

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

December 3, 2019

7:00 p.m.

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

Chairman: Will Hurd

Commissioners Present: Pete Drake
Karl Kadar
Stacy McNatt
Alan Silverman
Bob Stozek
Tom Wampler

Commissioners Absent: None

Staff Present: Mary Ellen Gray, Planning and Development Director
Paul Bilodeau, City Solicitor

Mr. Will Hurd called the Planning Commission meeting to order at 7:00 p.m.

1. CHAIR'S REMARKS.

Mr. Hurd: The Planning Commission meeting for Tuesday, December 3, 2019 is now in session. My only remarks are that the agenda has been revised to remove articles 3, 4 and 6, which will be coming back to us on a later date. It looks like we've already talked to everyone in the audience who came for any of those items, so we don't have to announce it.

2. THE MINUTES OF THE NOVEMBER 5, 2019 PLANNING COMMISSION MEETING.

Mr. Hurd: Moving on to the minutes. Madam Secretary, do we have any further corrections?

Ms. Michelle Vispi: None other than the ones you submitted.

Mr. Hurd: Okay, everyone has in front of you the minor, minor corrections that I had found in my review. Anyone have anything else? Okay, the minutes are approved by consensus.

THE MINUTES OF THE NOVEMBER 5, 2019 PLANNING COMMISSION MEETING ARE APPROVED.

3. REVIEW AND CONSIDERATION OF A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT AND MINOR SUBDIVISION WITH SITE PLAN APPROVAL FOR 118, 126, AND 130 NEW LONDON ROAD (PR#19-07-01). THE PLAN PROPOSES TO MODIFY THE THREE EXISTING SINGLE-FAMILY DWELLINGS ON THE SITE BY ADDING TWO NEW TOWNHOME UNITS BETWEEN THE EXISTING DWELLINGS, THEREBY CREATING A TOTAL OF FIVE TOWNHOME APARTMENTS. A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT IS REQUIRED TO CHANGE THE LAND USE FROM LOW-DENSITY TO HIGH-DENSITY.

[Secretary's Note: The land-use project for 118, 126, and 130 New London Road was withdrawn until a future Planning Commission meeting.]

4. **REVIEW AND CONSIDERATION OF AN ANNEXATION, REZONING, AND MAJOR SUBDIVISION AT 734 PAPER MILL ROAD AND 5 AND 11 POSSUM HOLLOW ROAD (PR#19-08-02). THE PLAN PROPOSES TO ANNEX THE PARCELS INTO THE CITY OF NEWARK, REZONE THE PARCELS FROM NEW CASTLE COUNTY NC15 (NEIGHBORHOOD CONSERVATION) ZONING TO CITY OF NEWARK RD (ONE-FAMILY SEMIDETACHED RESIDENTIAL) ZONING, CONSOLIDATE THE THREE PARCELS INTO ONE PARCEL, DEMOLISH THE EXISTING DWELLINGS AT THE SITE, AND CREATE A 12-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION.**

[Secretary's Note: The land-use project for 734 Paper Mill Road and 5 and 11 Possum Hollow Road was withdrawn until a future Planning Commission meeting.]

5. **REVIEW AND RECOMMENDATION ON TRANSPORTATION IMPROVEMENT DISTRICT AGREEMENT.**

Mr. Hurd: Which takes us to Item 5, review and recommendation on Transportation Improvement District agreement.

Ms. Mary Ellen Gray: Thank you. I'd like to introduce Sarah Coakley. She's the principal planner of the Delaware Department of Transportation and will be . . . first of all, Sarah has been instrumental or the key player in working with us probably, when did we start this? We started this more than a year ago.

Ms. Sarah Coakley: We started the discussion shortly after you started here.

Ms. Gray: Right. My goodness, that was almost three . . .

Ms. Coakley: I transitioned to my position around the same time and we started talking about it then.

Ms. Gray: That's right. So, this has been a project in the works for quite some time. And, as you now, there's a TID Committee that's been set up and it has been meeting to talk about walking through the steps in the TID process. And this is one of the key steps in the TID, which is the review of the initial agreement, TID agreement.

[Secretary's Note: A link to the Planning and Development Department memorandum related to the Transportation Improvement District agreement can be found at the end of this document.]

Ms. Gray: So, Sarah, I'm going to turn it over to you to take it from here.

Ms. Coakley: Great. Good evening. Thank you for having me this evening.

[Secretary's Note: During her presentation, Ms. Coakley referred to a PowerPoint presentation being displayed for the benefit of the Commission and the public. A link to Ms. Coakley's presentation can be found at the end of this document.]

Mr. Hurd: Sarah, can you get a little closer to the microphone?

Ms. Coakley: Yes, is that better?

Mr. Hurd: Yes, thank you. That way we know you're recording.

Ms. Coakley: So, I'm literally going to walk through the entire agreement so that way everyone has an opportunity to review it and ask any questions at the end. But beforehand I wanted to do like a brief introduction of what is a TID? Basically, it's a Transportation Improvement District and it replaces the Traffic Impact Study. So, currently, any development that generates

more than 50 peak hour trips, which basically means 50 vehicle trips either in or out, in total, in the highest volume hour of the day, whenever that hour happens to be, or 500 trips in a day, has to do a Traffic Impact Study. Basically, they have to study the traffic and the impact of their development on the transportation system and then many times they are required to make what's called offsite improvements. So, in addition to their entrance, they could be required to either make improvements along their frontage or even contribute to improvements usually within like up to three intersections of state-maintained roads out from their development. So, this would replace that.

So, this map shows what's called the initial boundaries and I'll give a better example of this at the end but, basically, this is the agreement that let's us start doing the traffic analysis and land use planning for the TID. And then for each step in the process, the agreement and each of the elements to be added to it, we'll come back to the Planning Commission and City Council for recommendation and approval. So, this is just the initial go for it. But the red is the proposed participant boundary, which is basically the parcel area that is covered by the agreement. And the agreement also specifies that only those parcels within the City boundary were subject to the TID agreement. And the boundary is based on the descriptions of the TID in the City's Comprehensive Plan V. There are focus areas within the plan that identify the area within red as being recommended to be the TID. The eastern boundary was moved a little further west because there are many intersections along 273, Capitol Trail, and Route 4, just to the east of the red area that are in the Churchman's Crossing area study, which we'll essentially be doing the same – coming up with a list of transportation improvements that are needed as a result of development within that area. So, we don't want overlapping areas for this.

The blue roadway segments and green intersections are what we call the facility's boundary, but it's basically the segments and intersections that we're going to study. It includes 64 roadway intersections. Fifty-two are signalized currently. Twelve are non-signalized. And then as an intersection that is included in the agreement, all the approaches leading up to each intersection are included as well. And then the recommended target horizon year is 2045 and this map and items on here, and these elements proposed to be in the agreement, were recommended by the TID Committee. They voted at their November meeting and there were a couple of people that abstained. Correct me if I'm wrong, but basically, they're like performing an advisory role so they thought it was beyond their role to actually vote. But other than that, there were no objections to this recommended boundary and horizon year.

And then we've also been specifically requested to study the trail crossing that basically goes like, there's not a formal crossing there yet, but on Barksdale Road to see if we could possibly put a formal trail crossing there. But the trail does like go under the road there basically. And then all of the roadway segments are state-maintained with the exception of Hillside Road between Apple and West Main Street. And then West Park Place and East Park Place, those are City streets. And then again, at every step of the process when we come back to you, there will be the opportunity to adjust the boundaries, if necessary. And then when we're actually implementing the TID, we monitor everything and come back regularly. We've been committing to doing annual reports at a minimum to every municipality that has a TID and then typically do a comprehensive re-do like every five years in conjunction with the Comp Plan update.

So, this just shows the City's Comprehensive Plan V and the area called for to be a TID. So, the red area and the lines on the map include all those and then there are also some text that went along with it. Because it said to make sure to include West Main Street and Hillside Road, North Chapel Street and Cleveland Avenue, East Main Street, Delaware Avenue, and Ogletown Road, Library Avenue, and Marrows Road. And then under an action item, it talks about several additional roads – New London Road, Hillside and Barksdale, Wyoming Road, roads near the country club, and then near the University's STAR Campus and University Plaza. So, all those areas are included.

And then most of the rest of the agreement is agreeing to work on the next steps for the TID. So, in order to develop a TID, we will need to determine service standards, which is basically what adequate transportation would look like within the district. Then, based on that and a parcel-specific land use forecast that we will need from the City, DelDOT will do the traffic modeling of that land use forecast . . . basically, what's expected to be developed between now and 2045 . . . and then we come back with a list of recommended transportation improvements. And then based on the transportation improvements, we actually do like detailed concepts over aials and detailed capital transportation program level cost estimates for each improvement, and then work together to create a fee schedule to collect fees from development as it occurs to basically pool into a fund to then be used for those transportation improvements. So, this agreement commits us to working together on these steps.

So, basically, the service standards are going to define what's considered acceptable transportation facilities and you can see on there like typical section elements of the road. So, lane widths, shoulder widths, and transit service or elements are items that are required to be addressed in the service standards. The rest are optional, like aesthetic treatments. In the Town of Middletown, we've committed to maintaining their ornamental lights and brick sidewalks within their historic district. Sidewalks and shared-use paths, in the proposed Henlopen TID, we're putting sidewalks and shared-use paths everywhere. And then on level of service delay, travel time, those are other things to be considered that are optional, as well, based on our regulations. And how will these things be developed? Through a public process. The TID Committee will make a recommendation that will come to you and ultimately City Council will need to approve. And this will be done after the initial agreement and then we'll review it again after the future traffic analysis.

So, the City, through this agreement, is committing to provide a parcel-specific land use forecast. Basically, we needed to know either like number and type of housing units and square footage for non-residential building or, alternatively, like number of residents and number of employees in order to model the future traffic. And then, eventually, DelDOT and the City will need to agree on the transportation improvements in order to meet the service standards.

And then DelDOT develops the CTP level cost estimates and concepts plans and brings those back for approval by the City. So, the City will need to review that and basically approve the list of projects and their costs, and then also help us develop and approve an infrastructure fee program. And then annually, the City will recommend projects from the TID program to be included in DelDOT's overall statewide CTP. So, we have a six-year CTP, so usually projects are added in the last two years and then they move forward and move to a very recent policy of basically once we start a project in the CTP, as it moves forward, we keep it going. So basically, we prioritize everything and then continue to move forward with the project. Unless something major happens, we're not going to constantly reevaluate projects all the time. We're going to get them out the door in that 4- to 5-year timeframe.

And for the infrastructure fee program . . . and this will be decided later, I'm just giving you an overview of what you're committing to do eventually . . . is deciding on what share of the project cost the development community will pay for. Right now, in the southern New Castle County TID, the development pays for 50% of the cost of the improvements. Westown and Eastown, it's 30%. Henlopen, we're looking at between 20% and 30%. Because some of the improvements will be due to background growth or growth outside of the TID boundary, and then sometimes we're also adjusting existing conditions as well. So, that's why we don't charge the whole project to the future development. And then deciding the breakdown of fees, so like right now most of our fee schedules are per unit fees for single-family and multi-family residential. And the multi-family fee is less than the single-family because they generate less traffic per unit. And then we usually have a fee for commercial and office and then a lower fee for institutional and industrial. Institutional would include things like government only and the University, churches and schools, parks, and that sort of thing. And then this draft agreement has the City collecting the fees prior to the building permit being issued. So far, for all our TIDs that are with municipalities, the town or city has been collecting the fee. Because it's collected

before building permit, it makes sense to have the entity that's issuing the building permits to collect it. But we can adjust that if need be. DelDOT collects the fee for the southern New Castle County TID. And then basically there is a hold on all the building permits within the TID. So then the county has to verify with DelDOT if the payment has been received before they issue the building permit, so there's a little bit of a delay there. But that's an option, too.

And then DelDOT monitors the traffic within the TID. We produce an annual report with our findings and recommendations on which projects to start next and ultimately, they come before Planning Commission and City Council for approval, as well. And any time the Comp Plan is amended, there is potential for the agreement to be amended. It should at least be looked at. So, basically right now the agreement spells out that if there are any changes to the boundary or horizon year or any elements of administration, and then to add the service standards, the land-use and transportation plans, the list of projects and the costs, and the fee schedule, that all has to be added to the agreement through the same process that we're going through tonight. So, the TID Committee would review everything and then Planning Commission would review everything and then City Council would make the final decision. And everything is supposed to be reevaluated during Comprehensive Plan updates.

So, this is an example from Eastown, which just had their second agreement, their revised agreement, approved by Town Council last evening. So, on the left is the initial TID boundary that they started up with a year ago. And so we did the analysis and basically in pulling our traffic data, a lot of the intersections in the south and then along 13 we did not have data for. And so with the town, we basically got permission to move forward without using those counts. And so that's why those dropped off. And then there's a number of other intersections in town on the south and west side that, with agreement from the town, we took out because they're actually within the other TID within the town called Westown, and it did not really make sense to be analyzing them twice and making recommendations for improvements twice. We're already doing monitoring and have other projects programmed to address those intersections, so we took those out.

And then we also just amended the service standard for Eastown. So originally, the initial agreement for Eastown include service standards because the town was comfortable with that. And initially it was basically level of service D overall for all signalized, roundabout, and stop-controlled intersections, which is basically like no more than 55 seconds of delay per vehicle. And as a result, the modeling, basically the modeling showed that we can't achieve that everywhere. There are certain locations within the historic district where we can't, there's like no physical. The buildings are literally right up against the road so basically, we've modified the service standards through the public process and are going with overall E instead of D, which is like 70 seconds of delay. And then there was one intersection in the center of town where we can't even achieve that, so we're committing to maintaining a delay of no more than 110 seconds. And again, so these are changes that were made through the process between the initial agreement and the agreement that was just approved after the analysis was done.

And then this shows basically the transportation plan element of the land use and transportation plan for Eastown in Middletown. In addition to like road widenings along 299, the main state route that goes through town, so we have a couple of locations where we're proposing to add lanes and add turn lanes in an out. We're also proposing some new roadway connections. So you can see the long red lines toward the middle of the map. Those are actually brand-new roads that aren't there now that we're recommending be constructed and basically, we'll be collecting fees for them from the development that comes into town that will cover 30% of the cost. DelDOT will do the other 70%. And in this particular case, the town has agreed to take over maintenance of the roads. That would be something we would need to discuss with the City, as well, but basically like these facilities are also considered part of the TID because they're related to specific improvements.

So, now I'm happy to answer any questions.

Mr. Hurd: Alright, so questions on the initial presentation. I'll start on my left with Commissioner Wampler.

Mr. Tom Wampler: The only thing that I would like some clarification on, in the copy of the agreement that we have, it lists the boundaries and all of the states and then says additionally the following City-maintained roadways shall be subject to the terms of this agreement. And it's Hillside Road, Park Place, East Park Place, and West Park Place. Does that mean that all the other streets that are mentioned in this document are not City-maintained, they're actually state-maintained?

Ms. Coakley: Correct, yes.

Mr. Wampler: In all aspects, as far as maintenance and everything?

Ms. Coakley: Yes.

Mr. Wampler: Okay, thank you. That surprises me. I wasn't expecting that. Thank you.

Mr. Karl Kadar: Just a comment. The last time we reviewed this, there was no mechanism in the agreement for modifications and changes. And I noticed now, they're everywhere. So, I want to thank you for putting that in.

Ms. Coakley: Yeah . . .

Mr. Kadar: Paul will probably thank you, as well, if there's a method for modification.

Mr. Paul Bilodeau: We like to modify things, yeah.

Ms. Coakley: And it's in our regulations also that like the service standards have to be through a public process and that everything has to come back. Basically, it's in our regulations that everything has to come to City Council and then in the town code, City Council then gives you authority to review and make recommendations for anything that's related to land-use or like any public facility funding, which is exactly what this is, has to come to a Planning Commission and then . . .

Mr. Alan Silverman: That's also state legislation.

Ms. Coakley: And then City Council has also given authority to the TID Committee to make recommendations also. So, everything has to go through all three.

Mr. Hurd: Commissioner McNatt?

Ms. Stacy McNatt: Hi, thank you. I have a question about each step, like you said, has to go through updating the Comprehensive Plan. So, for example, if you wanted to change the boundary or change the service standards or the horizon year, is that a requirement that it has to go through the Comp Plan or is there another public process mechanism other than the Comp Plan.

Ms. Coakley: Yeah, so, sorry, I may have stated that backwards. It's whenever the Comp Plan changes, then everything else needs to be looked at basically.

Ms. McNatt: But that's the only time that that can happen then?

Ms. Coakley: No, it can be evaluated whenever, too, where we can make changes pretty much at any time. Like for the southern New Castle County one, basically the market has changed and such that we're getting a lot more demand for industrial warehousing development, which we hadn't included in the modeling at all. So, we're getting ready to start an effort to remodel

everything, including the new industrial development. But in the meantime, we've created a new fee for industrial that's more on par with the institutional because we were given data to show the different rents . . .

Ms. McNatt: So, if there's a change that's needed to the boundary before the Comprehensive Plan gets updated, how can that be done?

Ms. Coakley: Through amending this agreement after going through the TID, Planning Commission, and City Council.

Mr. Silverman: Page 3, Paragraph D right at the top.

Ms. McNatt: No, it's in every section. It's in D on the boundary sections, it's C on the target horizon section. My concern is the way it's written is that the only way we can change any of those things is it has to go through a Comprehensive Plan amendment . . .

Mr. Silverman: No.

Mr. Hurd: No. Sorry.

Ms. McNatt: Okay. I don't read it as saying that it can be amended through a public process at any time. To me it reads that the only way we can change those items is through a Comprehensive amendment.

Mr. Hurd: No, the . . .

Ms. Coakley: So, it says, let's see, the City shall, at a minimum, evaluate the need to amend the service standards, and this does include all elements, so basically the City shall evaluate the need to amend everything in updating the Comprehensive Plan.

Ms. McNatt: Right, so we have to update the Comprehensive Plan . . .

Ms. Coakley: Maybe change it to when updating the Comprehensive Plan instead of in updating the Comprehensive Plan?

Mr. Hurd: The Comprehensive Plan, sorry, the Comprehensive Plan and the TID don't actually, I mean the Comprehensive Plan doesn't create the TID.

Ms. McNatt: Correct.

Mr. Hurd: I think it's just a mechanism to say if nothing has been happening enough, the Planning Department has said nothing is going on and everything is good, at least when you re-do the Comprehensive Plan, you should take a look at the TID and just verify that it's still working.

Ms. McNatt: Okay, I liked how you said that. To me, that's not how this reads.

Mr. Hurd: Okay, because that's how it reads to me.

Mr. Silverman: That's how it reads to me.

Ms. McNatt: Okay, I don't read it like that. To me, it says the City shall, at a minimum, if you want to change anything, you do it as part of the Comprehensive Plan change. There's no other section of this that says or as needed at any other future time, or any other time.

Mr. Hurd: Okay, I wasn't ready to go through this line-by-line . . .

Ms. McNatt: I don't want to go through it line-by-line. This is my one concern.

Mr. Hurd: I think there, the language maybe is the “in.” So, we could say amend the boundaries of the TID when updating the Comprehensive Plan.

Ms. McNatt: Maybe.

Ms. Coakley: Or even . . .

Mr. Hurd: So that implies that the timeframes overlap.

Ms. Coakley: Or even change it to, here’s a thought, change to when updating their Comprehensive Plan, the City shall. Like make the Comprehensive Plan part the first part so that it’s clearer and that’s the condition.

Ms. McNatt: Right.

Mr. Hurd: Yeah.

Ms. Coakley: Does that make sense?

Ms. McNatt: Yes, you want this to be evaluated, or you want these items to be evaluated when the Comprehensive Plan change happens for sure, but it can be amended at any time through the recommendation of the TID, the Planning Commission, and the City Council.

Ms. Coakley: Yeah, because under Section 9 it talks about the agreement not being amended except through literally signing another agreement. It says this agreement shall not be modified except in writing subscribed by all parties.

Mr. Hurd: Sarah, quick question. Does this agreement need to define the City’s process for amendment, or is that just maintained internally?

Ms. Coakley: That’s just maintained on like the City Charter and the City Code.

Mr. Hurd: Okay.

Ms. Coakley: This agreement just . . .

Mr. Hurd: As far as you’re concerned, however the City comes to the decision to amend it, you take it and it’s on us to do it. Okay.

Ms. McNatt: And I guess is that allowed to be a comment at this point? Because we’re here to vote on this, correct?

Mr. Hurd: Yes, we are.

Ms. McNatt: Well, I recommend that those sections be changed to be more clear that when the Comprehensive Plan happens, that these need to be evaluated. My other question is, like defined terms. And one of the defined terms, I brought this up in the last meeting when we discussed this, is other considerations. And the other considerations to me are when impervious cover is added or things get added to implementing this plan, that conveyance systems and drainage and stormwater get implemented as part of that. Does that happen automatically or does that not get included as part of this?

Ms. Coakley: It does. So, our concept plans and cost estimates for projects will include that. It will include either, depending on if it’s a major project then we’ll probably have to buy property for a stormwater pond. So it would include that cost.

Ms. McNatt: So, if they need to add a turn lane or make two lanes four lanes, that additional impervious surface and construction includes conveyance of the runoff associated with all of that?

Ms. Coakley: Yes.

Ms. McNatt: Thank you for clarifying that. And I'm just curious to understand, you quickly mentioned that in the Eastown TID for Middletown, those new roadways that are being proposed, that the cost percentages, etc., but you mentioned that DelDOT isn't going to ultimately maintain them. It's going to be the city to maintain them. Why, in that case, does DelDOT have the city to have the maintenance responsibility in the end?

Ms. Coakley: Basically, they're extensions of city or town streets that they're already maintaining and basically like the town was fine with maintaining them.

Ms. McNatt: So if it, in our case, for example, if it's a modification to a DelDOT existing street, then DelDOT would take the maintenance and just keep that maintenance. If it's potentially one of these other three streets that is currently City-owned and maintained, then it will probably stay a City-owned and maintained road.

Ms. Coakley: Yes. And if not, then we would need a separate agreement to change that.

Ms. McNatt: Right, if then DelDOT takes them over or something at some point.

Ms. Coakley: Yes.

Ms. McNatt: Just double checking my other comments. Oh, and my last question or concern was from the last meeting. The red line for the proposed participant boundary was very, not as exclusive all the way up to Otts Chapel Road and there's a lot of proposed development going in that futuristically area. Is there a reason, can you explain why . . . if you want to bring that map up . . . why the red line is brought back more into town there versus including out towards Otts Chapel area?

Ms. Coakley: So, it's based on like these areas in the Comp Plan basically. It's in the Land Development chapter. But basically there's an area in here where it lists like what planning areas are supposed to be in the TID and this one is not in there, basically. So, the limits literally just match what's outlined verbally in the Comp Plan.

Ms. McNatt: Do you know if there's any consideration for including additional area knowing that there's development or increase in development in that location?

Ms. Coakley: Is it already approved development or is it . . . ?

Ms. McNatt: I don't know the answer to all those questions.

Mr. Hurd: It's submitted.

Ms. Gray: No, it hasn't been proposed. There's an application for development in that area but it has not been brought forth as a planned use application.

Mr. Silverman: And it's been inactive for, now, years.

Ms. McNatt: I don't know, to me, if you look at the Route 4 intersection, that's a very traffic-heavy location that I would think would need to be in the participant boundary and/or maybe expanded towards the west more, including the City, or inside the City limits.

Ms. Gray: Sarah, didn't we also talk about this at the TID meeting that there was a reason why there wasn't expanded more to the west because didn't we run into problems with the three intersections going into Maryland? Isn't that . . . ?

Ms. Coakley: Yeah, that was why, and the roads, the intersections that we're going to study go to the Maryland state line there. I mean basically, so the initial kind of shot at trying to figure out how far to extend everything out in terms of the green dots and the blue segments on there was looking up to three intersections out of where the development within the red area would be located.

Ms. McNatt: But there's a lot, my concern is there's a lot of land area inside City limits on that west corridor, or that side of town, that will be outside the participant boundary and then won't be required. Because if they're not in the participant boundary, they're not going to be required to do something. Isn't that correct?

Ms. Coakley: Right. Instead of paying towards the TID, they would have to do a Traffic Impact Study if they're large enough to trigger one.

Ms. McNatt: And they'll never, which is our quagmire, which is why we're here with the TID, because nobody in the City will ever do TISs because they're never big enough. So, I would like to find a way to include those areas to make them part of the participant boundary, knowing futuristically there's a lot of land area on that side of town that could be developed.

Ms. Coakley: Where does it, I mean one idea is just to make it the City boundary on that side.

Ms. McNatt: Hey, I'm okay with that because that includes parcels that could be developed in the future that may or may not have active plans but knowing there's a lot of potential development in those areas.

Ms. Gray: I'm recalling that there was a reason because that was originally proposed when that TID group was talking about that area and if I recall correctly, Sarah, I thought that there was some staff at DelDOT that said we couldn't or we shouldn't, there was a reason why that was contracted. Because originally, when we were talking about the boundary with the TID group, it was included. And then maybe . . . Alan, do you recall that discussion? I know that there was a valid reason but I'm not recalling what it was.

Mr. Silverman: I don't recall the reason either because we brought up the inclusion of the old Stine-Haskell Laboratory. There's a significant parcel and for some reason the TID group was persuaded not to go in that direction because of some technical issue.

Ms. McNatt: I would like to know . . .

Ms. Coakley: I mean DelDOT would be fine with expanding it.

Ms. McNatt: Right, so they're . . . I would prefer it be expanded because there's potential for apartment changes over at the intersection at Otts Chapel. There's potential for commercial development on the corner of Otts Chapel and Elkton Road. There's potential for expansion in that Suburban Plaza location. There's potential for all of that that's not going to be participant included and then they won't be required to do anything.

Ms. Coakley: I guess maybe they were thinking that if you go out four intersections, you're in Maryland. But then, I mean we can't make Maryland do projects.

Ms. McNatt: Right, so . . .

Ms. Gray: Right, I think that was the reason.

Ms. Coakley: So, the facilities boundary is kind of, I mean that's as far as we can go.

Mr. Kadar: Let me clarify.

Ms. Coakley: But that doesn't really have anything to do with the participant boundary.

Mr. Kadar: Let me clarify something here. We're not here today to approve those boundaries as part of the TID, are we? We're here to approve an agreement . . .

Ms. McNatt: Yeah, it's in the agreement.

Mr. Hurd: The agreement defines the boundaries.

Ms. Coakley: Yeah . . .

Ms. McNatt: Correct.

Mr. Kadar: Okay, so this is just input into developing those boundaries?

Ms. McNatt: If they want me to vote in favor of the agreement, which is that red boundary, then I'm making the recommendation that that boundary gets modified so that when the agreement, or when the boundaries are finalized, that area is included.

Mr. Kadar: Yeah, okay, I understand that.

Mr. Hurd: The only defined thing in this agreement that we're currently approving is the boundaries because everything else is still yet to be . . .

Ms. Coakley: Yeah, it's the boundaries and the horizon year, basically, that's being approved now.

Mr. Hurd: Right.

Ms. Coakley: And then a commitment to work on everything else.

Mr. Hurd: I'll just note that if you're going out 72, there is a point there where the boundary, the facility boundary, there's only one stop defined past the boundary. So, it's not, I think, a requirement that there always be three further intersections.

Ms. Coakley: Correct. That's our very maximum that we can look at.

Ms. McNatt: Right. And I know you can't make Maryland do anything, but I think the area that's to the west has a high potential of excessive development and they need to participate or should be participants. And I think we should include, basically make that line all the City property or all the City, town boundary.

Mr. Hurd: Is Stine-Haskell in the City?

Ms. McNatt: No.

Mr. Silverman: No, it's not. It's in New Castle County.

Mr. Hurd: Okay, so we'd have to go around that.

Ms. McNatt: Which isn't horrible but . . .

Ms. Coakley: All I can think of is that maybe that was the reason. That they didn't want to have like any areas in between that are not . . .

Mr. Hurd: Yeah, it zigs and zags down Elkton Road for sure.

Ms. Coakley: But they're not going to be subject to it anyway, the areas that are not within the City.

Ms. McNatt: In the county, correct, but I'd rather add this, I would recommend we include the City parcels that are in the City boundary to the west of Route 4 all the way to the Maryland line, which includes the high school, which includes other parcels . . . there are a lot of things over there that could affect and should be participants.

Mr. Hurd: What's hampering me is that the map doesn't have the City boundary superimposed on it, which was something I had commented on last month. So, it's hard to tell sort of where that new line would go. But I understand what you're saying, and I think I'm in agreement. To my mind, there's nothing wrong with drawing it a little bigger, giving it a year and going, well, maybe we need to bring it in.

Ms. McNatt: Once the studies are done, the studies could change what that boundary shows, I guess.

Mr. Hurd: And then, in general, I'm loath to override a previous committee's work that's been discussing it, but it seems like they were operating under the assumption they couldn't do it but our DelDOT representative is standing here and saying they can do. Then I'm like, well let's do it.

Ms. McNatt: I don't know how it would hurt anything if we added it . . .

Mr. Hurd: Exactly.

Mr. McNatt: At this point. I mean I think that's my last comment, my last proposed comment, idea.

Mr. Hurd: I can't tell looking at this map how we could redefine the boundary sufficient for the agreement here.

Mr. Silverman: We have no way to describe it.

Mr. Hurd: Right. Because I know that they want to follow physical features, so clearly it would follow like the train tracks and possibly cut over to some point and then up, but there's the City boundary that needs to follow and it gets . . . I'm not clear. Madam Director?

Ms. Gray: Yes?

Mr. Hurd: Thoughts?

Ms. Gray: On what?

Mr. Hurd: How to effectively redefine the boundary to address the concerns of the Commissioners and possibly continue this moving forward. Or do we need to bump it out a month and get it redrawn and have a better map that we can trace?

Ms. Gray: Well actually I was still looking up the reasons because I have it in my head that there was a rational reason . . .

Mr. Hurd: True. I would hate to redefine it, and have it kicked back to us . . .

Ms. Gray: As to now, right, I was looking through the meeting minutes for that.

Mr. Hurd: Okay, I'll tell you what, let's hold that thought . . .

Ms. Gray: Can we do that, and I'll think about that. I'll talk with Paul, as well.

Mr. Hurd: Anything further, Commissioner McNatt?

Ms. McNatt: No. Thank you.

Mr. Hurd: Commissioner Silverman?

Mr. Silverman: Since this will be an agreement going before Council, I'd like to see the whereas statements expanded, particularly for clarification for people who have not been involved in this process. Something to the effect of adding a whereas recognizing development in Newark may not be subject to the Traffic Impact Study requirements of DelDOT, which brings that idea into play that's already been discussed. And referring also to Page 5, Section 6, where there may be developments that are excluded from this particular agreement. So, the public's perception, in conclusion, along with the decision-makers' isn't that this TID overrides everything that's in place. So, maybe the whereas statements need to be expanded a little bit.

Mr. Hurd: Okay. Do you have . . .

Mr. Silverman: I do not have specific wording. Also, it needs to be clearly stated on Page 2 of 10 in dealing with Paragraph B that participants include private land owners, state, school district, and University of Delaware landowners. So, it's very clear that this does not exclude any particular landholder by virtue of being tax exempt.

Mr. Hurd: So, where it's saying all land developments?

Mr. Silverman: Yes.

Mr. Hurd: Okay, all land developments, comma, private and . . .

Mr. Silverman: To me, it's very clear all land developments mean every legally constituted parcel, regardless of ownership. Maybe that's the way of phrasing it.

Mr. Hurd: They do further define it by subdivision or plan development plan. So, I think . . .

Ms. McNatt: Does the University submit land development plans to the City?

Mr. Silverman: No.

Ms. McNatt: That's the . . .

Mr. Silverman: But the TID group came to a conclusion, and it was not disputed that the University nor the school districts nor any non-profit organizations are exempted.

Ms. McNatt: Maybe that's a specific statement that needs to go in there, that they need to be included. Because if it discusses just the plan, a land development plan, that doesn't, they don't have a land development plan in the City.

Mr. Silverman: Correct. There's no trigger.

Mr. Hurd: Right.

Ms. McNatt: Right. That needs to be a specific statement in that section.

Mr. Silverman: Yes.

Mr. Hurd: So, basically a comment afterward that says within the participant boundary, comma, and all other . . .

Mr. Silverman: Mr. Bilodeau, do we have any suggestions on that?

Mr. Bilodeau: So, you're talking about where it states all land development?

Mr. Hurd: Right.

Mr. Silverman: Yes.

Mr. Bilodeau: And then I'd say something including inter alia land development of all parcels regardless of ownership, including parcels owned by the University, by school districts, by non-profits, and just name . . .

Mr. Silverman: To make it very clear that's it's inclusive rather than exclusive.

Mr. Bilodeau: Correct.

Mr. Hurd: So, maybe we shorten it by saying all land development parcels within the participant boundary. Because I think as soon as we say requiring a subdivision or land development plan, that's a narrower frame that you have to pass things through. And that eliminates groups that you're trying to make sure are included.

Mr. Silverman: Right.

Mr. Hurd: Alright, so Paul what was the language you were looking, you were thinking?

Mr. Bilodeau: All land development including . . . and I like to throw in a Latin term every once in a while . . . inter alia parcels, all parcels, within the City regardless of ownership. And then I don't know if you want to include that requiring subdivision or land development plan.

Mr. Hurd: I was thinking if we say all parcels, we can strike that out.

Mr. Bilodeau: Right.

Mr. Hurd: And keep it broad. Just say if a parcel is being developed, that is changing it's use or density, you know, and it's within the participant boundary, then it's subject.

Ms. Gray: So, I'm still not clear on how that sentence reads. Could you please read that again?

Mr. Hurd: Here's what I think it says. All land development inter alia . . .

Mr. Bilodeau: Including inter alia.

Mr. Hurd: Including inter alia, all parcels within the City regardless of ownership and within the participant boundary, and all state-maintained capital transportation facilities, blah blah blah, within the facilities boundary shall be subject to the terms of this agreement.

Ms. Coakley: I have a quick question.

Mr. Hurd: Sure.

Ms. Coakley: So, if there's like a vacant lot that's just owned by someone and they haven't built on it yet, but they just want to get a building permit to building a single-family dwelling. Do we want them paying into it also? It's just something to consider.

Mr. Hurd: Okay, so it would be a subdivision in the memo.

Ms. Gray: Yes, because if you're including all building permits, they are basically double dipping. Because we want to capture them at the land development phase.

Mr. Silverman: We're circular here. If there's no land development plan submission required, then we don't capture them.

Ms. Gray: Are you talking specifically about projects from the University of Delaware?

Mr. Silverman: Yes.

Ms. Gray: Yes, because we just receive building permit applications from the University of Delaware.

Mr. Hurd: Okay. Alright, I'm not sure how to capture that. Unless we have to redo this and say all land developments requiring a subdivision land development plan or I don't know. Because we're basically looking at things that have the same scale as a land development or a subdivision but that aren't subject to our land development approval process.

Ms. Gray: Correct.

Mr. Hurd: Which would be the University and school districts and state, right?

Mr. Silverman: Generally, that's my understanding.

Mr. Hurd: Alright, with that in mind, Paul? We're looping back on other things so if you want to think a little bit . . .

Mr. Bilodeau: So we want to basically capture, we want to keep that language subdivision . . .

Mr. Hurd: Yes.

Mr. Bilodeau: Or land development plan . . .

Mr. Silverman: How about meeting the criteria for? Use it as a surrogate. They don't have to apply for it but if it looks like it . . .

Mr. Hurd: That would meet the requirement?

Mr. Silverman: Then it would be included.

Ms. McNatt: But you can't guarantee that the University or other types of development are going to meet the same type of criteria because they don't have the same standards.

Mr. Silverman: I don't mean literally but if it would trigger, I'm thinking if . . .

Ms. McNatt: Who makes that call?

Mr. Silverman: If the footprint is more than 10,000 square feet of commercial . . . I don't know if this is true in the City . . . it becomes a minor plan. If it's under 10,000 square feet . . .

Ms. McNatt: But who makes that call?

Mr. Hurd: In my mind it's when the building permit application shows up and they look at it and they say, oh, you're taking a piece of STAR Campus and you're putting down 120,000 square feet of commercial, that's like a major land development. That triggers . . .

Mr. Silverman: Yeah, if it was in the City's jurisdiction, it would normally trigger.

Mr. Hurd: Right.

Mr. Silverman: How do we build that in?

Mr. Bilodeau: So, something along, you know, all land development requiring, and then you'd say, one, requiring a subdivision or land development plan or, two, land development of the University or 1743 Properties or whatever it is that owns the STAR Campus.

Mr. Hurd: I'm concerned about naming it. That's the problem. If we get too granular and say University or 1743, it's like, I would like it so that when they come for a building permit, there's a criteria that you can check it against that says this is, in fact, a major subdivision or effectively a major subdivision plan.

Mr. Bilodeau: You'd say that meet the criteria for . . . two would be maybe meet the criteria for a subdivision or land development plan by an entity not within the jurisdiction of the City Planning Department.

Mr. Hurd: Okay.

Mr. Silverman: With some smoothing, that works for me.

Mr. Hurd: Okay. Awesome.

Mr. Silverman: And I'd like to build on what Stacy said earlier, referring to Page 3, Paragraph D at the top, shall evaluate the need to amend the boundaries. And I have a question on the statement right here. What triggers an event? Could it be a change in facts and circumstances, as Sarah mentioned with, I believe, the City of Wilmington area? Could it be a petition? Could it be a request for annexation by a property owner? Are there some specific targets that might trigger other than the change in the Comprehensive Plan? I don't know if we could list that kind of thing as an example. There was an error found in the initial map. Okay, that's very clear. There was change in facts and circumstances. An area that was anticipated to be residential was suddenly developed as a major industrial site due to state economic development action that wasn't anticipated. You know, those kinds of things that would show very clear trigger events.

Mr. Hurd: I guess in my mind, looking at this, I was assuming that the Planning Department would basically notice increased development in areas maybe that weren't subject to the boundary and generate a proposal to say I think we need to move the boundary because there's been activity, basically, just over the edge that seems to be having an effect. But that's an assumption.

Mr. Silverman: And it lasts as long as the people who are sitting here are participating in the process.

Mr. Hurd: There is that problem. So, are you looking for basically expanding D to sort of generate further criteria?

Mr. Silverman: And where D-type wording occurs throughout the document, as was described.

Mr. Hurd: I'm in agreement that shifting those lines to say when updating their Comprehensive Plan, the City shall, at a minimum, evaluate the need.

Mr. Silverman: But what are other trigger criteria? And use them for example, rather than trying to be an extensive list.

Mr. Hurd: Okay, we may need that language.

Mr. Silverman: And moving on, Sarah mentioned in one of her examples, roads that are not yet built. And on Page 6, Paragraph B, dedicated rights-of-way and that description, and I look toward Mr. Bilodeau again, the City of Newark does not have an official map. Would a

document like this trigger the need for an official map that would show future streets? Or is that automatically picked up in the Comp Plan, the land development process?

Mr. Bilodeau: So, you're looking at B here?

Mr. Silverman: Yes, on Page 6. Where it talks about dedicated rights-of-way in lieu of some or all fees. I understand what that's about, but it triggered in my mind the need for an official map so it's out there. So, if the project falls through and there's money sitting in the pot, five years down the road, ten years down the road, it's very clear what it's linked to. Because it's not clear in my mind if I'm a developer, I come in, I'm all ready to go, I put my money up through DelDOT and it's now sitting in the City's bank account for a TID, the economy shifts, I can't build, and I go bankrupt, what happens to that money?

Ms. Gray: Correct me if I'm wrong, Sarah, I think we just mentioned this before, the trigger for the fee payment would be at building permit stage . . .

Mr. Silverman: Okay.

Ms. Gray: So, you'd only be paying if you're building.

Mr. Silverman: But this commits in lieu of payment, dedicating right-of-way and building physical infrastructure. What happens with that commitment? Does that stay with the land or does that die with the applicant?

Ms. Gray: Well, if it was in the subdivision agreement, which I imagine it would be, if an applicant is dedicating right-of-way or land in lieu of payment, then it would stay with the project and it would go with the land. And that commitment would be there until another project would be proposed.

Ms. Coakley: It would basically be on the record plan and then say the development fell through and doesn't come and someone else buys the land, then basically everything starts all over. So, basically, they're subject to [inaudible] and they have to renegotiate whether they're going to build all that stuff and dedicate that again.

Mr. Silverman: Well then, I'll move away from the official map question. And Paragraph D, the City shall create and administer a separate account for the purpose of managing funds and there's the mention of an audit in here. I know with impact fees oftentimes there's an oversight body that's created that also verifies the receipt of fees and the expenditure of money from those fees. Is it necessary to give the City more direction in this agreement? Because we found that, for example, if there is an attempt to follow the dollar of monies generated for payments in lieu of parking, payments in lieu of landscaping, it's very hard to find out where that particular, where those particular monies were applied to a particular project because of the way things are commingled. So, the City does not have a habit of isolating monies and holding them in separate accounts. And this, the TID, by its very nature, requires the sequestering of that money and very specific expenditures.

Ms. Coakley: Absolutely. So, I mean if that's something the City cannot do, then I would recommend changing this to DelDOT for maintaining the account.

Mr. Silverman: I don't know how the City finance structure works as to whether those monies are put in accounts and interest is generated that goes back into the accounts, or interest is generated on behalf of the City, so that's just a question I had here with respect to money management.

Mr. Bilodeau: That would be probably a good question for Mr. Del Grande as to how we could set this up so that the money would be kept separate from everything else and . . .

Ms. Gray: Because that's the requirement, that it's a separate account only to be used for TID projects. Not to be used for other projects.

Mr. Silverman: And again, for Mr. Del Grande, is it more convenient from an accounting point of view and money management point of view to have those accounts maintained with the Department of Transportation?

Ms. Gray: What would be the advantage of having DelDOT maintain an account? Because if it's for City projects, I think it makes sense for it to be in the City and have the City manage the account.

Mr. Hurd: If I'm hearing this right, I think the concern would be if the accounts weren't physically separated and managed, that money might bleed into or be joined with general capital improvement projects and at some point we might go, oh . . .

Mr. Silverman: It's street money or it's sidewalk money.

Ms. Gray: Correct me if I'm wrong, Mr. Bilodeau, but this agreement is saying that a separate account shall be set up and used only for the TID agreement. And we get audited every year and that would be something that auditors would look at and indicate that, you know, you could only use that money for that.

Mr. Silverman: Okay.

Ms. Gray: I mean, for example, we have our budget and we can only use monies from a particular line for a particular thing. So, we just can't go and use salary money to buy a chair. It has to be specific.

Mr. Hurd: Okay.

Mr. Bilodeau: But I will confirm with Mr. Del Grande whether this sounds like it's something we can do.

Mr. Silverman: Yeah, it's important to make sure that Finance is onboard with this agreement. Those are my comments.

Mr. Hurd: Okay. Commissioner Stozek?

Mr. Bob Stozek: Yeah, I'd like to get out of the weeds. Just to clarify, can you again define what is meant by the 2045 target horizon year?

Ms. Coakley: So, that's the year for which basically we're expecting the build out of the future land use to occur. It's also the target year for completing all the required transportation improvements.

Mr. Stozek: Okay. The other thing you mentioned several times, which I guess is one of my main concerns, is you talked about this being a public process.

Ms. Coakley: Yes.

Mr. Stozek: And in the agreement, and actually this is an agreement between the department and the City, and in Section 12 you talk about absent a specific agreement to the contrary, basically the department will send representatives to a meeting, workshop, etc., that the City calls to inform the public about what's going on.

Ms. Coakley: Yes.

Mr. Stozek: What has your experience been with other projects that you've done relative to this kind of public meeting? Do they happen? I guess my concern is that this thing gets underway, goes along, things are happening, and the public never really knows about it unless the City, and you're not going to do it in this agreement, but somehow the City has to have their feet held to the fire if they're going to have a six-month review, a one-year review, or they're going to do something with the public to tell them what's going on. Does that happen typically in one of these . . .

Ms. Coakley: It does. So, like for the Eastown TID, in addition to town council reviewing everything, they didn't have a working group or planning commission because they're tiny, they actually co-hosted with us like an open house, invited everyone, we were there for like four hours, we have everything, all elements of the TID agreement, including the list of projects, their cost, the draft fee schedule on huge boards, and gave everyone like 30 days to comment on it. So, that's not in the agreement because it's not required in the regulations, but I'm a planner and I always recommend them.

Mr. Stozek: So, that was like an additional meeting to say this is what's coming down the road. And were there public meetings along the way, status type meetings, to let people know what's going on?

Ms. Coakley: Not yet, but I imagine there will be.

Mr. Stozek: Again, this agreement is not the place to do it, but I'd like to somehow emphasize that the Council, that they need to be on top of this and they need to keep the public aware of what's going on. Whether it's every six months, every year or whatever, to have a town hall meeting and open forum, something like that, to keep people apprised of what's going on. So, I'm not sure what's the best way to do that other than maybe . . . are you going to present this to Council?

Ms. Gray: Yes, in conjunction with Sarah.

Mr. Stozek: And maybe you just make that recommendation.

Mr. Hurd: I would expect, again my expectation, that the TID, status of the TID and such would be part of the year-end report that comes out of the department and about the Commission. So, I think we want to make sure there's a line item in the report once we get this going with sort of TID activity.

Mr. Stozek: Because I think it's very important, something of this magnitude, that people need to know what's going on.

Mr. Hurd: Well, even just to say things like we've collected this much in terms of fees and when we're further, you know, a few more years down the road, to say we've collected these fees, we've built these projects. You know, things are going on.

Mr. Stozek: And my last question, given your experience with these things and when you look at this plan as it exists today, realizing we might modify it, what is the order of magnitude of cost that you would estimate this thing to be? Hundreds of thousands of dollars, millions of dollars, tens of millions of dollars? I mean just order of magnitude.

Ms. Coakley: I'm thinking in the tens of millions of dollars for the total probably. Because there's not much space to do that much, so as far as vehicular-oriented items, maybe like re-timing signals, adjusting signal timings, adding turn lanes, lengthening turn lanes. Like we're not going to like, in most cases we're not going to take a road from two to four lanes. There's no physical space to do that in Newark. And then the committee is very interested in bicycle, pedestrian, and transit improvements and those tend to be much lower in cost, as well. And then we're going to have to talk about the fee schedule. Honestly, like 20-30% is probably

going to be way too high. So, that's something that we'll have ongoing conversations about later.

Mr. Stozek: And what do you mean when you just said 20-30%?

Ms. Coakley: So, that basically is what the development, future development is contributing for some of our other TIDs. Basically, the fee schedule is based on future development contributing you know 20% or 30%, as high as 50% in the southern New Castle County TID. A smaller area like this, it would probably need to be less. Because we don't want to discourage development within the TID.

Mr. Stozek: So, again, if we're talking about tens of millions of dollars, what percentage of that might be fees that the City has to pony up?

Ms. Coakley: My guess is like 10-15% probably. I'm guessing 10-15% but that's based on my very limited knowledge of the Comp Plan.

Mr. Stozek: I just think, you know, when the City signs on to something like this, they need to have an idea of what they're getting into. Not that we're not going to do it, but we just went through a whole harangue with the capital budget and where is all this money going to come from? Especially four years out, there is like a \$16 million bump in the capital budget and there's no discussion about where that's coming from. So, this will be another bump and if it's only 10-15%, you know, it's not going to be that drastic, but I think they need to know that.

Ms. Coakley: Yeah, it also, projects that are in the TIDCTP at the end get extra points in our prioritization process, as well. So, that's like another good thing about doing the TID is that they get extra points in the state prioritization process.

Mr. Stozek: Okay, thank you.

Mr. Hurd: Commissioner Drake?

Mr. Pete Drake: I have no questions.

Mr. Hurd: Okay.

Ms. Gray: Mr. Chair, so I did find the meeting minutes regarding why the southwestern area was not included.

Mr. Hurd: Okay.

Ms. Gray: And I just lost my screen. Okay. So, apparently when, because this has to be reviewed and approved by DelDOT staff. So, there was an indication that when this went back to DelDOT staff, there were concerns that DelDOT wanted to make revisions to the recommended facility boundaries by removing some intersections on Route 2, 4, and 273, which is the area we're talking about. It was their belief that they would fail the rational nexus and rational proportionality tests and place an undue burden on Newark TID fees. So, that was the reason why it was taken out.

Ms. Coakley: Yeah, that was for the eastern part along like 273.

Mr. Silverman: That was the Ogletown area.

Ms. McNatt: Right, so that's not the western.

Ms. Gray: Well, I thought that was, I thought that was . . .

Mr. Hurd: I'm sure 4 comes into . . .

Ms. Gray: Okay, here we go. Regarding the discussions of I-95, DelDOT believes also that it would fail the rational nexus and rational proportionality tests, again, and place undue burden on the Newark TID fees. So that was, I'm sorry, I-95. So, that was the southern border . . .

Mr. Hurd: Right.

Ms. Gray: Okay, so that does talk about regarding the intersections recommended for inclusion in the facility boundary at the state line, and that would run into Maryland and so it wouldn't be eligible.

Mr. Hurd: Was that the property boundary or the participant boundary or the service boundary?

Ms. Gray: Well, the facility boundary, so correct me if I'm wrong, Sarah, were it to go out to the state line, then that would put the intersection analysis into Maryland.

Ms. Coakley: Based on the three intersections, it would, but we don't have any jurisdiction over it. So, I mean if someone in that area did a Traffic Impact Study, we wouldn't make them study the intersections in Maryland.

Ms. McNatt: But it wouldn't hurt to include it because you can't go into Maryland anyway.

Mr. Hurd: Right.

Ms. McNatt: So, at you're being inclusionary of parcels that are being developed, potentially, up to the Maryland line. They would participate into the boundary.

Mr. Hurd: Okay.

Mr. Bilodeau: Would you want to expand the red boundary?

Mr. Hurd: Yes.

Mr. Bilodeau: All the way out Elkton Road to the Maryland line and then also all the way up 273 to the Maryland line? Are you trying to get that . . . ?

Mr. Silverman: No.

Mr. Hurd: No.

Ms. McNatt: No.

Mr. Hurd: I think, to my mind, looking at this, and again I can't see the City overlay, I'm sort of following the red line coming across the south side going to the west. Where it hits the train tracks it seems to be an ideal place to basically follow the train tracks over until it runs out of the City, whether it's crossing Otts Chapel or whatever, and then I think maybe just following the City boundary until it comes back to the property boundary to somehow pick up the Suburban Square and basically . . .

Ms. McNatt: It would be a little easier if we had the City limits on that map to kind of be more clear of what . . .

Mr. Kadar: Well, we made that comment the last time . . .

Mr. Hurd: We did.

Ms. McNatt: We did. It's the same comment.

Mr. Hurd: My recollection out there is that the City boundary is kind of this little leg sticking out and it wiggles a little bit as it dodges around New Castle County. But that way I think it gives us a physical boundary of the train tracks to sort of say take the train tracks, follow them down until either I guess you hit the state line or the City boundary, and then basically follow the City boundary back until it comes back and joins up to the participant boundary above.

Ms. Coakley: If it helps, this is kind of what the City boundary looks like in that area.

Ms. McNatt: That's exactly what we want.

Ms. Coakley: So, right now, the boundary follows here, the green border here and goes this way. You'd really like it following the railroad . . .

Ms. McNatt: And that whole little . . .

Mr. Hurd: And picking up Suburban Square, yeah.

Ms. McNatt: Yeah.

Mr. Silverman: Right at the Maryland line.

Ms. McNatt: That's exactly the perfect addition to that little map.

Mr. Silverman: Northeasterly, northwesterly on the Maryland line.

Ms. McNatt: Yeah, southwesterly of the . . .

Mr. Hurd: Alright, so that's one . . . oh . . .

Mr. Silverman: Excuse me, Mr. Chairman.

Mr. Hurd: Yes?

Mr. Silverman: Sarah, what's the title on that?

Ms. Coakley: It is from Chapter 10 Land Development and this is the existing land-use for the Elkton Road southwest Newark planning area.

Mr. Silverman: Do we want to simply reference that? Follow the boundaries as described on the exhibit on the southwestern . . .

Mr. Hurd: Well, this isn't a boundary list . . .

Mr. Silverman: Okay.

Mr. Hurd: Are you clear, Mary Ellen, on what the boundaries, what we're proposing?

Ms. Gray: Yes, I'm just not sure about the . . . certainly, I am clear about what the recommendation is. I'm just not clear on the process for the TID Committee who voted by consensus of the facility boundary.

Mr. Hurd: I understand. I have a small concern as well, kind of stepping on their work. But I'm also not hearing in the minutes that there was a technical reason . . .

Ms. Gray: I recall a technical reason so obviously it's not reflected in the meeting minutes. I could be wrong. My recollection could be flawed. I just would hate to bring something forward and then have it not be able to be fulfilled for a technical reason. Because my concern is that

we would go forward with this recommendation and then have it get to DelDOT and then DelDOT say we're not agreeing to that.

Mr. Hurd: Okay.

Ms. Gray: So, that's just my concern.

Mr. Hurd: Sarah, is this the place to sort of say if we amend the boundary, is that something you can take back and have it kind of double checked prior to going to Council and getting it finalized? Because I understand your concern. You don't want to sort of go too far down the road and then have DelDOT say whoa.

Ms. Gray: Right.

Ms. Coakley: Yeah, I can. I mean I know in our previous conversations what we're most concerned about is that there be enough area within the participant boundary to at least cover the improvements within the facilities boundary. So, expanding the participant boundary shouldn't be a problem but I'll speak with my director next week to make sure.

Mr. Hurd: Okay, so let's go with that and then if need be, it can be amended back. Page 3-4, Section 4 Land Use and Transportation Plan, where it talks about the parcel level land-use forecast, there was a couple of I guess considerations that to me felt like we either needed to expand on or just be clearer about. When we're talking about development not yet proposed, if you're doing a parcel-based analysis, would you be doing it at like a max zoning density? Like if it's an RM parcel but it's only got one building on it, but it could have four units, would you do a projection showing that at four units, sort of it's maximum development?

Ms. Gray: The part of the, actually that's the next step that we are at with DelDOT and the Committee is to do a land-use analysis.

Mr. Hurd: Okay.

Ms. Gray: So, the analysis is based on the maximum potential buildout.

Mr. Hurd: Okay, and then in addition to that I think, if you haven't already been thinking about this, thinking about locations of annexation that may be directly adjacent to our participant boundary as, you know, a 5-, 10-year kind of this could become City at some point. Especially areas along say Elkton Road and such which are, you know, if Stine-Haskell says we're tired of being in the county, we want to be in the City, that's a big chunk coming in.

Mr. Silverman: Especially with new management.

Mr. Hurd: So I just sort of wanted to be sure that we were thinking about similar things. Section 6 on Page 5, it's not entirely clear to me when you're saying a proposed development is determined to be both inconsistent with the land-use element and to generate additional traffic, what that means. I guess inconsistent with the land-use element, is there an example that you can use to explain?

Ms. Coakley: So, let's see, basically if there is like a plan in the books for a certain number of units and then that doesn't happen and they come in for a rezoning to ask for additional units and that gets approved, if the additional units generates sufficient traffic to warrant a Traffic Impact Study, which is 50 per peak hour or 500 daily trips, then at that point it would be inconsistent with the land-use plan and generating enough traffic . . .

Mr. Hurd: Okay, so it goes back to the land-use transportation plan that says we projected this parcel say at 10 units and you're coming back at 20. It's now not consistent and we need to re-examine it. Okay.

Ms. Coakley: And the parcel-specific land-use plan will eventually be in the agreement as an appendix.

Ms. Gray: That's a good point if we could reiterate what we were talking about before. This is an initial agreement so then further down the road as more work, as we move through the steps of the TID development, this agreement is amended. So then it would be brought back to the Planning Commission and then brought back to Council. Correct?

Ms. Coakley: Yes.

Mr. Hurd: Alright, so some of our comments and such are things that aren't really final yet? Okay. Page 7 . . .

Ms. Gray: Well, it would be final for this agreement. This is the initial . . . the title of this is the initial agreement.

Mr. Hurd: Okay.

Ms. McNatt: It's good to get it in now.

Mr. Hurd: Yeah. So, Page 7, Item 1 there at the top, talking about the total number of trips, I wasn't clear the data for generating the trips, the trips generation data, was coming from. Is that historic or is that . . . ?

Ms. Coakley: No, it's based on the, it's called an ITE trip generation manual. It's the Institute of Traffic Engineers and it will be whatever the latest one is in our regulations. I think we're on the 10th edition now.

Mr. Hurd: Having just done parking a couple of years ago, which has the issue that some of the parking standards are decades old and have just sort of been carried forward, do you have a sense that that manual for trip generation is updated and refined with historic data?

Ms. Coakley: Yes.

Mr. Hurd: Because I don't want 1950s suburban development driving things. Monitoring programs, Section 8, I personally would like to see, and I'll say this, and this may not need to be in here, a better definition or an exhibit of what the annual report is going to contain. Because this feels thin to me in terms of what information the City is going to get from DelDOT. Specifically, for me, I'd like to see that there is some comparison to the current data to the model data so that there is a way to double check to say by this date we've modeled this much traffic and we are on track, behind, ahead, and therefore the model needs to be, just to sort of examine the model. But I didn't know if you had, what would be good when it comes back is an exhibit of this is what the report is going to look like. You know using Eastown or some other city's TID report to say, this is the standard stuff we give you and the TID Committee can look it over and say, we want more of this, we don't want that. But I just want to be sure that that gets spelled out a little more. I think that was it except I guess a general comment that will address Alan's concern is that, you know, the Planning Department always does a good job of the front-end report kind of giving the history up to where we are and what this is, so I expect that that upfront report will address some of Alan's concerns about explaining to people why we are doing the TID agreement and how we got here.

Ms. McNatt: I have, I'm sorry, I do have a couple of items . . .

Mr. Hurd: Sure.

Ms. McNatt: That triggered my thought process, the first being I support the fact that the University and other parcels that are not subject to the City of Newark process are being

included into this TID. I think there is going to be, I think there needs to be greater thought in maybe the City shouldn't be the landholder of all the money because you're including groups of people or parcels that aren't in the City. And so maybe some other entity should be the money holder because you're taking money from other places that aren't in the City's process. And the reason I say that is because parcels that are subject to the land development process in the City I will hope, and I don't know where it says this and I don't if we can say this, that information about the fee would probably go on the record plan or in the subdivision agreement. It doesn't say that here but maybe it should for City projects. But those other projects that are not City related but in the City process, like the University of Delaware STAR Campus, where are they going to record that information? Where is that information going to be documented because we can't impose that information be documented because it's not in our process, it's not in the City's process. So, there's no way to go back and look at the record plan or go back to the subdivision agreement and say, oh, the University of Delaware is building a five-story new laboratory and they, or whatever they're doing, a parking garage or something, and then there's no way to track that. And maybe the City shouldn't be the place to keep the money either. Maybe that should be DelDOT because then DelDOT can be the releaser of the . . . I just think there's a lot of information that's going to be missed potentially. Not that I, I want those parcels included. I want to say that. I want them to be included. I just don't know how to track, how to make sure it gets tracked because it's not part of the City process.

Mr. Silverman: There needs to be an audit trail.

Ms. McNatt: I didn't hear what you just said.

Mr. Silverman: There needs to be an audit trail.

Mr. Hurd: Well, and a record trail.

Mr. Silverman: I don't mean a money audit trail, but a tracking system.

Ms. McNatt: And maybe that's . . . my only thought process, maybe that's best for the state organization, not the City organization. I'm just thinking outside the box right now. Like, wait a minute, I don't know if it's inclusionary of other parcels that are not City-developed . . . but we do give out the building permits, but we have nowhere to record those numbers and amounts on a University of Delaware project.

Ms. Gray: We track it in the building permit.

Ms. McNatt: But where is it recorded or documented? So, when the University of Delaware wants to record a plan, they don't go through the City's process to record a plan. They go through some other process to record a plan, I would hope, or I believe. So, if they're required to pay, I'm going to make up a number, \$5,000 to the TID, who decides and who tracks that and where does it go and . . . I'm seeing a lot of potential loopholes here.

Ms. Gray: So, it goes back to Chairman Silverman, the audit trail. So, when we would be taking in funding monies for the TID, it would be deposited in the TID account, let's call it the TID account, and it would be tracked as to what is being deposited and how much and when and what and how. So . . .

Ms. McNatt: But where is that recorded prior to the amount?

Ms. Gray: That would be tracked with the fund. So, when there's an audit or there's a report being done, we would say, let's say we're doing an annual report and in that year we took in so much money for this project and that project and that project. So, it would be tracked in that way and then it would also show up in the audit trail. So, I'm not sure what . . .

Ms. McNatt: Who does . . . so, if the University of Delaware wants to build a structure that generates traffic, and I have no idea what that is, that design gets done and approved. You don't know about it until after it's already designed and approved when they want to come to get a building permit. Who, prior to that, determines how much money or percentage, or whatever that number is, but how much money gets generated? Do they go to the state and ask to calculate that money, or do they come to the City and say, City, you calculate that money for us? And then where does that get recorded prior to coming to the building permit when they have to pay that dollar amount?

Ms. Gray: The TID is, the final product would be a per unit amount. Correct, Sarah?

Ms. Coakley: Yes.

Ms. Gray: Okay.

Ms. Coakley: Or per square foot.

Ms. Gray: Or per square foot. So, the University would know what that per square foot amount would be. So, there would be a fee charged with the building permit.

Mr. Hurd: So, it's when they come for a permit, they're going to look at the project, they're going to look at the fee table, and they're going to calculate the fee. And it's a published table so the University could . . .

Ms. McNatt: Do you understand . . . but is anybody understanding my concern?

Mr. Hurd: Well, I thought you were going down the road of the other issues of dedication of rights-of-way or construction of physical improvements . . .

Ms. McNatt: It's all of the above to me.

Mr. Hurd: Which all is being tracked, which for normal developments would be part of the record plan to say the developer agrees to dedicate this piece of road and the University could say we're going to give you a piece of land, we're going to build an intersection, but how is that recorded in an official way that holds them to it. That is a good question. Does our solicitor have a thought or an idea?

Mr. Bilodeau: No, it's a . . . I was thinking along the same lines. I mean the University, they have some massive thing that they want to do and they . . .

Mr. Hurd: They do it.

Mr. Bilodeau: They do it and then how do we react and how do we get the money for the infrastructure that's needed to support that after the fact?

Mr. Hurd: Well, I think the money is not so much of an issue . . .

Ms. Gray: Right.

Mr. Hurd: Because we have a TID and we could find the boundaries. It's if they say we're going to do something instead, we're going to do a in lieu of, how is that documented in a way that is locked to the property in a way that's enforceable.

Mr. Silverman: How do we hold them to their pledge?

Ms. Gray: Well, if it's state property, they would be dedicating property to themselves. So, I can't see a scenario where they would be dedicating . . .

Mr. Hurd: Well if they dedicated some of their land to DelDOT for turn lanes or something . . .

Ms. Gray: Then if there's a dedication, then DelDOT would have that note, they would have that plan for dedication.

Mr. Silverman: Dedication is fairly straightforward, and this goes to some of Mr. Stozek's concerns. The construction of improvements, a University-type entity commits to extending sidewalks, building pedestrian overpasses, and then it just doesn't come about. Where is that memorialized?

Ms. Gray: So, that would be, from our perspective, that would be in the building permit process. So, if they're committed to doing improvements . . . so a plan is submitted to us.

Mr. Silverman: A site plan.

Ms. Gray: Well, if there is a, if we're talking about that, then, yes, a site plan would have to be part of the process if they're dedicating additional properties or doing additional work outside of the building permit.

Mr. Hurd: The challenge is that a building permit is not a full commitment to do the thing. You can amend a building permit. You can say I'm not doing the thing that's on there. You can say I'm not building the pedestrian overpass. I'm pulling that off the permit. But if there's nothing on the record plan that says in consideration basically of this project as approved, it includes a pedestrian overpass. You know, we've done that with other projects. We've said, you know, part of the record plan is these conditions. You know, no more than one tenant per bedroom. Those things are enforceable. There's no enforceable with the University. The University can say this is what we're planning do. Oh, we changed our mind and we're taking that off, we're not doing that. And there's no way to say, no, you do have to do that.

Mr. Silverman: Plus, we've been focusing on the STAR Campus which has a whole different set of pre-determined development criteria. There's a more cooperative effort in interacting with the City. The new dormitory south of the library that was proposed, where does that fit into this particular system with respect to activity in lieu of dollars? So many bedroom units, so many square feet in the dormitory, that's an easy formula. But the pedestrian walkover on South College Avenue that's promised as part of that or in lieu of those dollars, where does that get memorialized, how does it get tracked, who is responsible for it?

Ms. Coakley: So, for our existing TIDs when DelDOT receives an application for either a record plan or entrance approval during that process, all the commitments for the TID have to be on those plans and then we actually enter into agreements with the individual property owners and actually it would be other agreements with you all, as well, that would come up at the end of this, that get recorded that commit to paying the TID or making the contributions in lieu of. And then that basically documents the requirement. So, then when they apply for that building permit, the requirements are already recorded before then. But it sounds like, literally, the University just submits a building permit application after they've already had all their other approvals, so I'm thinking maybe under 1B where it talks about like all land developments requiring a subdivision or land development plan, maybe we need to add or DelDOT entrance approval.

Mr. Silverman: Ah, so the key is the entrance/exit permit.

Ms. Coakley: And then that would basically make anything that the University does with access on a state road . . .

Ms. McNatt: Triggers them.

Ms. Coakley: That triggers them to pay the fee and also come to us, sign the agreement and have it recorded. And then basically it would just be when they submit the building permit, you would just have to look at what's recorded basically.

Ms. Gray: It goes back to what I mentioned before, that if any of these improvements would be done, it would be done through DelDOT, so that would be a plan they would have to submit to DelDOT, and it would be recorded.

Mr. Hurd: So, DelDOT basically becomes our enforcement agency for non-private non-City authority . . .

Mr. Silverman: Through the entrance/exit permit.

Ms. Gray: Right.

Ms. McNatt: But does it still make sense that the City then collects the money or should DelDOT collect the money like they do in the Sussex . . .

Mr. Hurd: Well, it still . . . if I'm right in understanding this, the participant boundary is entirely within the City.

Ms. Coakley: Yes.

Mr. Hurd: I don't think we go out . . . our participant boundary does not extend beyond the City, I think, because we can't. We don't have authority to extend it beyond. So, everything within that boundary is within the City and therefore under our jurisdiction of some sort. Well, building permit authority, for sure.

Mr. Silverman: Perhaps that question should be directed to Mr. Del Grande.

Mr. Hurd: Alright, moving to public comment because we've been talking a lot. No?

Mr. Bilodeau: We haven't been?

Mr. Hurd: Okay, has everyone expressed everything they need to express? Alright, Mr. Secretary, can you read the motion, please?

Mr. Wampler: I can.

Mr. Hurd: And we'll have to make sure we all get everything in there.

Mr. Wampler: My question . . .

Mr. Hurd: Yes?

Mr. Wampler: We cannot rewrite any of this agreement and so we're voting on whether or not to recommend approval of this agreement as written. Is that correct?

Mr. Hurd: I thought that we were able to amend and edit this agreement.

Ms. Gray: Well, it's just like any other land-use development. This is the proposal and then you recommend changes to it. So, the motion should include the recommended changes to the agreement for Council to consider.

Mr. Bilodeau: Subject to approval by DelDOT before submission to Council.

Ms. Gray: Yes.

Mr. Wampler: Right, but I jotted down half-a-dozen people who had specific additions or changes to the wording of the agreement . . .

Mr. Hurd: Right.

Mr. Wampler: And do we need to include those in detail in the motion?

Ms. Gray: Yes.

Mr. Bilodeau: Yes.

Mr. Wampler: So, with that in mind . . .

Mr. Hurd: Well, previous times we've said as edited or amended if we're all in understanding of what that amended text . . .

Ms. Gray: I think we need to review it because I have notes but . . .

Mr. Hurd: Okay.

Ms. Gray: I do not want to be wordsmithing something that . . .

Mr. Bilodeau: Some of the ones I have would be amending the whereas clause. I think that was one of the ones to explain the TIS, why they're not, you know . . .

Mr. Hurd: Right.

Ms. McNatt: But we didn't have specific language of the whereas clause.

Mr. Hurd: Well, so for that one . . .

Ms. Gray: Okay, could we start from the beginning.

Mr. Hurd: We'll start from the beginning. So . . .

Ms. Gray: Okay.

Mr. Hurd: The whereas clause that Paul refers to, which Alan had concerns about, I felt that history that Alan was concerned about would be covered in the department's report that will precede this to Council.

Ms. Gray: Okay.

Mr. Bilodeau: Okay.

Mr. Hurd: It would give an historic overview of the process and why the TID and such.

Mr. Silverman: I agree with that approach. Much more efficient.

Mr. Hurd: Okay.

Ms. Gray: Okay.

Mr. Hurd: Moving along, Page 2, Item B, the big hairy one, this is where I think you're right, we have to make sure we're clear here. So, we had said . . . what had we said because we changed everything?

Ms. McNatt: We said all land developments including inter alia parcels contained, or parcels . . .

Mr. Hurd: Right, because then we changed that to development projects that would basically meet the criteria of subdivision or land development plan. So . . .

Ms. McNatt: But then Sarah also suggested that also need an entrance approval in this section.

Mr. Hurd: Yes, we did. That's why we have to make sure we're clear on this one.

Ms. McNatt: Yeah.

Mr. Hurd: Because we're all over the place.

Ms. McNatt: Is there an option, and I'm asking the question, there's not an option to make these edits and then come back to us to say yes or not?

Mr. Hurd: That would probably be easier. Is there a time pressure on this?

Ms. Gray: Well, yes. This is on the January 6 Council agenda and this agreement needs to be in place while we are proceeding with the TID work of the committee.

Mr. Hurd: Okay.

Ms. Gray: So, I don't see the harm, if we have time, to put the recommended words in now. I mean I'm not sure what . . .

Mr. Hurd: Michelle, were you taking notes at all?

Ms. Vispi: I was [inaudible] . . .

Ms. Gray: Right.

Ms. Vispi: The things that you guys were saying. So, yes, I took notes but they're all over the place.

Mr. Silverman: Mr. Chairman, question for Sarah. We were concerned with respect to this paragraph and all developments requiring subdivision and land development plan. You mentioned the entrance/exit permit control.

Ms. Coakley: All land developments requiring subdivision or land development plans or entrance plan approval.

Ms. McNatt: By DelDOT, right?

Mr. Silverman: By DelDOT.

Ms. Coakley: Yes, or DelDOT entrance plan approval.

Mr. Silverman: Does that include somebody who wants to build a single house on a single lot? If have a lot that faces onto a state-maintained road and I want to develop a single use on that lot that's residential, do I still have to get an entrance/exit permit from DelDOT? Because I think that's . . .

Ms. McNatt: A driveway. You mean like a driveway.

Mr. Silverman: A driveway, yeah. Is that a key to the kingdom here?

Ms. Coakley: It is.

Mr. Silverman: Where I'm trying to have the entrance/exit permit substitute for land development activity and subdivision plans if it does not apply to what we're trying to exclude from that . . .

Mr. Hurd: Right.

Mr. Silverman: Basically . . .

Ms. McNatt: Can't you just say, then why can't you just say excluding single-family land development plans.

Mr. Hurd: Excluding projects that don't meet the criteria for a subdivision. Because a subdivision is three units, right?

Ms. Gray: A minor subdivision is less than five. A major subdivision is more than five.

Mr. Hurd: So, one could be a minor subdivision.

Mr. Silverman: Yes.

Ms. Gray: Yes.

Mr. Silverman: Particularly if it's non-residential use.

Mr. Hurd: Okay.

Mr. Silverman: I want to put my 7-Eleven on the corner.

Mr. Hurd: Yeah.

Ms. Coakley: But if someone is building like one residential unit on a vacant lot, do they have to come in for subdivision approval for that?

Ms. Gray: Sorry, what was that?

Mr. Hurd: If they're building a single-family home on, a single residential unit on a vacant lot.

Ms. Gray: That would depend whether it's on a City road or a state-maintained road. If it's on a state-maintained road and it's a new development, it's a new permit that does not currently have an entrance permit, then, yes, they would need a DeIDOT entrance approval.

Mr. Silverman: So much for that idea.

Ms. Gray: Well, my notes here say a land development plan that meets the requirement for a major subdivision. So, we could change that to meets the requirement for a subdivision.

Mr. Bilodeau: Are we just trying to . . . ?

Ms. Gray: We might want to go back to Paul's suggestion that the inter alia, all land development inter alia, all parcels within the City regardless of ownership.

Mr. Bilodeau: Then we're back to including making a single-family . . .

Ms. Gray: Okay.

Mr. Bilodeau: So do we just want to accept . . . ?

Ms. McNatt: Can we say excluding single-family residential units or parcels?

Mr. Bilodeau: Excluding a sole single-family residential development of a single-family residential property.

Mr. Hurd: And here's another way to get at that since we haven't developed the fee table yet. The fee table could also be where it says a single unit has \$0 fee.

Ms. McNatt: Is exempt.

Mr. Hurd: So, it's like it's subject to the approval, there's just no fee.

Mr. Kadar: Isn't there a distinction between a driveway and a road?

Mr. Hurd: It's when the driveway meets the road, that's where DelDOT gets . . . as soon as you want to get onto a DelDOT road.

Mr. Kadar: It's a road into a road. A subdivision has a road that connects to a road. We're talking about an individual house that has a driveway.

Mr. Silverman: It's called a curb cut.

Ms. Coakley: Yeah, they still have to come to us for entrance plan approval.

Ms. McNatt: And commercial parcels don't always build roads. They sometimes just have an entrance onto the DelDOT . . .

Mr. Hurd: Into a parking lot.

Mr. Silverman: Yeah, it cuts the curb.

Mr. Bilodeau: That's a good suggestion with the fee table.

Ms. Coakley: Yeah, I like that idea. I think that's probably the . . .

Mr. Hurd: So, we'll make this as broad as possible. Essentially any subdivision or land development, because we still have to accommodate the three City roads in this thing that DelDOT will not have authority over, so we'll keep the first part. All land developments requiring a subdivision or land development plan within the participant boundary or what?

Ms. McNatt: Including inter alia parcels . . .

Mr. Hurd: Well, I was trying to cut that out and just say . . .

Mr. Bilodeau: Or requiring an entrance plan approval.

Mr. Hurd: Or requiring an entrance approval from DelDOT.

Ms. McNatt: Oh, okay. I like it.

Ms. Gray: Hold on. Okay, or requiring an entrance plan approval by DelDOT, excluding a single-family residential property.

Mr. Bilodeau: I don't think we need to do that . . .

Ms. McNatt: No, we weren't going to do that.

Mr. Bilodeau: Because we're going to have \$0 in the fee schedule.

Mr. Hurd: We'll make a note on the side that the fee table will accommodate the exception.

Mr. Silverman: So, you include it but there's no dollar associated with it.

Mr. Hurd: Unless you want to put it in the agreement to exclude. But does that then get into the issue of fair housing and exclusionary, that whole thought process?

Mr. Hurd: I think the logic basically is that a single-family home is never going to generate enough traffic, a single-family home is never going to generate an appreciable traffic impact.

Mr. Wampler: So, do we have a wording on Paragraph B that we're all in . . .

Mr. Hurd: We're working towards that. I guess do people want to put an exemption here for a single unit of residential or do we want to sort of punt that down to the fee schedule?

Ms. McNatt: My personal opinion is to the fee schedule and just say single-family driveway entrance is exempt. Something futuristically.

Mr. Silverman: Fee schedule.

Mr. Kadar: That's fine.

Mr. Hurd: Okay, so then we'll say or requiring an entrance approval by DeIDOT and all state-maintained capital transportation facilities, so it slides right in there. Did I get that right? Okay. That, I think, is Item B. The third item is . . .

Ms. Gray: That's the only amendment so far.

Mr. Hurd: I know. We're trying to walk through this to make sure we understand all the amendments. The third item of amendment is that everywhere that . . .

Ms. Gray: What page are you on?

Mr. Hurd: It's all the pages. Everywhere that the agreement says the City shall, at a minimum, evaluate the need to amend the boundaries of the TID in updating their comprehensive plan will be rewritten as, when updating their comprehensive plan, the City shall evaluate the needs to amend the boundaries of the TID.

Ms. McNatt: At a minimum. Are we keeping at a minimum?

Mr. Hurd: No, I don't think we need to.

Ms. Gray: Okay, can you . . .

Mr. Hurd: Because we put the trigger first.

Ms. McNatt: Oh, yeah, I got you. I understand.

Ms. Gray: Okay, can you repeat the first part, please?

Ms. McNatt: But there's multiple places in this document that that needs to be modified.

Mr. Bilodeau: So on . . .

Mr. Hurd: That's why I'm saying all the places where it says one, we're doing the other.

Mr. Bilodeau: So, on Page 3, it's D, C, and D.

Mr. Hurd: Yes.

Ms. McNatt: Section 1D, Section 2C, Section 3D in . . .

Ms. Gray: Wait, wait, wait. Okay.

Mr. Hurd: And that is the only places I see that.

Ms. Gray: I don't have that. I have two people speaking . . .

Mr. Hurd: Page 3.

Ms. Gray: Okay, Page 3.

Mr. Hurd: Item D at the top.

Ms. Gray: Page 3.

Mr. Hurd: Section 2, Item C.

Ms. Gray: So, that's the second one?

Mr. Hurd: Yes. And Section 3 . . .

Ms. Gray: Hold on. Section what?

Mr. Hurd: Section 2, Item C.

Ms. Gray: Okay.

Mr. Hurd: And Section 3, Item D.

Ms. Gray: And in those sections we're adding the clause . . .

Mr. Hurd: We're revising the clause to say, when updating their comprehensive plan, the City shall evaluate the need to, and then it's amend the boundaries, amend the target horizon year, and amend the service standards.

Ms. Coakley: If it helps. 4F on the next page actually uses that same language. I don't know why we didn't use that throughout the whole thing.

Mr. Hurd: Oh yeah, that's exactly right.

Ms. Gray: Okay, so Page 4 . . .

Mr. Hurd: No. Page 4 has it the way we're rewriting.

Ms. Gray: Okay, see Page 4.

Mr. Hurd: Page 4 is fine.

Ms. McNatt: One of the other ones was modifying the boundary, participant boundary, on the map.

Mr. Hurd: Thank you. Yes, I was just trying to make sure there's no other notes. So, that would be Page 1, Item A. The participant boundary . . .

Ms. Gray: Okay, do you want to describe that area again? You said . . .

Mr. Hurd: It is, this is just so everyone can follow along . . .

Ms. McNatt: It's that sheet that she has.

Mr. Hurd: Right, so it's following the southern participant boundary as we move west until it reaches the train tracks and then . . .

Ms. McNatt: No, it needs to be reflective of this specific document . . . there you go.

Ms. Gray: Can you draw on there, please?

Mr. Hurd: Draw on this?

Ms. Gray: Draw on the map.

Ms. McNatt: I think that's Sarah's though, the map.

Mr. Hurd: Is this yours?

Ms. Coakley: I printed it off. Feel free to draw on it all you want.

Mr. Hurd: Okay, so the participant boundary will incorporate the existing land-use boundary for Section E, the Elkton Road southwest Newark portion from where the boundary strikes the Amtrak train tracks, will follow the existing land-use boundary southwest, north, east . . .

Ms. McNatt: Along the Maryland line.

Mr. Hurd: The Maryland line, back following the City boundary until that line rejoins the green boundary and continues to the north.

Ms. McNatt: Good job.

Mr. Silverman: Put in a reference where it's taken from.

Mr. Hurd: It's from Chapter 10, Page 148 of the Comprehensive Plan V.

Mr. Kadar: Who [inaudible] the verbal descriptions?

Ms. McNatt: It needs to be updated in this A!

Mr. Kadar: Because we need to have verbal descriptions.

Mr. Hurd: I'm sure the city solicitor will be consulted or something. No? But, yes, so that the Section 1, Item A, #1 will have to be updated verbally to conform to that graphical boundary.

Mr. Silverman: May I add something here, Mr. Chairman?

Mr. Hurd: Sure.

Mr. Silverman: Mr. Bilodeau brought in some technical and archaic language. I'd like to add some also. Rather than referring to north, south, east, and west, it's preferred language to use easterly, westerly directions and that kind of thing. So, if it's ever challenged, somebody can say well it doesn't go north, it goes northeast, my property is not included, that kind of thing. So that fudge language is acceptable in deed work and in descriptions like this. Generally extending northwesterly or southwesterly along the CSX tracks to the Maryland line and that kind of thing.

Ms. McNatt: If they're following a City boundary, then you can just write City boundary line.

Mr. Silverman: Yes.

Mr. Hurd: I'll leave that to our solicitor and DeDOT to just double check that the language is enforceable. I don't want to edit that whole thing just now. Alright, that is all that I have from my marks for amendments and revisions. Does that match everyone's recollection?

Ms. McNatt: Yes.

Mr. Hurd: Are we clear as to the language we have proposed?

Mr. Wampler: Alan had a question about what triggers an evaluation.

Mr. Silverman: Referring to Page 3, Item D at the top of the page.

Mr. Hurd: You had wanted to add additional considerations.

Mr. Silverman: Yes. Words to the effect of need to amend the boundaries of the TID may include such actions as annexation and we talked about several other things.

Mr. Hurd: Okay. How did you want to put that in? As part of D or separate E?

Mr. Silverman: No, just a continuation of D after whatever the wording was that we used . . .

Mr. Hurd: Oh, so when updating the comprehensive plan or after annexation?

Mr. Silverman: Or just period. You know, other events include activities such as annexations.

Ms. Gray: I'm lost where you are.

Mr. Hurd: Alan wants to add more points of consideration of the boundaries besides updating the Comprehensive Plan, which is the only event in here that says when it happens you should look at the boundaries.

Ms. Gray: Okay, so we're adding to the second proposed amendment. The language right now is revising the clause on Page 3, Item B, Section 2, Item C, Section 3, Item D to when updating the Comprehensive Plan.

Mr. Hurd: Yes.

Ms. Gray: So you want when updating the Comprehensive Plan or amending the boundaries to include annexation?

Mr. Silverman: I'd rather keep the Comprehensive Plan language clean and add an additional sentence at the end of that Comprehensive Plan reference statement that other events causing consideration, causing the need to update, whatever the phrase is we used, the Comprehensive Plan, includes such events as annexations and Sarah mentioned change, major change in facts and circumstances with the economic development model is the example she gave.

Mr. Hurd: I think I'm struggling to know whether that's a new one in the agreement or if that's just something that should be understood . . .

Ms. Gray: Well, when an annexation occurs, the Comprehensive Plan is amended.

Mr. Silverman: Okay.

Mr. Hurd: This says updating though, not amending. The current language in here says when updating the Comprehensive Plan, which would be the, to my mind, would be the five-year plan.

Ms. Gray: And the update would be looking at any annexations.

Mr. Hurd: Okay.

Mr. Silverman: I'm going to let it go.

Mr. Hurd: Okay.

Mr. Silverman: Because what I was looking for was if there was a public interest in having this revisited and the Council or the Planning Director at the time simply dug in and said, oh, no, no, we only revisit this when we're updating our Comprehensive Plan, there ought to be another escape mechanism in this where an interest group can say we want to be included.

Mr. Hurd: Right.

Ms. Gray: Right. I thought there was a clause in the back here that says it could be updated . . .

Mr. Hurd: I think my concern is that like specifically an annexation, if you annex a property and the annexation is approved and all that, that takes place and it's done. Subsequent to that you might be able to change the participant boundary but at that point, the property has already moved through the pipeline as a project outside of the boundary.

Mr. Silverman: So, there's no commitment.

Mr. Hurd: So, there's no commitment. So you can't move the goalpost later and go, now you're in the boundary because they weren't in the boundary when they came to you as a project and when they were approved. So, I think in some way you say if there's been a spate of annexation in one area, then yes, that's something that would trigger someone going, we should look at that area and maybe push the boundary out and encompass more. Except we can't go past the City boundary.

Mr. Silverman: And Mr. Bilodeau, would that be considered contractual zoning if I, as the City, say the only way we will annex you is if you agree to come into the TID and pay our fees?

Mr. Bilodeau: Well, that's a, the City, an annexation is a little bit different than rezoning a property inside, what's already inside the City. And the City doesn't need any real basis to deny somebody the ability to annex.

Mr. Silverman: Okay.

Mr. Bilodeau: So, they could certainly attach conditions.

Mr. Hurd: That's true because annexation is purely discretionary.

Mr. Bilodeau: Correct.

Mr. Hurd: Okay.

Mr. Bilodeau: Now the other ones . . .

Mr. Hurd: Oh, you had some?

Mr. Bilodeau: Someone mentioned about the annual report that we would want some sort of maybe attached just as an example.

Mr. Hurd: That was more of a, I think, at this point a comment.

Mr. Bilodeau: Okay.

Mr. Hurd: Because that's, I think, still to come, if I understand it right as that hasn't been fully defined.

Mr. Bilodeau: Alright, and then the next one was . . .

Mr. Hurd: Am I right on that?

Ms. Coakley: Yes.

Mr. Bilodeau: And the next one was do we want to put in here something about an annual town hall meeting to discuss progress. Or is that, once again . . .

Mr. Stozek: I saw that as the responsibility of the City . . .

Mr. Hurd: Yes.

Mr. Stozek: More than an agreement between the City and DeIDOT.

Mr. Bilodeau: Okay.

Mr. Hurd: Yeah, I think that's more of a comment to the department and to the Council to say . . .

Mr. Bilodeau: Very good. I'm just looking at my notes.

Mr. Hurd: Thank you very much. And I'm going to enact the Chair's prerogative and extend the meeting so we can complete this. Alright, let's read it.

Ms. Gray: Do you want me to read the notes into the record, Commissioner Wampler?

Mr. Wampler: I was going to recommend that we approve the Newark Transportation Improvement District agreement between the State of Delaware Department of Transportation and the City of Newark, including the specific addenda . . .

Mr. Hurd: Revisions.

Mr. Wampler: Additions that were made as a result of discussion during our December 3 meeting.

Ms. Gray: Okay, if I could read the specific ones.

Mr. Hurd: Do you want to read straight into it?

Ms. Gray: Yes. I want that to be part of the motion.

Mr. Hurd: Let's do that. Put it on the record. Thank you.

Ms. Gray: Okay, the first amendment is on Page 2, Item B, modify the sentence starting with all land developments requiring a subdivision or land development within the participant boundary, to add the language or requiring an entrance plan approval by DeIDOT.

The second amendment is to add language on Page 3, Item B, Section 2, Item C, Section 3, Item D, revising the clause, to add the clause, quote, when updating the Comprehensive Plan, and you can refer to Page 4 that has a similar clause.

The third amendment is modify the participant boundary which is described on Page 1, Item A to include following the southern participant boundary until it reaches the train tracks following

existing land boundary west. And then see Chapter 10 Existing Land Use exhibit for the modification.

Mr. Silverman: Madam Director, do we want to refer to the CSX railroad tracks. Or not CSX, that's Amtrak.

Mr. Hurd: Amtrak. Well it's Amtrak but I think CSX actually owns it. Amtrak doesn't own track.

Ms. Gray: Reaches the Amtrak train tracks.

Mr. Hurd: Commonly known as, I guess.

Ms. Gray: Are we including Amtrak train tracks?

Mr. Hurd: Sure.

Ms. Gray: Okay.

Mr. Hurd: As long as we understand it, what it means. Okay.

Ms. Gray: That's what I have.

Mr. Bilodeau: Is there a second?

Mr. Silverman: I'll second.

Mr. Hurd: Okay. I have a second. Any further discussion on the motion? Alright. All those in favor of the motion as proposed, signify by saying Aye. Opposed say Nay. The Ayes have it.

MOTION BY WAMPLER, SECOND BY SILVERMAN THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE NEWARK TRANSPORTATION IMPROVEMENT DISTRICT AGREEMENT BETWEEN THE STATE OF DELAWARE DEPARTMENT OF TRANSPORTATION AND THE CITY OF NEWARK WITH THE FOLLOWING AMENDMENTS:

- A) SECTION 1 GEOGRAPHIC BOUNDARIES, ITEM B, MODIFY THE SENTENCE THAT BEGINS WITH "ALL LAND DEVELOPMENTS REQUIRING A SUBDIVISION OR LAND DEVELOPMENT PLAN WITHIN THE PARTICIPANT BOUNDARY..." BY ADDING THE LANGUAGE "OR REQUIRING AN ENTRANCE PLAN APPROVAL BY DELDOT."
- B) SECTION 1 GEOGRAPHIC BOUNDARIES, ITEM D, SECTION 2 TARGET HORIZON YEAR, ITEM C, AND SECTION 3 SERVICE STANDARDS, ITEM D, MODIFY THE LANGUAGE TO READ "WHEN UPDATING THEIR COMPREHENSIVE DEVELOPMENT PLAN, THE CITY SHALL EVALUATE THE NEED TO UPDATE..." FOLLOWED BY THE ITEM TO BE UPDATED IN EACH PERTINENT SECTION.
- C) SECTION 1 GEOGRAPHIC BOUNDARIES, ITEM A, MODIFY THE PARTICIPANT BOUNDARY UNTIL IT REACHES THE AMTRAK TRAIN TRACKS FOLLOWING THE EXISTING LAND BOUNDARY WEST (SEE CHAPTER 10 EXISTING LAND USE EXHIBIT IN COMPREHENSIVE DEVELOPMENT PLAN V).

VOTE: 7-0

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

NAY: NONE

ABSENT: NONE

MOTION PASSED

6. REVIEW AND CONSIDERATION OF ORDINANCE AMENDING COMPREHENSIVE DEVELOPMENT PLAN V TO CHANGE THE DESIGNATION OF 19 AMSTEL AVENUE FROM UNIVERSITY TO RESIDENTIAL, LOW-DENSITY.

[Secretary's Note: The ordinance amending Comprehensive Development Plan V to change the designation of 19 Amstel Avenue was withdrawn until a future Planning Commission meeting.]

7. INFORMATIONAL ITEMS.

- a. PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS**
- b. PLANNING AND DEVELOPMENT DEPARTMENT LAND USE PROJECT TRACKING MATRIX**
- c. GREAT SUBURBAN PONZI INFRASTRUCTURE EXPERIMENT**
- d. ENTREPRENEUR SEES OPPORTUNITY IN NEWARK WITH PRIVATE PARKING LOTS**

Mr. Hurd: We'll just bop through the last two things here. On the Item 7 Informational Items, I just want to add two comments to it. One, I'd like you all to notice that in the packet on the current projects I had asked Mary Ellen to consider this and they did, anywhere that a project has had an update since the last time things had been published, it's in bold. So, you'll notice some of them there's like a bold thing where they had submitted a revised plan in November. And I really like that because it did make it easy to kind of flip through it and go, oh, this is what's changed.

And then please also note the article about the guy who set up the pay meters in the lot behind Iron Hill, building on some of the concepts that we were talking about in the Parking Subcommittee plan in terms of demand pricing and private use of parking to serve a need.

Item 8 New Business . . .

Ms. Gray: Mr. Chair, you had asked for a Planning Director's report.

Mr. Hurd: Oh, I did but you didn't put it on the agenda.

Ms. Gray: It's on the agenda. It's Item 7C.

Mr. Hurd: Planning Director's report, oh look at that. Yes, the Planning Director's report, just like I asked for. Thank you.

Ms. Gray: So, I wanted to discuss the approved projects and projects going to Council and then briefly discuss pertinent activities since the last Planning Commission meeting by the Planning Director and Planning Department that is, I feel, germane to the Planning Commission because I'm not going to talk about all my activities because that would be too long.

So, on November 4, 2019, Council passed a resolution, excuse me, on the November 4th Council meeting, Council passed a resolution directing the Planning Commission to initiate the process to change the designation of 19 Amstel Avenue from University to Residential, Low Density and you'll be seeing that at the January Planning Commission.

Next item, at the November 18th Council meeting, Council approved a special use permit for a commercial indoor recreational facility located at 1325 Old Cooch's Bridge Road, otherwise known as Hard Bat Cross Fit. That's the first additional use that we have seen in the industrial parks so we're very pleased that that revision is encouraging and attracting additional uses in our industrial parks. Also at this meeting, the name change for The Retreat was changed to The Waverly. You may be seeing signs to the effect. And the Newark Community Sustainability Plan was also approved by Council. Mike Fortner led that effort. By way of background, this was a grant that we received from DNREC to develop a community sustainability plan. It was over a year's worth of effort and I think a great exercise and the report was well-received. Mike

Fortner did a fabulous job in leading that effort. That plan is available on our website. We have a Newark Community Sustainability website, if you're interested in looking at that. So, the next step for that would be to implement it. That is something Mike is heading up, as well.

Also at the November 18th Council meeting, the budget was approved. Council denied the request for the \$100 a month stipend for the Planning Commission as well as meals for training sessions. However, they did approve the training budget, so that does include training for the Planning Commission. So, that amount was approved, and we'll be looking to add some training sessions to the future meetings. The consultant budget request was reduced from a requested amount of \$225,000 to \$200,000, and that includes contractual services for the Newark Downtown Parking Plan. A consultant, Kimley-Horn, has been hired and we had a kick-off meeting, it's down in my notes here, when did we have a kick-off meeting, within the last two. But we did have it and we are meeting regularly with the consultant and they are hitting the ground running on that. So, we are very excited about that progress. Also included in there, in the consultant budget, was monies for outsourcing some planning services. What we're looking to do is hire a consultant to help out with some initial plan review as well as building permits and some administrative activities. And the thought there is that that would free up our plan reviewer, Tom Fruehstorfer, to focus on higher level review. Because we, as you know, have many plans in-house and we are struggling to keep up. So, this is a way to try to help. In addition, what I also would like the consultant to do is help us better track our activities so we can develop some metrics for tracking. You've seen our tracking plan right now, how we track projects, and we would like to have that be more robust and include that on the website and have that integrate with our GIS system. So, we need some, it's not that we can't do it, it's just that we don't have the bandwidth to do that right now. So, I hope we'll be getting an onsite consultant who can get that work done. We also have money in there for review of permits and licenses for our business license program, as well as money to support the Transportation Improvement District workgroup. We have AECOM as the consultant who has been supporting us on that effort.

At the November 25th Council meeting, 287 East Main Street, the Fulton Bank project, was approved, as well as an update to Chapter 27 provisions regarding liens and unpaid fines.

Some upcoming projects that are in process going to Council is a farm use ordinance that the Planning Commission saw last month, and that is slated to be a first reading on January 13th and a second reading January 27th.

The January 13th Council meeting is scheduled for the 2019 presentation of the 2019 Planning Commission Annual Report and the 2020 Work Plan.

The patio ordinance was scheduled to go to Council for first reading on December 9th, however we still need to work through some clarification of language at the request of our legal counsel, so we're going to work that out and get that back on track to Council. Some related, you guys have not seen it because, will not see it because it's not Chapter 27 or Chapter 32 but pertinent to the Planning Commission, we have been doing an over a year-and-a-half effort to update our building codes, our fire maintenance, excuse me, our fire codes, as well as our property maintenance codes to the 2018 IBC, the International Building Code. So, that's been a long effort. We brought in Maureen Feeney-Roser, former Planning Director, to help us out with that. That was a project that was tasked to the Code Enforcement Manager, Dave Culver, but due to resource issues we weren't able to get to it. And then when he left, he resigned, I reached out to Maureen to help be a consultant to help lead that effort and she's been doing a great job on that. So, December 9th is scheduled for Planning Commission, excuse me, for Council to review the proposed updates to Chapter 7 Building Code. The revisions to Chapter 17, which is the Fire Code, is scheduled for, I just lost my screen, hold on a second, is scheduled for first reading January 13th and second reading January 27th. The Property Maintenance Code, we are still working on in-house, so that is yet to be scheduled.

So, just some highlights of some other activities, with the resignation of Megan McGuriman, that was a while back, that position was in charge of the Main Street program, and with the reorganization of that position, there isn't a position to do that anymore. So, that's back in the court of Planning, so I've been participating in the Delaware Main Street program, which is organized by the Delaware Department of State, so I've been participating in those meetings just to keep an ear to the ground on what's going on there. I gave a presentation on the state of development in Newark, which was well received, at the Fourth Annual Delaware Commercial Real Estate Forecast Summit. The audience there was mostly developers and real estate folks. Some of you participated in the November 2019 Fall Conference for the Delaware American Planning Association Chapter and I thank you all for those who were able to attend. It was, I think, a fabulous conference. We had a record-breaking 103 attendees and that was here in the Embassy Suites. Our mayor gave a lovely welcoming speech, as well, so he was able to participate in the conference for a little bit. So, we talked, I think the conference was, provided a lot of information and significant engagement with planners and non-planners alike throughout the state and region. So, I thought it was, things, activities such as this provide forums for us to learn and to talk to one another and to keep abreast of the latest trends.

Just a couple of other items, we already talked about the Transportation Improvement District. The Rental Housing Workgroup meeting, we had the, the Rental Housing Workgroup was scheduled to present their draft recommendations to Council at the end of October, on October 28, but that was postponed by Council due to time constraints, so we had a meeting on November 14th where Council was invited to attend to discuss some of the draft recommendations to help keep the dialog and the momentum moving forward on that project. So, the next steps for that is February 3rd Council presentation, and that's the only agenda item on the Council agenda for that meeting, so it can't be bumped. So, we look forward to talking about those draft recommendations. And those are all on our website. There is a Rental Housing Workgroup website if you're interested in looking at those recommendations.

Just another couple of things, I know we're running out of time here. I didn't want to have this be a half-hour presentation. The Delaware Population Consortium approved the Delaware population figures for 2019. I was the chair this year and now with going in the following year, I am now the past chair. But part of what happened that occurred this year which was of significance is the passage of legislation that formalized Newark being a member of the Delaware Population Consortium. I, as Planning Director, have been participating in the Population Consortium for a number of years because I feel it's a very valuable effort to be participating in. So, we are officially now a part of the Delaware Population Consortium, but participation not only provides population figures for the City of Newark and counties in the state, but also provides helpful information regarding national and regional and local trends in employment, housing, and demographics, as well as meeting the other state and local agency representatives throughout the state. I feel it affords great value and information for the City of Newark.

Let me just see what other stuff I have. I think that pretty much wraps it up.

Mr. Hurd: Thank you.

8. NEW BUSINESS

Mr. Hurd: Any new business?

Ms. McNatt: I have something.

Mr. Hurd: Okay.

Ms. McNatt: This is where you can bring up something that you want to discuss?

Mr. Hurd: Yes.

Ms. McNatt: Okay. So, down the street here next to the BP gas station, what's the name of that development that's almost complete?

Ms. Gray: South Main Plaza.

Ms. McNatt: South Main Plaza?

Ms. Gray: Yes.

Ms. McNatt: I would encourage anybody to come, leave the gas station and to get onto Beverly Road and then want to turn left to go onto West, or Main Street, Elkton Road there. So, if you come out of the gas station and you're at the intersection of Elkton Road and Beverly and you want to go out and turn left, the, and I'm going to call it a retaining wall or whatever wall is there to crate the sidewalk or patio area in front of that building, is so high it blocks your view of looking, of the oncoming traffic. And when you want to see if there's oncoming traffic at that intersection, you can't and you're now nosing out into traffic to turn left because that wall . . . if you're looking at the building, if you're standing in the road facing the building, that wall is very short on the westerly end of it, or easterly end of it, and it's very tall on the westerly end towards the gas station. And it's a very unsafe situation completely that I, I had my kids in the car, and I was like I will never come to this road at this intersection ever again. I would rather do a circle in the BP gas station to see a clear, out the entrance of the BP gas station to turn left versus going to that stop sign. So, I would encourage everybody to try it and to experience it. It's not okay. And I don't know how we can prevent something like that from happening in the future. Because that wall is so close up to the roadway edge, because that is the sidewalk also now. So, I just wanted to share.

Mr. Hurd: Thank you.

Mr. Silverman: Did it meet the specifications of the land development?

Ms. McNatt: I have no idea.

Ms. Gray: It would have had to.

9. GENERAL PUBLIC COMMENT.

Mr. Hurd: Any general public comment? Yes, Mrs. White?

Ms. Jean White: Jean White, District 1. I hate to do this to you. It's so late, but it was expected to be an hour and it's sort of been two hours. Okay, at the last Planning Commission meeting on November 5, there was a proposed zoning amendment to allow annexation of 10 acres or more for agriculture, horticulture, or a forest. I was bothered by the overall rationale presented by Planner Fortner in which he said to encourage food production within the City to provide locally-grown food, to preserve the natural environment, to increase forests within the City by annexation, to advance the vision of the Comp Plan V of Newark as a sustainable community. I was bothered because I felt all these remarks were subterfuge, a veiled effort to justify changing the whole City Code in order to annex a specific property for a specific person. And furthermore to zone these 10 acres plus as RH, RT, RS, not a separate zoning, but one that Council would need to change to let housing go in. Nothing was said in the initial, not ordinance, whatever, that one picked up or got in the packet. And nothing was said until later in the meeting that the real reason the applicant or spokesman for the applicant wanted the property to be annexed to the City was to get City sewer and water being that the little farm must have a septic tank and a well. Why not be straightforward and transparent and say right away in the initial write-up that an owner of a property outside the City wants to get on City sewer and water and still keep the small farm and come into the City anyway. And who was the applicant or spokesman for the applicant? A lawyer and not just any lawyer, who has done major work for the City of Newark on special assignment. He is not just any outside applicant.

One might have reason to think that the Planning Department bent over backwards to create a proposed zoning amendment tailored to specifically help out this applicant. I need to say that I respect Mr. Walton although I don't know him personally. I first saw him and realized who he was at a meeting of the Strategic Planning Committee on March 2018. He was one of the 15 on that committee chaired by Dan Rich and Polly Sierer, which has now since transitioned to the citywide The Newark Partnership. Also, he gave a presentation to this Newark Planning Commission on site plan approval a year or so ago, which some of you heard and which I was there to hear myself. He is obviously a capable and intelligent person.

Also, other aspects related to the proposal, one was flag lots. The City of Newark does not allow flag lots. Years ago I remember a property in the City, I think it was on Old Paper Mill Road, it was a little while back, that wanted to put a house behind another house which would be reached by the same driveway. I remember then-Planning Director Lopata telling me that at the time flag lots were not allowed in the City of Newark. The proposal for the 10 acres or whatever for this, which the applicant wanted, is written in such a way that it does allow flag lots in which there would be two properties further back. A question one can ask is, if after five years, for example, it's decided to do away with this, which is a possibility, or even whatever years, there are still going to be the flag lots on the property.

Another aspect that was mentioned was a special use permit and that was something that was brought up on this Commission that, instead of just approving it, to have a special use permit. This does raise other questions, which were raised by you at the Commission which was a special use permit can only be revoked for a year and after that it has to get back in, or it can be revoked for less than a year also. And more importantly, a special use permit runs with the land and if the ownership changes, what are the consequences of the special use permit? Yes?

Mr. Hurd: You have one minute.

Ms. White: Okay, I'm working very fast on this. Okay, other issues had to do with guns and certain animals that could be there for a farm and the effect on neighbors that lives nearby that were discussed. I'm particularly concerned about the agriculture, horticulture, and forest and the 10 acres for RH, RT, and RD, and after just five years can revert back, if the difference in taxes were paid for a housing development. This is my final thing I'm going to say. Five years is a short time, and will this farm be there in 10 years, 25 years, whatever? My final statement is that this whole proposal raises too many questions and the overall justification, adding to Newark sustainability, is deceiving in its intent. Thank you.

Mr. Hurd: Thank you. Alright, we've reached the end of our agenda. The Chair will entertain a motion to adjourn.

Ms. McNatt: I'll motion to adjourn.

Mr. Hurd: Okay.

Ms. McNatt: Second, or whatever you want to do.

Mr. Hurd: You're the motion. Do we have a second?

Mr. Stozek: Second.

Mr. Hurd: Alright. All those in favor. Alright, we are adjourned

MOTION BY MCNATT, SECONDED BY STOZEK THAT THE DECEMBER 3, 2019 PLANNING COMMISSION MEETING BE ADJOURNED.

VOTE: 7-0

AYE: DRAKE, HURD, KADAR, MCNATT, SILVERMAN, STOZEK, WAMPLER
NAY: NONE
ABSENT: NONE

MOTION PASSED

There being no further business, the December 3, 2019 Planning Commission meeting adjourned at 9:26 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 \(Transportation Improvement District\)](#)

Exhibit B: [DelDOT presentation \(Transportation Improvement District\)](#)