discretion. But anyway, that's just my . . .

Ms. Gray: Thank you.

Ms. McNatt: Does that move from a wish list to the . . .

Mr. Hurd: No, I'm keeping it on the wish list.

Ms. McNatt: Oh, keeping it on the wish list. Okay.

Mr. Silverman: Are all the Commissioners clear on the section we'd like to add to the potential, the wish list? Are there any other points of information?

Ms. McNatt: Yes.

Mr. Silverman: Commissioner McNatt?

Ms. McNatt: I'd like to include, and I know it's a wish list item, but I think specifically it would fall under Item 4 on Page 1. When you're doing zoning changes to facilitate redevelopment in certain areas of the City for student housing, that I think downstream conveyance and the item that's identified on Page 2, which is the research, the developer's role in additional water capacity for downstream of a development should be included as part of that. Because I believe part of our Focus Area recommendations included drainage and downstream concerns. So, I think that layer could be added to Item 4 specifically. I do want to keep Item 3 under the wish list on Page 2, to follow-up on Commissioner Hurd's idea that redevelopment is important as part of the site plan approval process in providing recommendations that I think downstream conveyance and drainage concerns should also be included in that capacity under the wish list item. But I just would like to additionally make sure that Item 4 on Page 1 that it doesn't get lost, in a way. And I don't know how to do that specifically. Am I making sense in my ideas or thoughts?

Mr. Hurd: Yes.

Ms. McNatt: Commissioner Hurd gets me.

Mr. Silverman: Okay, let's, since this proposal does have a calendar date fixed with it, we have to report to Council, we should get the wording nailed down tonight so it can be included in any revision that we approve.

Mr. Hurd: I think my one concern, and I do agree that it's an area to be considered, my concern here is that we're talking about amendments to the Comprehensive Development Plan and off

the top of my head, I'm not sure how much the Comp Plan talks about stormwater, drainage, and those sort of engineering issues.

Mr. Silverman: It does not.

Mr. Hurd: So, I don't know if that means in the language that we put in, like the language that we currently are looking at where we're sort of saying we would be open to an RM zoning provided you do the site plan approval or you do some sort of I think it was if you do the site plan approval process for those RM, so that might be the place to put the language about provided that there is suitable capacity or, right here because that's the part of this, but I just want to be sure that when we're trying to integrate the stormwater and drainage into the Comp Plan that it actually makes sense to do it in that spot or does that mean that we're looking at a redevelopment sort of process, which is sort of what I was talking about, which has to be kind of considered when we're looking at that focus area. I know I didn't clarify that.

Ms. McNatt: I'm following you. I don't know that they're following you.

Mr. Hurd: Where did I lose you?

Mr. Silverman: Try it again, Will.

Mr. Hurd: Okay. My concern is that the Comp Plan may not be the place to be talking about stormwater and drainage.

Mr. Silverman: Personally, I agree.

Mr. Hurd: Okay . . .

Ms. McNatt: However . . .

Mr. Hurd: However, it is something that we want to be considering, well, to somehow put it into consideration so if someone is redeveloping in a focus area where we have sort of expressed a willingness to accept to go to a higher density zoning provided that they, and obviously I'm not looking at the language that you had written, but my recollection is that we'll say we'll support an RM zoning provided you're doing, I don't know if it was site plan approval or doing something where you're going to do a more integrated development. So, there may be a side piece of that that sort of says that's where we have to make sure that we're covering stormwater and drainage as a factor in that. We don't want people just redeveloping and then overloading the piping, the pipes. So, somehow bringing that to the surface in the consideration.

Ms. Gray: We do have language to that effect in the proposed text amendment for the Focus Areas.

Ms. McNatt: But they're not going anywhere.

Mr. Hurd: Well, that's one of our things . . . so, if there's language that seems to be around that, then that might be, to Commissioner McNatt's point, we want to make sure that language includes the consideration for stormwater and drainage that seems to be her concern, I would say.

Mr. Silverman: How do you want it reflected in this proposed work program?

Mr. Hurd: I don't know.

Ms. McNatt: Are you asking for edits to Item 4, specifically, on Page 1?

Mr. Silverman: If you consider that appropriate.

Mr. Wampler: Is your main concern that Item 3 on Page 2 is under the statement these will be considered only if items that are currently in-house do not move forward? That that does not give the importance to it that it should be moved to the other section so that it stands on its own? Is that your concern?

Ms. McNatt: Yes, specifically as Commissioner Hurd was describing, that when we have these, I'm going to use the word redevelopment plans and the fact that the Focus Areas aren't necessarily moving forward as we think they're moving forward but there's good language in those Focus Area sections that could be incorporated into the process of redevelopment when somebody wants higher density or a zoning change that goes, particular items that we felt were of importance could be included at that time.

Mr. Silverman: Okay, let me suggest some wording dealing with Page 1, Item 4 continuation. Particular attention should be paid to the issue or the topic of the impact on stormwater management, particularly offsite.

Ms. McNatt: And drainage.

Mr. Silverman: And drainage.

Mr. Hurd: Stormwater capacity downstream I think is the key.

Mr. Silverman: Okay, well let's, using the idea of a new sentence, an additional sentence, particular attention should be paid to . . .

Mr. Hurd: The developer's role in stormwater capacity downstream of a development.

Mr. Silverman: Okay.

Mr. Hurd: It's right there.

Mr. Silverman: Do those words capture the essence?

Ms. McNatt: Yes.

Mr. Silverman: Solely for the record.

Ms. Gray: I got it.

Mr. Silverman: You got it? Okay.

Ms. McNatt: Thank you.

Mr. Kadar: Question on Item 1 on Page 2. The preamble says it would only be considered if land-use plans don't move forward or additional resources are provided, and yet when I look at B under Item 1, it's pretty clear what you want to do. Why do we have to wait for additional resources or something to fall through if you've already specified what it is, we need to do with Chapter 27. Are these more complicated than that?

Ms. Gray: Well, these are some Code amendments that we have on our list that we would like to, that have been articulated to move forward by Planning Commission and others.

Mr. Kadar: Item A, for example, says you need to do something about non-conforming use, structures, and buildings. Now I understand that would require some additional research, wording, development . . .

Mr. Silverman: Public input.

Mr. Kadar: All that stuff. The second one says 200 feet and notify them what's going on. It sounds like a one sentence change.

Mr. Silverman: More administrative . . .

Mr. Kadar: Do we have to wait for additional resources to do that?

Ms. Gray: Point well taken.

Mr. Hurd: Yeah, actually, I think it is saying one of the sheets in the plan is the list of all of the addresses of the property owners within 200 feet and we've often said what if that were simply a separate document that was in the appendix to the report as opposed to taking up all that real estate on the sheet. But I'm assuming that the Code language needs to take it off there?

Mr. Kadar: Like I said, perhaps I'm being a little naïve, but . . .

Mr. Silverman: No, I think you're . . .

Ms. Gray: Point is well taken. I do use the argument when, it's a cumulative effect of one thing here, one thing there. But yes, point well taken. Just go ahead and do it.

Mr. Kadar: That's the only comment I had. Thanks.

Mr. Silverman: So, we want to take Page 2, Item 1 begins with consider amendments, we want to take Item B and simply make it a numbered item, #10?

Ms. Gray: I believe Commissioner Kadar is saying let's just do it.

Mr. Silverman: Okay. That works for me.

Ms. McNatt: Touché.

Ms. Gray: Rather than being a part of the work plan, let's just get it done.

Mr. Silverman: Okay, so then we are . . .

Ms. Gray: I don't mean to put words in your mouth . . .

Mr. Silverman: Okay, so for the minutes, we are eliminating, Page 2, Item 1, we're eliminating Paragraph B in its entirety. Mr. Cronin?

Mr. Cronin: So, if we eliminate Paragraph B, then perhaps we could consolidate the number 1 and letter A into one single thought rather than having a 1 and subpart A since there is no subpart B.

Mr. Silverman: Madam Director?

Mr. Hurd: Well, if you want a second thing so you can keep that as a list . . .

Ms. Gray: We do have a tickler list of items, so maybe we just don't even list it. We just say consider amendments to the Zoning and Subdivision Code regulations as they pertain to development plan submittal requirements.

Mr. Hurd: That works.

Mr. Silverman: Okay, that works. And then you maintain that list?

Ms. Gray: Yes.

Mr. Silverman: Thank you. You know, I do have a question, I do have a proposal and an observation. With respect to Page 1, Paragraph 4 and the areas of the City for student housing, if we go back to the map contained on Page 5, and I'm referring to Focus Area 1, New London Road and Main Street. I live in that area. I travel through that area on a very frequent basis. I've watched the affect the Campus Walk II clearance has had on the area with respect to visually opening up the area and allowing me to see a much different perspective. The Focus Area 1, no pun intended, was the focus of a recent Council meeting with respect to consideration of all the focus areas. There was public testimony dealing with the housing that faced on Main Street, the relatively excellent condition the housing is in, the uses, the attempt by the homeowners to maintain the housing in the style of the Victorian era. It was described as a rather unique area. Campus Walk II, through its activity, eliminated a substantial number of structures that did not meet current Building Code. The movement, or the relocation I should say, of some of the structures that were involved in the Campus Walk II project that were more modern, Code-compliant structures onto Wilson Street and, I believe, Corbit Street, filled in a number of open lots that were in the area. Also, looking at the street layout and the parcel layout and the topography, Focus Area 1 would be a very difficult area to redevelop with respect to lot assembly and, particularly, topography. There are two churches in the area, actually, three churches in the area, that occupy a significant portion of real estate, including a cemetery area. So, I believe Focus Area 1 no longer meets the qualifications under which we evaluated areas to be included in the Focus Area for redevelopment. Campus Walk II substantially redevelops the redevelopable portion of the site. The homeowners and landlords are maintaining their housing equaling or exceeding Code conditions with some pride in ownership of exceeding that with respect to the Victorian buildings and, to make a long story short, I think we should, in this process that we're considering tonight, eliminate Focus Area 1 much as we eliminated the Focus Area that was originally involved at College Square. There isn't much left to redevelop, per se, in Focus Area 1. And that's my proposal as part of amending this work program.

Mr. Stozek: I have no basic objection to that, but I would like to, myself, take a look at that area. Just another set of eyes and we can vote on it at another time.

Ms. McNatt: I concur.

Mr. Silverman: So, Madam Director, can we defer that for a later date?

Ms. Gray: Sure. So, what information would you like for us to assemble for that?

Mr. Silverman: Do you simply want to do a site visit?

Mr. Stozek: Essentially, yeah.

Ms. Gray: Oh, okay. So, we could pull together some maps, some information, or you just want to get a feel for the area?

Mr. Stozek: I'd just like to go up and look at the area myself. I don't need any formal investigation.

Ms. Gray: Very good, sir.

Mr. Silverman: Okay.

Mr. Stozek: Then I'd feel more comfortable with it.

Ms. McNatt: And I would be willing to use the City's current, GIS system, to evaluate some of the topics that, ideas that were discussed. So, I'll use the GIS system to do that.

Ms. Gray: Okay.

Mr. Silverman: So, that was my proposal and hopefully we will be revisiting it at a later date.

Ms. Gray: Okay.

Mr. Cronin: Mr. Chairman? For the record, I would like to say I would endorse your proposal since I won't be able to opine it at a later point in time.

Mr. Silverman: Okay.

Mr. Cronin: Thank you. I'm in favor of removing that area.

Mr. Silverman: Okay, any other discussion by the Commissioners? Is there any comment from the public? Ms. White?

Ms. Jean White: Jean White, District 1.

Mr. Silverman: Ms. White, I think we need to turn on the microphone.

Ms. McNatt: You're not turned on, Ms. White.

Mr. Fortner: I turned it off because there was feedback. There we go.

Ms. White: Okay, if I understood you correctly, Mr. Silverman and members of the Commission, you were eliminating or modifying Focus Area 1 for consideration . . .

Mr. Silverman: At a future date.

Ms. White: That pleases me, if I understand it correctly. This is just a personal thing and I can't really make a good logical [inaudible] but on Page 2, 1B, review subdivisions to require the summary of adjacent property owners within 200 feet shown on the record plan to be made on another written agreement rather than taking spaced on the recorded plan. So, I don't know if the other document will also be a map but I, myself, find it certainly interesting and sometimes even important, possibly, to see the adjacent properties listed on the blueprint within 200 feet. The plan comes out and you can see the different properties around. I think that's what this is talking about, on the record plan where all the properties within 200 feet and their owners, who owns the property. There have been some situations where that has been helpful, but I'm also interested in it. So, I would prefer that be kept unless another written document is more than just a list of the properties within 200 feet, there's actually a map.

Mr. Silverman: So, when you say a map, you actually want the property parcel maps still to be shown that are contiguous and surround the application?

Ms. White: Right, still to be shown. Hopefully, still on the blueprint but if not, a separate map which shows their actual locations. Thank you.

Mr. Silverman: Thank you.

Mr. Hurd: Question. I don't think we've been doing, we've seen that in recent submittals, have we? We haven't seen a parcel map of adjacent properties. We just see it, well we saw, I recall, on recent submittals on one of the record plan sheets is a list, what you're saying, is a list of parcel property owners. It does not have a parcel map with the 200-foot thing.

Ms. White: Well, you take a blueprint where there's a development and it lists them and then on the plan are listed . . .

Mr. Hurd: Oh, are you talking the adjacent? The adjacent properties will probably be shown in the plan, but the 200-foot radius of notifications . . .

Ms. White: Okay, maybe it's something, I thought that I was looking at it wrong. It was always showing all those within 200 feet.

Mr. Silverman: No.

Ms. White: So, it's just showing what's contiguous.

Mr. Hurd: Right, contiguous . . .

Ms. White: But I think there are some that are more than contiguous. I would have to go back and check. Okay. Thank you for your correction, if that's the case.

Ms. Gray: Our submittals show adjacent property owners. When we do our notifications, we utilize our GIS maps to draw the radius for all properties within 300 feet.

Mr. Silverman: So, Ms. White, it's equivalent to a return receipt when you send something by U.S. mail. It shows these are the people who have been . . .

Ms. White: I understand. I realize that. I guess I thought that it was more than just contiguous when I was looking at that.

Mr. Silverman: Okay. Please state your name and your district.

Ms. Marguerite Ashley: Marguerite Ashley, District 4. I feel embarrassed not to know this, but can you tell me in Focus Zone 2, are the four-bedroom townhomes that are being built [inaudible] all these years, are they considered low-density residential, I would hope, along the big townhouses that are built? Like all over town. That's considered low-density residential, at this point in time?

Ms. Gray: By way of background, Newark is unique in that in the Comp Plan there is a designation for density for residential, for low density to high density. I don't know of a Comp Plan in the State of Delaware that designates density for residential, which is, you know, another thing that makes Newark unique. So, for low-density designation, it's 11 units, it's up to 11 units. Anything above 11 units is high density. So, most likely the units that you're talking about would be high density.

Ms. Ashley: Already.

Mr. Silverman: Ms. Ashley, with your professional background, I understand the confusion. There are actually two levels of density. One is prescribed by the zoning document and the other is prescribed by the Comp Plan.

Ms. Ashley: Because the Rental Workgroup is what I'm here for. We're supporting the Focus Areas and I feel embarrassed that I needed that clarify. Thank you.

Mr. Silverman: Okay, thank you.

Ms. Gray: It's very confusing.

Mr. Silverman: Ms. White?

Ms. White: Still talking about the Work Plan. It's sort of coming back to me. I haven't looked at one immediately. So, the properties that are within 200 feet, not just showing on the map but the listing of them has been on the record plan, so if this was done separately, is this still

something that a member of the public would get a copy of if it would be part of another written document?

Mr. Silverman: As I understand it, it will be an appendix in the Department's professional report to the Commission and it's available to the public. Just like they have a photograph of the sign posting on the property.

Ms. White: Okay, so this would be, the report would be . . .

Mr. Silverman: That's correct.

Ms. White: Instead of on the actual . . .

Mr. Silverman: That's correct. And I'm assuming it would be identified as property owners within 200 feet that were notified by mail.

Ms. White: Okay, so there still would be a listing like they do now?

Mr. Silverman: That's correct.

Ms. White: Okay, thank you.

Mr. Silverman: Moving back to the mechanics of the Work Plan discussion, are we all clear on the cross-outs and the additions? Are we ready to approve our Work Plan for 2020?

Ms. McNatt: I thought it was a discussion.

Ms. Gray: This is just a discussion.

Mr. Silverman: Oh, okay, I'm sorry.

Ms. Gray: Yes, sir, this is a discussion.

Mr. Silverman: Getting ahead of myself.

Ms. Gray: So, a thought . . .

Mr. Silverman: Because we do have a deadline coming up.

Ms. Gray: Yes, so a thought would be I would make these changes and that would give Commissioners McNatt and Cronin, excuse me, Stozek, an opportunity to go and look at Focus Area 1 and then bring the changes back with strike-through and highlight, as well as a clean version, draft 2 if you will, for review and action at the next meeting.

Mr. Silverman: Okay.

Ms. McNatt: Yes, thank you.

Mr. Silverman: So, do we concur with the Director's position? Okay, we'll conclude that item, Item 4.

**5. UPDATE ON THE TRANSPORTATION IMPROVEMENT DISTRICT COMMITTEE.
[WITHDRAWN UNTIL A FUTURE PLANNING COMMISSION MEETING.]**

Mr. Silverman: Item 5 on our agenda, update on Transportation Improvement District Committee.

Ms. Gray: That was withdrawn.

Mr. Silverman: Oh, okay, I'm sorry.

Ms. Gray: That's okay.

Mr. Silverman: See, you put it in red and I can't see it.

Ms. Gray: Oh, I apologize. I'm sorry. We should use another color. Yeah, so that was withdrawn for a future Planning Commission meeting. Hopefully, we'll have an update for you at the next meeting or two on that. But be confident that we are meeting and making a lot of progress on that committee.

6. UPDATE ON THE RENTAL WORKGROUP COMMITTEE.

Ms. Gray: I do want to use this time to update the Planning Commission on the Rental Workgroup and Mike is pulling up some information for you all to look at. I do want to, a little bit of background here on the Rental Housing Workgroup.

[Secretary's Note: During the discussion, Ms. Gray referred to a Planning and Development Department presentation being displayed for the benefit of the Commission and the public. Links to the Planning and Development Department memorandum and presentation regarding the update on the Rental Housing Workgroup can be found at the end of this document.]

If you all recall, the Rental Housing Workgroup came from a recommendation from the Planning Commission. It was a recommendation to Council to establish a committee to look at rental housing in the context of student growth and how it impacts the City of Newark and its residents and the community. And it took a little bit of time to get off the ground, but it has been up and running. The group has been meeting since, its first meeting was in April of this year and it has been meeting regularly since then. The group has been broken into, coordinated into originally four subcommittees. They were named the University of Delaware Student Growth, Rental Permits, and last but not least, Non-Student Housing and Affordable Housing. After about, so the meeting was broken up in to those subcommittees. The subcommittees had meetings and then the larger group had meetings. After about two meetings of the subcommittees, the Non-Student Housing and the Affordable Housing subcommittees decided to merge, so now we have three subcommittees. And each of the subcommittees have a chair and the entire Rental Workgroup has a chair, who is chaired by Marguerite Ashley, which is why she's here tonight. Thank you. Marguerite has graciously agreed and has been chairing the group and providing leadership and her knowledge of housing to the group and has been a great asset to this group.

So, I wanted to take this opportunity to update the group on, the Planning Commission on where the Rental Committee is and what their recommendations are right now at the macro level, without getting too much into the weeds. There was a meeting last week and unfortunately, I was on vacation where these recommendations were discussed and we're still tweaking them a little bit, but I just wanted to share them with the Planning Commission while we had some opportunity on the agenda.

So, the first one was University of Delaware Student Growth Committee. The subcommittees have spent a good bit of time kind of framing the issues and the first issue they were looking at is students living off-campus which may be a nuisance to the neighborhoods because they may not follow the rules, may not maintain the property as well, or may be disruptive or disorderly. So, some of the recommended solutions indicated by the committee was looking at instituting a community relations campaign to help students living off-campus to understand the expectations and common courtesies as a community member in the City of Newark; for the City and UD to collaborate on publishing a good neighbor guide; have the University student government association establish a neighborhood ambassador program; to have the University Division of Student Life periodically post on social media. As I understand, we've been learning a lot about, we have some students on our group and we also have some folks from the UD

there and how kids communicate these days, which is not how I would communicate. So, certainly social media is the way to reach kids, and include a reference to educational materials, and we'll get to that in a second. So, the lead responsibility for this would be the University of Delaware.

So, moving on to the next issue is seeking better data regarding the need to better understand the market demand for student housing as to where data is readily available where students live off-campus. It's not known how many students live in the City of Newark versus outside the City limits, or how many students are enrolled. So, some of the recommended solutions are for UD to improve available data about student enrollment numbers and students living off-campus. There has been quite a bit of discussion about this, about getting good numbers and having the University be transparent on that. So, it's been a large point of discussion. So, UD is looking to issue a voluntary student survey to get a better understanding of where students live and their housing choice preferences so that the survey can provide better data to help refine future housing policies and outreach campaigns and the data can be shared with the City of Newark and the public.

There are two more recommendations here, two more issues. The third issue is it's difficult for students to find information about rental housing opportunities without a single source for housing availability and students feel pressured to secure housing very early in the school year. So, a recommended solution is to improve the process to disseminate information about rental housing opportunities with more concise aggregated information for people seeking rental housing. So, some of the things that UD is looking at is to confirm contract obligations with, you know, there's been quite a bit of discussion about websites and where students go for information. There is a website called places4students.com to clarify how much student information UD is able to provide regarding other third-party advertising sites. The UD classifieds and there's also the good neighbor guide that they're going to be looking at doing. The good neighbor guide can also include information about timeframe to find rental housing. I think the key that the group is talking about, and Marguerite, please jump in here, is information and how to get good information, the correct information, to the students because there seems to be not so much a rumor mill but there's information out there and then there's rumors and there's grapevine, and it seems to be like a patchwork of information that the kids rely on. So, I think one of the goals is to try to centralize it, work with UD to centralize that data source. Is that a fair assessment?

Ms. Ashley: Yeah, the things about that is there's a difference in [inaudible] and also there's a little less town and gown kind of stuff than I think we started out talking about. It's more of the University trying to work with students to help them understand that they live in a town, they're not just living in a university. And if they take the lead, that's wonderful.

Ms. Gray: And the last for this subcommittee is that permanent residents can find it difficult to obtain information about the owner of rental properties and the status of code enforcement complaints. So, we're looking to improve the ability for the general public to find out information regarding rental property ownership. So, we're working with legal counsel to see how much we can lawfully share. Code enforcement information is online. We do currently have online all of our rental properties listed so we're looking to see how we can improve that and what other information folks would like to see on there. So, that's a work in progress.

So, the Rental Permit Subcommittee, that's quite an exciting committee looking at the permits and how they're managed. There are concerns about the safety of rental properties that haven't been inspected in a while. The interiors haven't been inspected because they're denied entrance by the tenants, sometimes on the advice of landlords. So, some of the recommended solutions is to improve the rental inspection program to include a marketing and education component about safety, looking at voluntary interior inspection programs, and providing a public available list of properties that have been inspected to see if we can ensure that. So, that's some of the things we're looking at.

The next issue is the current student home classification ordinance. The term there is not enforceable and let me take a minute to explain that. When the current student home ordinance was put into effect, it was meant to limit the density of students within the traditional family-focused neighborhoods by restricting the number of tenants in proximity to other student homes. Exempted areas do not require a student home classification and are typically neighborhoods with a high population of students. However, the student home classification ordinance has not prevented the encroachment of student homes into non-exempt areas. The City is unable to enforce the student home ordinance because inspectors aren't able to confirm the tenants are students. When the ordinance was adopted, the City was able to obtain enrollment information from the University of Delaware. We ran a list. From my understanding, there was a book. So, Adam Smith lived at 134 East Main, and we could confirm that a student was living at 134 East Main. UD is no longer able to provide this, so we don't have a list.

Mr. Silverman: Does that require state legislation?

Ms. Gray: I don't know.

Mr. Silverman: Maybe that ought to be on your radar.

Ms. Gray: So, furthermore, in addition, tenants can be students from other institutions. We have had enforcement situations such as that, that they're going to Wilmington University or other places, or may be part-time students. So, some of the recommended solutions we're looking at is to reassess the student home classification and consider some revisions or updates that may change the word student to unrelated persons to increase occupancy on exempt streets based on what's allowable specific to each home's square footage or number of bedrooms. Here again, a work in progress. Just looking at options.

So, the next issue the Rental Permit Subcommittee is looking at is currently property owners and landlords are only notified when their tenants are in violation of the City's noise ordinance. The recommended solution to that is to look at expanding the Code provision to include all civil violations from the recently passed Unruly Social Gathering ordinance. Those are the menu, if you will, in the Unruly Social Gathering ordinance.

The next issue that the group is looking at is there is no process in place to review and assess a property owner's performance before issuing a new or renewing an existing rental permit. So, one of the recommendations is to improve a policy of enforcement on repeat offenders and some of the recommended solutions is to investigate the feasibility and legal means of penalizing property owners for repeat code and criminal offenses, perhaps look at reassessing the current fee structure, an exciting proposition, and consider escalating fines, another exciting proposition, for repeat offenders and problem properties that require excessive enforcement.

So, there are a couple of more issues on the Rental Permits before I finish this one up. Current rental, rental permit late fees five times the amount of most other services, permit late fees. The recommended solution is to consider reducing the rental permit late fees from 25% to around 5% like other City permit late fees.

And then we've got the last issue for the Rental Permit group is the City's permitted invoices of inspection programs is currently managed by property and is inefficient to track invoices, payments, and inspections for landlords who own multiple properties. One of the recommended solutions is to consolidate bills and inspections for owners of more than one rental property.

So, the last group is the Non-Student and Affordable Housing Subcommittee. So, there are five issues that this group looked at. The first issue is limited availability of good quality, affordable and below market rate rental housing within the City for rent-burdened families, and new development is typically not addressing the lack of affordable housing. So, some of the

recommended solutions is to amend the Zoning Code to include an inclusionary zoning ordinance requiring new housing development to include some affordable housing measures such as requiring a new housing development to include a percentage of housing units as affordable housing or requiring new housing to pay a fee in lieu if affordable housing is not provided. They are looking at some models in other jurisdictions that do that. So, State College, Pennsylvania has such a program. Allow for a density bonus if affordable units are included in housing developments. Incorporate deed restrictions to ensure that recipients of affordable housing meet the Newark Housing Authority requirements for eligibility.

The next issue is a limited availability of market rate rental units for non-student renters within the City of Newark and development is typically not addressing lack of non-student housing. So, another solution that other jurisdictions in Delaware are doing now with, I think, some success is amending the Zoning Code to allow accessory dwelling units, otherwise known as ADUs at single-family owner-occupied homes. Those are some of the parameters there. An accessory dwelling unit would be like converting your garage or a part of your garage into an apartment or building a small unit in your backyard or building an addition to your house. Some of these would be the recommended requirements or considerations for that code.

The next item is many homes in traditionally owner-occupied neighborhoods that transition into rental homes affecting community cohesion. So, some of the recommended solutions are to develop a program to support transitioning rental units into owner-occupied homes or housing purchase incentive programs. So, one of the recommendations there is to reinstate what is otherwise known as the POOH program . . . I love to say that . . . the Promoting Owner Occupancy of Homes program, which was suspended in 2017 that provided 0% interest loans with a no predetermined payback period for people who wanted to buy rental properties and convert them to owner-occupied homes. So, some other recommendations there are consider utilizing inclusionary zoning ordinance for fee in lieu revenues, consider including a requirement to live in the home for a designated period of time and redact any rental permits previously granted on that home to try to incentivize that property not converting back to a rental in the future.

The last two issues here, actually the last three, the City has limited funding to implement new housing and affordable housing initiatives. These housing initiatives are great, but we need some funding. So, some of the recommended solutions is to identify additional federal, state, and private funding sources for affordable renter and homeownership programs. Some partnerships I think we have not heretofore explored. I think the City would be well-served to explore, when I was down in Kent County, we did partner with the Diamond State Community Land Trust to purchase and manage homes. We also partnered with Habitat for Humanity. So, I think there's some opportunity there to do that. Identify vacant properties owned and maintained by the City for new affordable housing and some other opportunities there.

The last two issues. Certain neighborhoods with good quality rental housing have a negative stigma from the general public and are considered unsafe or undesirable. The recommended solution is to work with civic associations and public safety officials to improve safety and increase neighborhood appeal for non-student renters. So, that would be collaborating with The Newark Partnership and certainly increasing the police presence and seeing if we can't get some civic association representation going.

The last issue was a lack of student housing density within the core downtown areas where most students prefer to live has increased demand for student rental housing within Newark's central neighborhoods that were traditionally owner-occupied communities. So, the recommended solution there would be to increase development density within the downtown core to allow more student development in the areas where most students prefer to live and implement the proposed density increases within Newark's Focus Areas. And that's what Marguerite was referring to before regarding the Focus Areas.

So, the next steps for this group, and certainly we'll take any comments or questions, but next steps for the Rental Group are that the consultant is putting together a public survey. We're going to refine these recommendations, shorten them, make them shorter, and send out a public survey to the community and get public feedback. We're also going to have that survey, we'll have a presence at Community Day to promote the survey. And we are then going to have another meeting of the group to review the data from the survey and then have a briefing to Council on October 28. Not a formal, well, it will be a formal presentation, but it won't be the final presentation. It will be a briefing/public workshop to the Council and combine, and that will also be a public meeting and opportunity for the public to comment on these recommendations and I think there might be some changes to these recommendations. These aren't final. And then the group is going to meet again after that and debrief and make any changes based on public feedback and Council feedback, and then present the final recommendations to Council sometime after that, probably, I don't know if we'll get that in by the end of the year or early next year. So, that's my presentation, Mr. Chair.

Mr. Silverman: Did you want some just general comments?

Ms. Gray: Sure.

Mr. Silverman: Commissioners?

Mr. Hurd: Okay, I'm glad to see ADUs in there because that's something that's been on my mind and for me to try to get that sent to you guys, so I'm glad it came up. The other thing that I've seen some communities do to help sort of increase density in an incremental fashion is to allow single-family homes to be converted to duplexes with some conditions. And I didn't know if that was something that had come up in conversation at all.

Mr. Silverman: Even permitting duplexes in Newark.

Mr. Hurd: Well, you have to start there, sure. But it's something I had seen some places used as a way to basically maintain the residential appearance of a community while increasing the density in an incremental kind of fashion. So, I didn't know if that had come up at all in the conversation.

Mr. Silverman: Marguerite, there's some excellent articles on having the single-family detached look with up to like fourplexes under one roof so it maintains the character of the area but provides an increased opportunity.

Ms. Gray: I'm trying to think whether duplexes have been discussed where the housing type has been touched upon in the affordable/non-student housing discussions. Mike, you spent the most time in that group . . .

Mr. Silverman: There's a whole band of housing type that does not exist in Newark. We go from apartment buildings to single-family-ish buildings, and nothing in between.

Ms. Gray: Yeah.

Mr. Hurd: We have townhomes in between but . . .

Mr. Fortner: Duplexes weren't specifically brought up but, you know, in the ordinance change, the urban apartments ordinance change that we were reviewing, that accommodates, it kind of gets around that loophole where we don't have a duplex in our categories. And so, someone with a small parcel could do two units there and not have to go for the three.

Mr. Silverman: I'm going to jump in here. Let's forget the jargon and the techno-speak, it's a duplex, it's not an urban student apartment.

Mr. Fortner: Well, I can appreciate that but we're talking about allowing certain types and that would allow that type of duplex or other kind of design to that zoning process.

Mr. Silverman: Because I've always found, and this is a personal position, I've always found the Newark Code extremely obtuse and complex with respect to describing residential dwelling units. We have a garden apartment district that now features townhouses. That's a multi-family detached district in normal common codes. So, there's a whole clean-up that this group may want to look at with respect to what's a rental unit.

Mr. Hurd: My recollection is that the sort of urban dwellings were specifically in the RM settings, right?

Mr. Fortner: Yeah, it was in RM and RA. And again, to do an apartment, you need three units and there was this thing where someone would have a smaller parcel that wanted to do two units because that's what the maximum density would allow, and they wouldn't be able to do it. So, this urban apartment allows that.

Mr. Hurd: The thing I'm talking about is expanding it to the traditional single-family residential zoning and allowing duplexes in those districts so that pushing down to where you would consider it's a big block of single-family, because the truth is that zoning is a very exclusionary zoning. It keeps out a huge swath of sort of economic and demographic. So, if you start to make that more available by having smaller, more affordable pieces of it . . .

Mr. Fortner: As I said, we do have something in RM and maybe RD, that's where you take a larger house, and you've seen a couple of these, where it's no longer marketable as a larger house and you convert it. And you can do two units or more. Now, that's only in a few zoning districts and that's supposed to be for a larger house that's no longer marketable. So, when you go into a neighborhood like a Woods of Louviers, I don't know if they would want . . .

Ms. Gray: Right.

Mr. Hurd: Some areas might be more challenging.

Mr. Fortner: And then when you change it for [inaudible] zoning district, then you get a lot of [inaudible], so it's a tricky issue.

Mr. Kadar: That's precisely what the City of Wilmington is doing in some of the larger homes that are within the city parameters. They're either converting them to duplex houses or if they're being torn down, they will allow a duplex house to be built. And that way, the affordability index of the house is better, and it still fits in with the neighborhood.

Mr. Fortner: Well, it's a very good practice for certain areas and certain types of houses.

Ms. Gray: Noted.

Ms. McNatt: I'd like to include, I think, and I don't know which one it is because I don't have what you presented in front of me, so I'm not sure of the number, but regarding the recommendation to include civic associations in the notification, I don't remember if that was 3.4, but I just would like to expand that beyond civic associations that you may include active homeowners' associations because maybe not all homeowners' associations are part of a civic association. A civic association is usually used for older non-organized communities. Not as defined organized. A homeowners' association is more for an organized local community, specifically to a certain subdivision. So, I'd like to expand, and I want to say it's 3.4 . . .

Ms. Ashley: It's 3.5.

Ms. McNatt: Oh, man, I was close. Thanks, Marguerite. So, where it said work with civic associations, I would like to make sure that we are inclusive of homeowners' associations that are active and would like to be incorporated. Because in my older community where I used to live, at Twin Lakes, I bet they would definitely want to be included in more information about student renters and non-student renters in this specific section because they have a lot of student renters and information that could be shared and would be appreciated. As well as my current community, so I would just like to make sure that's all-inclusive.

Mr. Silverman: Just a general comment, there needs to be a description of owner property rights with respect to rental in this. There also needs, I didn't see the words Newark Housing Authority in this document and you're talking about partnering with this group and . . .

Ms. Ashley: It is in there.

Mr. Silverman: Creating new groups.

Ms. Ashley: It's talking about the need for inclusionary zoning discussion.

Mr. Silverman: Marguerite, you should come to the microphone. But I would be looking toward Newark Housing Authority to give me guidance on what's the real rental market. There was a word used in there, rental distressed or something like that. Let's get into, again, the real world of what the laws are with respect to low and moderate income. Section 8, I didn't see Section 8 style housing mentioned here, nor did I see a promotion of public housing.

Ms. Ashley: So, as the inclusionary zoning language stands now, that's 3.1, it says Newark Housing Authority is a key partner and the current suggestion is that I guess it's part of the inclusionary zoning rule that inclusionary units have to be income eligible to . . .

Mr. Silverman's: By whose standards?

Ms. Ashley: The Newark Housing Authority's requirements for eligibility.

Mr. Silverman: See, if they're going to be taking the lead, they need to be referenced right up front.

Ms. Ashley: Key partner. They're called a key partner.

Mr. Silverman: Think of who your audience is. You're getting into the fuzzy again. Newark Housing Authority is an authority that exists in Newark. There aren't many, as the professional staff knows, there aren't many housing authorities in the State of Delaware with a broad range of laws and access to other sources of money, particularly federal money, assuming that still exists, which is a relatively easy conduit through their program, as opposed to somebody writing grants and sponsoring and getting people together again. So, there's a key actor who doesn't appear to take a prominent role here.

Ms. Ashley: They have had a prominent role in our committee meetings.

Mr. Silverman: It doesn't come out here.

Ms. Ashley: What were you saying about the homeowner . . .

Mr. Silverman: If you can go back to your first paragraph, right up at the top, yeah, which I find it a mixed metaphor or emotion, students living off-campus, let's call it that student life is not, may be, in some people's eye, incompatible with non-student residential activity. And we're talking about the students living off-campus may not maintain their property as well. That gets into my thoughts on what's the landlord's responsibility? What's the tenant's responsibility? And then that breaks down further, and Bob can comment on this, on what's in your lease? If

your lease says you have to mow the grass and you have to put the trash cans out and you can only have two cars, that's a whole different set of circumstances where the landlord can say, hey, I'll go talk to my tenant, how do you go after the landlord for tall grass?

Ms. Ashley: That's a good suggestion, the word incompatible. This sentence has been rewritten a couple of times and I like the concept of incompatible in there.

Mr. Silverman: If it was wording, it would be mixed metaphors, but there is a fundamental incompatibility with a 24-hour, and I like to joke about Newark and Rehoboth being exactly the same only we don't have saltwater and sand. There's a definite ebb and flow to activity in Newark and a season in Newark. So, the living circumstances are much different.

Ms. Ashley: Can I say something related to that subject? This whole effort, well, first of all, the recommendations here are basically each subcommittee's recommendations. We have not yet, and I don't think we will, as a work group, vote yes to each recommendation. So, as they stand, they are each subcommittee's recommendations.

Mr. Silverman: And there's nothing wrong with that. They're different interest areas.

Ms. Ashley: Right. What I've learned is that, and I don't know if it's reasonable but I think it is, is that I really, I see the reality and the reason I wanted to support the Focus Areas is you see the reality that this is becoming higher density and it may allow for sort of more variety of rental housing. That's one of the things that I think is part of the goal is to produce rental units that aren't giant four-bedroom townhouses. And so, that whole idea of recognizing that reality and having focus areas of higher density. But on the other hand, I hope that we don't move forward with the concept that every part of town from the White Clay Creek to north of Park Place, from Library Avenue to Elkton Road, is something we want to foster just student housing. So, it's a, one of the recommendations is to basically allow a single-family home that has a three-person rental unit to allow a fourth person. That's not how it's stated, but that's how I understand it's to fit the, to increase the occupancy in certain single-family homes in the middle of town to allow for more students basically. So, I just, I don't want this work group to sort of signal that the entire center of town should be given up to students. It should be a mix and a variety still so that while encouraging density on the one hand, you don't encourage 100% student housing.

Mr. Silverman: There is also another rental market that's come before this committee and it doesn't appear it's represented here. We've had people give testimony that they are part of the University community in the sense that they're itinerant instructors. They come in under contracts for six months, 18 months. They tend to be older, in their 20s and in their 30s, and they're finding, one person gave testimony that they could not find housing where people of like interests, like occupations, and like age groups could cluster. They didn't want to live among their students. So, there is another population out there when you're exploring rental categories, that your group may want to take a look at.

Ms. Ashley: And I notice your hand-out for today shows 120 rental units in this whole town on the drawing board. So, meeting that goal of additional student housing is on the drawing board already, it seems like. The other thing we learned in this is that there seems to be a consensus that, and the whole statistics on how many students we have and how many of them are, you know, satellite students, how many are off-campus grad students, it's confusing. So, there seems to be a consensus that undergraduate admissions are not rising anymore across the board but they're kind of [inaudible], I guess just demographics. So, I just want to make the point about continuing to try to encourage residential diversity in the center of the City, while recognizing that 90% of the central residential units are probably going to stay student. But then the fact that, you know, the vast majority of the middle of the town is students doesn't mean that it makes good planning sense to roll that into 100% or to have that as a goal.

Mr. Silverman: One of the things that Will and I share an interest in are the accessory dwelling units. There is a provision, if memory serves me correctly, that in the City Code the minimum area for an apartment living unit, with bathroom, cooking, the census definition of a living unit, is 700 square feet. Other jurisdictions reduce that to 400 square feet. So, if we're going to get into accessory units, that maybe the tv version of the tiny house on an appropriate size yard and an appropriate setting, we may have to look at also modifying that square footage for habitable occupied area.

Ms. Ashley: And that brings up a point that these recommendations are not fine-tuned at all . . .

Ms. Gray: Right, they're still very rough.

Ms. Ashley: There is still a lot of work to be done. They're really broad.

Mr. Silverman: Yes.

Ms. Gray: Fair point, Marguerite. I didn't make that point fine enough that these are meant to be broad.

Ms. Ashley: And just a couple of comments about the inspections, the rental inspections. I really like the idea of a, you know, safety is really important with inspections and the whole idea of moving toward publicizing sort of gold star landlords, these have been thoroughly inspected, they're safe homes. Just making that a marketing thing.

Mr. Silverman: With respect to landlords, and I have a question for Mr. Cronin, if I have a daughter who wants to come to the University of Delaware, can I contact a local realtor to make inquiries on my behalf about rentals? How are those private lists maintained? Is the University and this committee getting into what really should be a private market space?

Mr. Cronin: You can contact a realtor. I mean there are people who have individual homes they want to rent, and you could have a realtor involved. It could be on the multi-list available for anybody to come rent. But the majority of the developers' properties are not managed through the real estate community at all.

Mr. Silverman: Where I'm heading with this is, I believe I've got an article that's coming out to be passed out to the group that demonstrates, and I don't know whether it exists in this community, that the vast majority of rental units are owned by individuals who own less than 10 units. You and I would buy a series of houses. So, we tend to focus on the rental producers who come before the Planning Commission. Will your group have a feel out there for who really operates the rental markets in Newark? Because there are two different groups you're dealing with. When you can get licensed large property owners together, they've got one set of circumstances versus when you're trying to get the guy who has three houses, who says I don't want to listen to you guys.

Ms. Gray: Right. That has been, I sat in on those discussions and that is an issue and how do you get at that. You can't make people list their properties on a website. The solution is having a website and make everybody post it on a website. You can't make people do that. And, yes, from what I understand, the owners of one, two, and three properties are just not going to do that. And I get it because usually sites charge. Now, this places4students.com, from what I understand, doesn't charge. I don't know, I've never been on it. So, the idea is to have UD kind of, through surveys and kind of do that legwork and try to gather that information.

Mr. Silverman: And without sounding like a congressional committeeman sitting here, we had some very interesting testimony brought forth by landlords who want to develop some of the more intense and dense programs. When the Commissioners asked how do you police your projects, we were told on the public record that they have private security patrols. That they

have an arrangement with Newark PD that if there are complaint calls in their units, they, as owners, get notified and although the police call may not evolve into a formal police charge or police action, the landlord has written in their contracts that three strikes and you're out. That kind of thing. So, there are some very responsible landlords out there who do the kind of follow-up that I think the public expects, and they may be a good resource for giving you some guidance as to what you can do, what you can't do, and what works.

Ms. Ashley: Well, the suggestion that repeat offenders, repeat landlord offenders be sanctioned, which doesn't happen now, is one of the big recommendations of the Rental Permits Subcommittee, so that's in there, too.

Mr. Silverman: But the carrot ought to be recognizing those landlords who are, in quotes, responsible landlords, who seek out the information for managing their tenants.

Ms. Ashley: The work group is good. The most, you know, the least consensus is on this issue of what to do with the student home ordinance. I mean it's a lot of work. The spirit, it might not be enforced very strictly anymore but it is on the books, it's a law on the books, it is a deterrent, and it is a force for people who are interested in following the law. And then the other with the least consensus was this thing I was trying to articulate. This would only be for the streets where increasing occupancy on exempt streets based on what's allowable specific to each home's square footage and number of bedrooms. My example is Park Place, which is not one of the exempt streets but looked at rental houses around Park Place and just the fact that a three-bedroom unit home with a three-bedroom permit on Park Place, a couple of them rent for \$2,100. If it had a four-person permit, it was renting for \$2,800. So, yes, that houses more students, but on the other hand, it makes the house less affordable for sale. So, those were the least consensus items. Everything else, people pretty, there was no, people pretty much agreed. Thanks.

Mr. Silverman: This is a great effort and it's finally pulling together a lot of things that had been floating in the ether.

Ms. Ashley: And I think longer rental, you know, more time than less. You know, to really talk and explore all these issues, I don't think there's anything wrong with taking enough time to do it right. Thanks.

Mr. Silverman: Thank you very much, Madam Director and Ms. Ashley.

Mr. Cronin: Mr. Chair?

Mr. Silverman: Yes?

Mr. Cronin: I'd like to make a few thoughts or observations given the opportunity here.

Mr. Silverman: Yes.

Mr. Cronin: How often are permits issued or renewed? Are they renewed annually?

Ms. Gray: Rental permits? Annually. Yes, sir.

Mr. Cronin: Well, I would suggest that if there's an outstanding fine or if there's not been an inspection for health and safety, the permit cannot be renewed. And if there's no permit, you can't occupy the property. You have to put some teeth into these things. The people have these rental properties are business people. And that's where the rubber meets the road, or the buck stops there. You can say, well it's in the contract with the tenants to do this or that, but the tenants are short-timers. They're going to be here for a year or two and they're gone. And they're going to skate through this one way or another, but the deed-holder is the business person that has to be sure that things are up to snuff. Another suggestion is when a property

that's been a house is first issued a rental permit, it's for the City or somebody to take a color picture of the exterior of the house because that's probably the best it's going to look for a long time in terms of the exterior painting, the grounds maintenance, the landscaping. I've seen houses with student rental permits that used to have lovely landscaping in front of them and five years later it's just barren right up to the house, no bushes, no shrubs, nothing. It's really detrimental to the neighborhood. If the houses aren't maintained, I've seen houses in the student rental market, as the Chairman said, we have seasons here, and the summer season when there's no student occupancy to speak of, that's the high growth season. That's when the grass grows, the leaves grow, and the students aren't here to take care of it, even if the lease says they're supposed to, or they're inclined to. So, if the City, if the grass is so high that the City mows it and liens the property-holder, or if it's done two times in a row or three times in a row, you're not taking care of your property, no permit for you. You know, put some meat in these things so that property owners have to do something that's beneficial for the entire neighborhood to keep the property up for the exterior and the health and safety items for the interior. And if there are unpaid fines, you don't get the permit renewed. There needs to be language that has teeth in it to accomplish a goal like that or it's just going to languish ad infinitum and become eyesores. Thank you.

Ms. Gray: Thank you.

Mr. Silverman: Mr. Bilodeau, we talk about liens. Is that a lien against the property? So, I could have all these outstanding fines and until I sell the property, the City doesn't recoup. Can we lien the permit?

Mr. Bilodeau: So, that when they go for another year to get the permit, they need to pay their fines?

Mr. Silverman: Yeah, I think Mr. Cronin makes an excellent point that no clean balance sheet equals no permit. It's that simple.

Mr. Bilodeau: It seems very simple to me. I don't see how that could be challenged.

Mr. Silverman: Because we talk about liens and a property lien, to me, is a lien against the title, which can stay there forever until I sell the piece of property and doesn't accomplish what we want to accomplish.

Mr. Bilodeau; I guess the analogy would be if you got speeding tickets that you haven't paid and you go to renew your driver's license, they're not going to let you renew your driver's license until you pay those tickets.

Mr. Silverman: And your car registration, yeah. So, maybe that's a direction that this committee may want to take their thinking with respect to enforcement. It makes it very simple. No ticket, no permit. Any other comments? Mr. Wampler?

Mr. Wampler: I want to return just briefly to something that Marguerite said that I think we really need to consider. She mentioned that there's indication that, in fact, the undergraduate population is either holding steady or decreasing, and I've heard that comment and concerns about that from a variety of people, including at the workshop that was in this room in May from multiple people. I think that's something that we really need to look at long range. If what we're doing is to continue to provide more and more student housing, we need to look to see if there really is that demand. I've been told by a variety of people that because the University has become quite expensive, because classes are available online, because of the demographics, which is what Marguerite was referring to, the college-age population in the area from which the University draws is actually decreasing and many universities and colleges, not just the University of Delaware, are seeing a decrease in population. That, in fact, the growth, as I understand it, the growth in the students is in the graduate students, not the undergraduate students. And, anecdotally, I see for example in my neighborhood, which is

heavily student rental, just around my block there are three vacant student rental properties with for-rent signs on them. Also, recently, a property sold that was a student rental sold to a young family that moved into town. So, in addition to this, the builders who I was speaking to both at the meeting that was and at civic association meetings, are well aware of this and are changing their plans. Some of them have said they are reconsidering whether they want to do anymore development for students and, when I said what are you going to do if you have suddenly an apartment building that was designed for students and now, you know, it's empty. They said, first of all, there's a complex on Elkton Road that's being reconfigured to exclude students. There's the one that's down by the Home Depot, it's called The Retreat, they said that's never been more than about 60% filled, so there's a lot of vacancy there. And what I was told by the builders is that they are planning floor plans that they know they can easily convert from student rental to non-student rental because they see this coming.

Ms. Gray: That's also required in our Code.

Mr. Wampler: Oh, is it?

Mr. Silverman: Yes.

Mr. Wampler: Oh, okay, well they let on that it was their idea.

Mr. Silverman: Clarification on that, the footprint of the building, in other words the townhouse apartment, garden apartment, whatever the Code wants to call them, is designed to be fee-simple lots with firewalls. So, a six-pack of townhouses can be chopped up from one apartment building to six townhouses. But also, I've heard and discussed with some of the developers the same thing, that with today's lightweight construction, they already have in their floorplans taking down the wall between the two small rooms and converting it from a six-bedroom to a three-bedroom to a two-bedroom with a larger living room. They already have built those configurations and all the services in their floor plans.

Mr. Wampler: So, anyway, I say all of this in support of what Marguerite is saying, that there has been a drive to create as much student housing as possible in town and I think we may have turned a corner on that and I think we need to look at what's coming down the pike and whether or not this isn't really the time to look at other housing in addition to the student housing just by the economics of it. This may be the right time to do that. Thank you.

Mr. Silverman: Mr. Stozek?

Mr. Stozek: The flux that we have today, especially coming up to an election year, you're just guessing as to what's going to happen. If everybody gets free tuition, this whole thing could turn around. Instead of 35% of the population going to college, it could be 65% of the population going to college. I mean it's nice that the builders are making those plans, but everything is still in flux right now. And, plus, the University keeps saying that they're going to be adding students. Now they are adding more graduate students but they're still saying that the undergraduate classes are going to grow in the next couple of years. So, I don't know where the truth lies. I mean I don't know what the University is doing or what they're doing relative to the STAR Campus. Are they still going to put a hotel down there? Who knows?

Mr. Silverman: Well, we know the basic economics. When there are vacancies, rental prices are going to drop. It sounds like the builders and the others have already thought about reconfiguration so they can accommodate that. So, there may be something that will balance out. The issue is going to be, and it won't be in my lifetime, when higher education morphs into something other than you attend bricks and mortar, kind of buying online instead of going to the store, then it's anybody's guess.

Mr. Stozek: I just think this whole thing is in flux as far as over the next ten years what's really going to happen to these bricks and mortar colleges. There's a big push now to get people looking at trade schools again, build up the working class. So, anything is possible.

Mr. Silverman: Any other thoughts? Again, thank you, Marguerite, for your committee's effort and thank you, Madam Director.

7. NEW BUSINESS.

Mr. Silverman: Let's move on to the next item, new business, Item 7. Do we have any items for discussion?

8. INFORMATIONAL ITEMS.

a. PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS

b. PLANNING AND DEVELOPMENT DEPARTMENT LAND USE PROJECT TRACKING MATRIX

Mr. Silverman: Informational items, Madam Director, I think we have that in our packets, don't we, for Item 8?

Ms. Gray: Yes, sir.

9. GENERAL PUBLIC COMMENT.

Mr. Silverman: And moving on to Item 9 on our agenda, are there any general public comments? Hearing none . . .

Ms. Gray: I do have, I'm sorry, we've got seven minutes but I'm not going to take up the seven minutes . . .

Mr. Silverman: Okay.

Ms. Gray: Just let me get my notes here. There are a couple of upcoming agenda items on the Council for land-use developments that I wanted to make the Planning Commission aware of. I'm sure that the Planning Commission is aware that the Council has gone to a four meeting a month format. Included in that format is a time limit, so each agenda item now comes with an estimated amount of time for that agenda item so that, in effect, is limiting the number of agenda items that can go on an agenda. In addition, land-use developments are still only going to be going on the second and fourth Mondays of the month, so that limits, so we're still under that same limitation. So, having said that, the scheduling for land-use developments going to Council is getting a little bit more interesting. So, O Paper Mill is looking to go to Council on October 28. There were a couple of Council people, Commissioners who weren't on the Planning Commission when this was recommended for approval for O Paper Mill. There was some discussion at a Council meeting before it was brought to Council regarding concern on the tree mitigation plan. A revision has been made to the tree mitigation plan and so that is going to Council on October. I just wanted to let folks know about that. The 321 Hillside Road is set to go to Council for second reading on October 14. The industrial zoning district revision is looking to go to Council for second reading on November 11. 511 Valley Road was approved by Council last, what was that, August, it was the last meeting. August 26. So, those are the upcoming Council agenda items for plans. Mr. Chair?

Mr. Silverman: Thank you.

Ms. Gray: You're welcome.

Mr. Silverman: Any other discussion? Chair will entertain a motion to adjourn.

Mr. Hurd: I so move.

Mr. Silverman: Second?

Mr. Stozek: Second.

Mr. Silverman: Okay, it's been moved and seconded. All those in favor, signify by saying Aye. All those opposed, Nay. We stand adjourned.

MOTION BY HURD, SECONDED BY STOZEK THAT THE SEPTEMBER 4, 2019 PLANNING COMMISSION MEETING BE ADJOURNED.

VOTE: 7-0

AYE: CRONIN, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER

NAY: NONE

MOTION PASSED

There being no further business, the September 4, 2019 Planning Commission meeting adjourned at 8:57 p.m.

Respectfully submitted,
Tom Wampler
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

Exhibit A: [Planning and Development Department memorandum \(Enforcement and Penalties\)](#)

Exhibit B: [Planning and Development Department memorandum \(2020 Work Plan\)](#)

Exhibit C: [Planning and Development Department memorandum \(Rental Housing Workgroup\)](#)

Exhibit D: [Planning and Development Department presentation \(Rental Housing Workgroup\)](#)