

**The City of Newark
Conservation Advisory Commission
Annual Report for 2008**

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Overview

This report summarizes the activities of the City of Newark's Conservation Advisory Commission. The background is repeated each year for reference. A brief description of anticipated goals for 2009 is also included.

Background

Ordinance 77-56 created the CAC in November 1977,

“to advise in the development, management, and protection of its natural resources with appropriate consideration of Newark's human and economic resources. The Commission shall concern itself with conservation in its broadest sense and may, among its activities:

(a) Recommend to City Council a program for ecologically suitable utilization of all wet lands, valley streams, and flood plains and other land areas, the condition and use of which will affect the environmental quality of life in the City of Newark;

(b) Shall file an annual report;

(c) Maintain informal liaison with the Planning Commission, the Parks and Recreation Department, the City Manager, and the City Council, and cooperate with other public and private bodies organized for similar purposes:

(d) In addition to the foregoing, carry out any other duties, tasks, or responsibilities, consistent with the objectives of this Commission assigned to it by resolution of City Council.”

Ordinance 77-56 gave examples of programs that may be considered by the Commission, such as street tree replacement; improved recycling; beautification plans for volunteer groups; guidelines for multiple use of open space and public areas; community gardens; energy conservation; and review of Zoning Code amendments to encourage conservation, and also stated that “the above list shall not, however, limit the program which the Commission may undertake or be requested to undertake.”

CAC Membership

The CAC has 9 members when all positions are filled. Several seats on the Commission had new appointments during 2008 as indicated below.

Mayor's Appointment:	Steven K. Dentel (Chair) - Term expires 3/13/09
Mayor's Appointment:	Thomas Fruehstorfer - Term expires 3/13/11
Mayor's Appointment:	Katherine Sheedy - Term expires 3/13/10
District 1	Ajay Prasad - Term expires 3/13/10
District 2	Steven Beard - Term expires 3/13/11
District 3	Robert B. Bennett (Vice Chair) - Term expires 3/13/09
District 4	Ann Morrison – Term expires 3/13/11
District 5	Fred Stiegler - Term expires 3/13/09
District 6	Wayne Casanova - Term expires 3/13/10
	Carol Anders Riggs - Term expires 3/13/10
Parks Director (ex officio)	Charlie Emerson

An updated CAC roster is maintained on the City's web site at www.cityofnewarkde.us/DocumentView.asp?DID=620 (pdf format).

Vehicle Anti-Idling Research Leads to Proposed Ordinance

The CAC unanimously passed a motion at its November 11, 2008, meeting, to send a proposed Anti-Idling Ordinance to City Council for consideration (Appendix, page 8). The proposed ordinance applies to all on-road motor vehicles including, but not limited to, motorcycles, automobiles, trucks, buses, and farm vehicles. In addition to the liability of the owner/operator/lessor, the landowner of the property on which the vehicle is found to be idling would be liable as well. Exceptions will be made for police vehicles, fire department, military and rescue vehicles. In all circumstances whereby an individual was justified to have their engine running, there is an exception under the ordinance.

In consideration of an ordinance for Newark, the CAC examined the anti-idling language used by several cities such as Ithaca, NY, Denver and Winter Park, CO, Bar Harbor, Spokane, and Hawaii. The CAC also received input from Phil Wheeler at the Department of Natural Resources and Environmental Concerns in Dover. According to Mr. Wheeler, a state-level anti-idling statute was passed in 2005 and can be enforced by any law enforcement official in the state, including the Newark City Police. The Delaware state anti-idling statute applies only to on-road heavy-duty vehicles, having a gross vehicle weight rating of over 8,500 pounds. Similarly, the City of Wilmington has an anti-idling ordinance that applies only to diesel-powered vehicles.

Initial research by the CAC revealed the following statistics and facts, which motivated the Commission to take further action in proposing an ordinance for Newark.

- Idling of vehicles is a waste of natural resources. The Hinkle Foundation estimates that Americans may waste up to 3.8 million gallons of gasoline each day by voluntarily idling their cars. This amounts to 1.4 billion gallons per year.
- The resulting U.S. CO₂ emission is estimated at 40,000 tons per day due to idling of cars. This is 13 million tons per year.
- Emissions can impair urban air quality; in particular, emissions from cars and school buses at schools while waiting may impair air quality for children.
- Diesel emissions are a major cancer risk - cancer risks from diesel emissions are about ten times higher than the cancer risks from all other hazardous air pollutants combined
- Idling non-diesel vehicles also contributes to air pollution
- Idling vehicles generate noise
- Idling is bad for engines

CAC Participates in Annual Community Cleanup

On April 19 members of the CAC as well as 160 other volunteers participated in Newark's 2008 Community Clean Up. Park areas cleaned included Dickey Park, Rittenhouse Park, Kershaw Park, Folk Park, Lumbrook Park, and Dorothy Miller Park. Christiana Parkway, Library Avenue, Marrows Road, Wyoming Road, Kirkwood Highway, and Papermill Road were also cleaned.

Disposable Plastic Bag Use Continues To be Reviewed; Outreach Begun

After a lengthy review of the wastefulness of disposable, plastic, shopping-bag use and possible ways to curb it, the CAC decided on educational outreach as an initial approach to promote reusable bags. Also, the Commission passed a motion in August recommending that local stores offering reusable shopping bags at a reasonable price be rewarded with the Better Newark Award.

The CAC made an initial outreach effort in September at Newark Community Day (see article below) by giving away free reusable bags to visitors to the CAC booth. The Commission will continue consideration of this subject in 2009.

In reviewing the issue of the wastefulness of disposable bags, the Commission's research revealed the following facts and various approaches to curbing their use.

Facts:

- Approximately 500 billion plastic bags are manufactured yearly, or 1 million per minute.
- An estimated 1 percent, or 5 billion, of these bags become windblown litter every year taking up to 1,000 years to biodegrade.
- Large quantities of non-renewable resources are used to produce them.
- They are a serious problem for marine animals.

Approaches that curb use:

- An article was cited about the virtual elimination of plastic bag use (a 97 percent reduction) in Ireland where a usage tax of \$.33 per bag (U.S. dollars) was imposed. Ireland did not totally ban plastic bags, but allowed their use in packaging fresh fish, meat, poultry, unpackaged fruits, nuts, or vegetables, confectionary dairy products, cooked foods and ice.
- Another study compared Ireland's mandatory policy to a voluntary program implemented in Australia. Australia instituted a voluntary reduction in plastic bag use by businesses accompanied by a publicity campaign, and a 25 percent reduction was achieved.
- One suggestion required merchants to supply paper or biodegradable plastic bags instead of plastic.
- Another idea was to encourage the use of reusable shopping bags like those offered for sale for a nominal price at several local stores and markets. Although it was acknowledged consumers might initially see this as an inconvenience, it was felt peer pressure and education would play a large part in persuading the public to accept and adapt to the change. Retail opposition was also recognized as an issue that might be a difficult obstacle.

As mentioned above, the CAC will continue its review of this subject.

Reusable Shopping-Bag Giveaway Draws Public at Community Day

The CAC's theme for outreach at Newark Community Day 2008 was "Reusable Shopping Bags" and stemmed from the Commission's discussions about the wastefulness of disposable, plastic shopping bags and the alternative of using reusable bags. A poster was displayed at the CAC's Community Day booth promoting reusable- bag use and visitors were quizzed on the subject. Anyone attempting to answer a simple question was awarded one of the bags donated by local merchants. The positive visitor response depleted the supply before the event was over.

The following stores donated a total of over 150 bags: Acme Markets, Happy Harry's, Office Depot and Super Fresh.

As a result of the positive outreach, the CAC will consider useful "giveaway" items in exchange for the public's willingness to learn about conservation of resources at future events.

Bike-Sharing Network Explored; City Action Not Recommended

Within the purview of the CAC are feasibility studies of conservation proposals submitted by members of the City Council. One such proposal was submitted by Sixth District Councilman Stu Markham who requested that the Commission research and make a recommendation on a bike-sharing network for Newark as used by some other cities. Councilman Markham provided some background information on such networks being used elsewhere.

Review and discussion of available information led to the following observations and conclusions by the CAC:

- Current availability of bicycle lanes and the heavy traffic in downtown Newark do not provide a safe environment for such a program at this time.
- Residents who use bikes for regular transportation would likely choose to continue to use their own bikes.
- Such a program would be most effective on the University of Delaware campus, but that this would be something that the University, not the City, would have to initiate and approve.
- If a commercial venture decides to initiate such a program then the Commission feels that City should provide some support.
- The Commission does not want to discourage the use of bicycles for local transportation but cannot recommend a bicycle-sharing program in the City at this time.

The Commission summarized its findings in a December 11, 2008, letter to Councilman Markham and thanked him for bringing the issue to the Commission's attention.

Study of Green Building Incentives Leads to Municipal Code Amendment

The CAC's 2007-2008 study of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council (USGBC), and the CAC's subsequent recommendations, resulted in the Municipal Code being amended to incorporate LEED certification options for commercial and industrial buildings in the site plan approval process. (Passed by Council February 25th. Municipal Code, Article XXVII, Site Plan Approval).

Since the code change will only impact developers who go through the site plan approval process and choose to use this incentive, the CAC determined that if the LEED-oriented requirements were included in the Building Code, it would have a much broader effect, including projects on the University of Delaware campus.

LEED provides a suite of standards for environmentally sustainable construction based on a point system for being LEED certified. The minimum number of points for certification is 26

In April, CAC members met with Thomas Sciulli and Maureen Feeney-Roser of the Building and Planning Departments, respectively, to discuss incorporating the score sheet in the building permitting process. The CAC proposed that a certain number of LEED points (less than required for certification) be required, which also necessitates completion of the LEED score sheet. It was determined that builders were already complying with anywhere from 4 to 12 LEED points. In order to obtain additional base data, a voluntary survey of new building applicants was agreed upon and was to last three months. At the end of the period, disappointingly, no one had opted to complete the scorecards. It was apparent that this would only be done if it were required. It also meant that the CAC had no survey results.

Thus, in the fall of 2008, the CAC developed a proposal to the Council to implement an initiative that would require 12 points and continue to increase that number by 2 points per year until all new buildings achieve LEED certification. The CAC has also recommended inclusion of residential construction, but this will give the builder a choice between the LEED program and other alternatives, such as the American Homebuilders Association's green checklist. The CAC intent was to get comments from the Delaware Valley Green Building Council, as suggested by the City Manager. At that time, it was expected that a proposal would be presented to the City Council early in 2009.

Please see Appendices on pages 11-18 for supporting documents.

Initiatives for 2009

Moving forward for 2009, the CAC agreed to look at initiatives in three areas:

Legislative Matters -- Initiatives that will require legislative action such as floodplain protection and storm-water management; and green building certification

Government Operations -- Ways the city government itself might conserve resources; the carbon inventory would fall in this category.

Outreach Efforts -- Activities designed to inform residents on how they might conserve resources such as through press releases and information on the city website.

Appendix I: Anti-Idling Ordinance

BILL NO. 09-15.....

1st Reading 05/11/09

2nd Reading 05/26/09

**CITY OF NEWARK
DELAWARE**

ORDINANCE NO. 09-19

**An Ordinance Amending Chapter 20, Motor Vehicles
and Traffic, Code of the City of Newark, Delaware, By
Creating a New Article XXIX, Idling of Motor Vehicles**

WHEREAS, the City of Newark wishes to protect and conserve our environmental and energy resources, for the benefit of our nation, our city and our future; and

WHEREAS, excessive vehicle idling is a waste of natural resources, particularly of fossil fuels; and

WHEREAS, vehicles left idling unnecessarily contribute to air pollutants that can contribute to smog, ozone, and carcinogenic particulate emissions; and

WHEREAS, unnecessary idling contributes to greenhouse gases, particularly carbon dioxide; and

WHEREAS, vehicle idling also adds to noise pollution, vehicle wear, and possible runaway vehicles; and

WHEREAS, reducing vehicle idling conserves fuel and potentially improves the driver's rest and safety; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Create a new **ARTICLE XXIX. IDLING OF VEHICLES**, to read as follows:

“ARTICLE XXIX. IDLING OF VEHICLES

Sec. 20-265. Applicability.

This ordinance shall apply to all on-road motor vehicles. An “on-road motor vehicle” is defined as a vehicle self-propelled and designed for transporting persons or property, including but not limited to, motorcycles, automobiles, trucks, buses, and farm vehicles.

Sec. 20-266. Operational Requirements for Motor Vehicles.

No person who owns, operates or leases a motor vehicle or who owns, leases or occupies land and has the actual or apparent dominion or control over the operation of a motor vehicle on such land shall allow or permit the engine of such motor vehicle to idle for more than five (5) consecutive minutes in any 60-minute period when said motor vehicle is not in motion.

Sec. 20-267. Exemptions

The following occurrences shall not be deemed to be idling of a motor vehicle:

(a) A vehicle idles while it is caused to remain motionless because of on-highway traffic, an official traffic control device or signal, mechanical difficulties over which the driver has no control, or at the direction of a law enforcement official.

(b) The motor vehicle is idling for maintenance, service, repair, or diagnostic purposes if idling is required for such activity.

(c) A police, fire, ambulance, public safety, military, other emergency or law enforcement vehicle, or any vehicle being used in an emergency capacity, idles while in an emergency or training mode, and not solely for the convenience of the vehicle operator.

(d) Idling of the engine is necessary to power work-related mechanical or electrical operations other than propulsion (e.g. mixing or processing cargo or straight truck refrigeration). Such operations shall include vehicles engaged in the repair, maintenance and restoration of public utility services required to preserve the health and safety of the public, to include such operations as performed by or on behalf of the state, a bridge and highway district and a municipality.

(e) Any vehicle idling for the necessary power for a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth such that the vehicle's location is not within 25 miles of a parking facility with available truck-stop electrification equipment, either shore power or an advance system that is approved by the city including meeting all compatibility requirements with existing onboard truck shore-power equipment.

(f) A vehicle idles as part of a state or federal inspection to verify that all vehicle equipment is in good working order, provided that idling is required for such inspection.

(g) Any passenger bus for up to five minutes prior to passenger boarding.

(h) A passenger bus idles a maximum of 15 minutes in any 60-minute period to maintain passenger comfort while passengers are onboard.

(i) Any military tactical vehicle engaged in training operations.

(j) An armored vehicle idles when a person remains inside the vehicle to guard the contents thereof, or while the vehicle is being loaded or unloaded.

(k) Any situation in which it is necessary to bring the engine of an on-road vehicle to the manufacturer's recommended operating temperature.

(l) A vehicle providing heat to the occupant thereof and when the temperature is between -10° and 32°F, may idle for not more than 15 consecutive minutes. When the temperature is below -10°F, and where no nuisance is created, an engine shall not be subject to idling restrictions. A vehicle providing air-conditioned cool air to the occupant thereof on account of a verifiable medical condition and when the temperature is above 80°F may idle for not more than 15 minutes in one hour. A vehicle providing air-conditioned cool air for the comfort of those over 65 years of age or children under the age of 6 may idle up to 15 minutes in one hour when the temperature is above 90°F.

Sec. 20-268. Enforcement and penalty.

Violators are subject to the following penalties:

(a) First offense: Warning ticket issued to vehicle operator (and, where applicable, the load/unload facility owner).

(b) Second and subsequent offenses: The penalty for second and subsequent offenses occurring within five years of a prior conviction shall be \$100, no portion of which shall be suspended by the Court.

Sec. 20-269. Severability.

Each provision of this ordinance shall be deemed severable. If any provision of this regulation is held to be invalid by a court of competent jurisdiction, the remainder shall continue in full force and effect.”

MOTION for Acceptance as First Reading on May 11, 2009,
By Council Member Pomeroy.

Second Reading and Final Passage on May 26, 2009.
VOTE: 6 to 1.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor

Appendix II-A: Bill O8-02: Establishing LEED Energy Conservation Program for City

BILL NO. 08-02

1st Reading 1/28/08

2nd Reading _____

**CITY OF NEWARK
DELAWARE**

ORDINANCE NO. 08 - ____

An Ordinance Amending Ch. 32, Zoning, Code of the City of Newark, Delaware, By Establishing a LEED (Leadership in Energy & Environmental Design) Energy Conservation Program for the City of Newark

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 32, Zoning, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Amend Article XXVII, **Site Plan Approval**, Section 32-97 entitled **Purpose**, subsection (a) by adding a new sentence after the word “dwellings.” to read as follows:

“In addition, for energy conservation only as stipulated below, site plan approval shall apply for permitted uses within business and industrial districts for all new construction and the expansion of existing buildings more than 50% of their existing size.”

AMENDMENT 2. Amend Article XXVII, **Site Plan Approval**, Section 32-97 entitled **Purpose**, subsection (a)(6) by deleting it in its entirety which reads:

“(6) Energy conservation, defined as site and/or construction design which the building, planning, and electric department directors find will result in more efficient use of energy produced through fuel sources of coal, oil, wood, and nuclear materials, than normally would be expected using conventional site, and/or construction design; and also defined as site and/or construction design which the building, planning, and electric departments find will result in more efficient energy through the substitution of alternate fuel sources for gas, oil, coal, wood, and nuclear materials. Site and/or construction design shall include one, or combination of the following:

a. Any energy system including supply elements, furnaces, burner, tanks, boilers, related controls, energy distribution components which use any sources(s) of energy other than solar energy.

- b. Energy storage equipment consisting of containers, heat exchangers, piping and other transfer mechanisms (including fluids, gases or solids), controls, and related structural support for transporting and storing collected energy, including structural elements designed for use in passive solar energy systems.
- c. Solar energy systems consisting of solar energy collectors, energy storage facilities (if used), and distribution components, including passive solar energy systems which use natural and architectural components to collect and store solar energy without using any external mechanical power.
- d. Elements of construction or site design for energy efficiency not directly part of energy systems s defined above in subsection a., b., and c.”

and substituting the following new language

“(6) Energy conservation defined as site and/or construction design that the building department has certified meets or exceeds the ‘certified’ level as stipulated in the LEED (Leadership in Energy and Environmental Design) United States Green Building Council Program or a comparable building department approved energy conservation program.”

AMENDMENT 3. Amend Article XXVII. **Site Plan Approval**, Section 32-98.2 entitled **Density Bonus**, by adding the following new paragraph to read as follows:

‘With site plan approval for new uses in business and industrial districts and/or the expansion of existing buildings more than 50% of their current size that comply with Section 32-97(a)(6) above, such buildings may be increased in gross floor area up to 15% beyond their permitted size in their respective zoning districts. That is, area requirements, including parking, height limitations, etc., shall not apply up to 15% of the existing limitations for such buildings.’

MOTION for Acceptance as First Reading on January 28, 2008,
By Council Member Pomeroy.

Second Reading and Final Passage on _____, 2008.

VOTE: _____ to _____. _____
Mayor

Attest _____
City Secretary

Approved as to Legality & Form:

City Solicitor

Appendix II-B. Municipal Code Incorporating LEED Changes

ARTICLE XXVII. SITE PLAN APPROVAL

Sec. 32-97. Purpose.

(a) Provisions for site plan approval are hereby made for the area and density regulations for all permitted uses within a zoning district as described in this chapter, and to permit additional uses not otherwise permitted within a zoning district. Uses not otherwise permitted within a district are restricted to those provided for in this article and to properties with a minimum size of five acres and that shall accompany residential subdivisions with a minimum of 10 dwellings. In addition, for energy conservation only as stipulated below, site plan approval shall apply for permitted uses within business and industrial districts for all new construction and the expansion of existing buildings more than 50% of their existing size. It shall be the purpose and intent of site plan approval to provide alternatives for new development redevelopment proposals, to encourage variety and flexibility, for new development and redevelopment, and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations stated in this chapter. Site plan approval shall be based upon distinctiveness and excellence of site arrangement and design and including, but not limited to:

- (1) Common open space;
- (2) Unique treatment of parking facilities;
- (3) Outstanding architectural design;
- (4) Association with the natural environment including landscaping;
- (5) Relationship to neighborhood and community and/or;
- (6) Energy conservation defined as site and/or construction design that the building department has certified meets or exceeds the 'certified' level as stipulated in the LEED (Leadership in Energy and Environmental Design) United States Green Building Council Program or a comparable building department approved energy conservation program.

(b) It is not the purpose and intent of this article to abrogate in any manner the powers or jurisdiction of the board of adjustment as provided in Section 32-66 of this chapter.

(Ord. No. 72-62, 11-27-72; Ord. No. 80-13, Amend. No. 4, 2-11-80; Ord. No. 95-17, Amend. No. 1, 7-10-95; Ord. No. 08-02, Amend. Nos. 1, 2, 2-25-08)

Sec. 32-98. Procedure.

Any person applying for subdivision approval, rezoning, or a building permit, who wishes to develop a site or erect a structure different from that which is specified in the applicable zoning district as specified in this article shall, after conferring with the planning director, submit the following:

(a) An application for site plan approval, as well as a detailed site plan drawn to an appropriate scale and related data. The site plan must accompany all applications and show elements of the proposed development of this site. Site plan approval submittal requirements shall include all information specified in Chapter 27, Subdivisions, of this code.

(b) Site plan approval applications based on energy conservation as defined in Section 32-97(a)(6) shall also include the following:

- (1) The extent to which the proposed plan uses energy efficiently and conserves energy resources;
- (2) For development using solar energy, whether active or passive, site design, and building orientation to protect solar access, pursuant to the Subdivision and Development Regulations, Appendix XI, Design Standards for Energy Conservation and/or Solar Access, including a

shadow plan showing shadows cast by proposed buildings, by existing buildings on or adjacent to the site, and by vegetation on or adjacent to the site. Where landscaping is proposed, shadows from such landscaping shall also be included in shadow plans.

(3) Materials, plans, and related information pursuant to the requirements of the Subdivision and Development Regulations, Appendix XI, Design Standards for Energy Conservation and/or Solar Access.

(c) Site plan approval applications including uses not otherwise permitted within a zoning district shall also include the following:

(1) Color scale elevation drawings of all proposed building materials and types;

(2) Detail descriptions of the uses proposed;

(3) Descriptions of the relationship of the proposed development to the design criteria specified in this article;

(4) Proposed plazas, bikeways, community identification signage, recreation, and similar amenity areas; and

(5) Other information that may be required by the planning director to meet the purposes of this article.

(d) The planning director shall review the site plan and determine its correlation to the Zoning Code permitted uses, area and density regulations and planning policies of the Subdivision and Development Regulations and the Comprehensive Development Plan. The developer, and if appropriate, the developer's engineer and architect, shall then confer with the planning director to further develop the submitted site plan. The site plan approval review process may be combined with the procedural requirements of Chapter XXVII, Subdivisions of this code.

(e) The planning director shall transmit engineering, utility, and other details of the plan, for review and comment, to the city departments of public works, water and waste water, electric, building, city fire marshal, city police department, and city manager's office. These departments shall review those aspects of the plan which correspond in function to the respective departments. These departments shall then transmit reviews and comments back to the planning director.

(f) The planning director shall submit a report to the planning commission, which shall contain, if appropriate, an evaluation of the plan, and other comments delineating the plan's relationship to planning policies, recommendations, and conditions, along with reviews from the above-mentioned departments.

(g) The planning commission shall review the plan and consider recommendations made by the planning director and other aforementioned departments. The commission may recommend, in approving the plan, conditions and variations pertaining to permitted uses, lot size, yard dimensions, distance between buildings, height of buildings, density, the placement of signs, etc. Conditions and variations may only be recommended after a public meeting or hearing has been held, in accordance with Article XXI, Section 32-80 of this chapter. In recommending approval of the site plan, the planning commission may designate such conditions in connection therewith, as will, in its opinion, assure that the improvement and development will conform to the foregoing requirements, or modifications thereof, including, but not limited to, provisions for the protection of adjacent property, access and design for off-street parking and loading as shall be deemed necessary to secure the general intent of the district and the best development of the neighborhood, and to reduce injury to the value of the property in the neighborhood. Any excess land area thus produced shall be deemed common open space or public right-of-way, available to each resident or user within the proposed development or transferred by title to the city for general public use. Action by the planning commission shall be considered preliminary site plan approval, approval with conditions, or disapproval.

(h) The planning director shall submit recommendations of the planning commission to city council, along with all necessary reports and supporting data. City council shall consider the recommendations of the planning commission at a regularly scheduled public meeting or hearing. In approving and accepting a site plan, the council may designate such conditions in connection therewith as will, in its opinion, assure that the improvement and development will conform to the foregoing requirements, or modifications thereof, including, but not limited to, provisions for protection of adjacent property, access and design for off-street parking and loading as shall be deemed necessary for the general intent of the district and the best development of the neighborhood, and to reduce injury to the value of property in the neighborhood.

(i) Action by city council shall be final site plan approval, approval with conditions, or disapproval.

(Ord. No. 72-62, 11-27-72; Ord. No. 80-13, Amend. No. 5, 2-11-80; Ord. No. 95-17, Amend. No. 1, 7-10-95)

Sec. 32-98.1. Permitted uses.

With site plan approval, the following uses shall be permitted in addition to those permitted within each residence zoning district. Non-residential uses, however, shall only be permitted in conjunction with residential uses:

- (a) Nursing home.
- (b) Offices for professional services and administrative activities.
- (c) Personnel service establishments.
- (d) Restaurants, except fast-food restaurants are not permitted.
- (e) Retail and retail food stores, not to exceed 5,000 square feet.
- (f) Studios for artists, designers, photographers, musicians and sculptors, not to exceed 5,000 square feet.
- (g) Banks, finance institutions, loan companies, except drive-in windows shall not be permitted.
- (h) In RH, RT, RS, RD, RR, and RM districts, residential dwellings of all types as permitted in each district shall be permitted in any of these residential districts, subject to the density bonuses in this article.

(Ord. No. 95-17, Amend. No. 1, 7-10-95)

Sec. 32-98.2. Density bonus.

With site plan approval the total number of dwelling units shall be permitted as specified below:

- (a) In RH district-up to four dwelling units per acre, with 20% of the total site under review for site plan approval set aside for parkland/open space.
- (b) In RT districts-up to six dwelling units per acre, with 30% of the total site under review for site plan approval set aside for parkland/open space.
- (c) In RS districts-up to eight dwelling units per acre, with 40% of the total site under review for site plan approval set aside for parkland/open space.
- (d) In RD districts-up to fourteen dwelling units per acre, with 70% of the total site under review for site plan approval set aside for parkland/open space.
- (e) Density bonuses for RR and RM districts shall be subject to the requirements of this article and Sections RM 32-11(a)(1)b and RR 32-13(c)(1) of this chapter.
- (f) Parkland and open space shall meet the conditions and criteria specified in Chapter 27, Subdivisions, Appendix VI.

With site plan approval for new uses in business and industrial districts and/or the expansion of existing buildings more than 50% of their current size that comply with Subsection 32-97(a)(6), such buildings may be increased in gross floor area up to 15% beyond their permitted size in

their respective zoning districts. That is, area requirements, including parking, height limitations, etc., shall not apply up to 15% of the existing limitations for such buildings.
(Ord. No. 95-17, Amend. No. 1, 7-10-95; Ord. No. 08-02, Amend. No. 3, 2-25-08)

Appendix II-C: LEED Certification Proposal to City Council

TO: Mayor and City Council, Newark, Delaware

FROM: The Newark Conservation Advisory Commission (CAC)

SUBJECT: Creation of a Green Building Initiative

The CAC endorses the following Resolution and recommends that it be acted upon by City Council.

Whereas, the City of Newark wishes to promote energy conservation and environmental sustainability, for the benefit of our nation, our environment, and our future; and

whereas, the City's Conservation Advisory Commission has conducted considerable study of the attributes of Green Building Initiative Programs to promote efficient use of resources in planning and construction of buildings; and has found that there are many advantages to these programs in improving resource conservation and resulting, over time, in economic gains; and

whereas, the City of Newark wishes to lead by example in establishing Delaware's first Green Building Initiative Program;

Therefore, the City of Newark does ordain as follows:

All construction projects will be encouraged to incorporate principles of conservation and sustainability in their design and construction.

City Council therefore directs the City Manager to oversee development of City Code to implement the following:

A. For all commercial and industrial development projects:

1. Projects for which LEEDTM criteria are available shall include a LEEDTM accredited professional on the development team.
2. For building permit approval, projects shall include evaluation of all LEEDTM components through the submission a LEEDTM scorecard with an explanation of each LEEDTM credit, describing how the project will achieve each credit, or why it cannot. LEEDTM scorecard version 2.2 will be used unless a newer version is adopted by City Council.
3. For building permit approval, an appropriate number of LEEDTM components shall be incorporated, with reporting and compliance linked to specific permit applications throughout the demolition and construction processes. For 2009, the number of LEED components will provide at least 12 scorecard points. For 2010 and every subsequent year, the number shall be incremented by 2 points or as otherwise determined by City Council.

4. As considered appropriate by the City Manager, a suitable bond may be required to be posted with the building permit application, to be remitted when the building department has verified the claimed LEEDTM points in the completed project.

B. For all residential development projects:

1. The builder will participate in a green building program which will include a scoring worksheet to evaluate the project's environmental attributes. The scoring worksheet may be the U.S. Green Building Council's LEEDTM scoresheet for residential construction or any equivalent system as approved by the City Manager.

2. Building permit approval will require a minimum point value be attained on the scoresheet. This minimum value will be specified by the City Manager, and will be incremented on an annual basis.

3. As considered appropriate by the City Manager, a suitable bond may be required to be posted with the building permit application, to be remitted when the building department has verified the claimed scoresheet points in the completed project.

C. For all new City buildings:

All construction of new City buildings shall meet or exceed the appropriate criteria above, including scoresheet completion and inclusion of a LEEDTM-certified professional on the development team.