

**CITY OF NEWARK  
DELAWARE**

**PLANNING COMMISSION  
MEETING MINUTES**

**MEETING CONDUCTED REMOTELY  
VIA GO-TO-MEETING**

**August 4, 2020**

**7:00 p.m.**

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

**Chairman:** Will Hurd

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

**Commissioners Absent:** At-Large (Vacant)

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

Mr. Will Hurd called the Planning Commission meeting to order at 7:03 p.m.

**1. CHAIR’S REMARKS.**

Mr. Hurd: Alright, good evening everyone and welcome to the August 4, 2020 Planning Commission meeting. This is Will Hurd, Chair of the Planning Commission. We are following the State and Council directives on remote meetings and holding this meeting remotely through the GoToMeeting platform. Our goal is to support the participation of everyone in this meeting. Our department secretary, Michelle Vispi, is the organizer for this meeting and will be managing the chat and general meeting logistics. At the beginning of each agenda item, I will call on the related staff member to present first. Once the presentation is complete, I will call on each Commissioner in rotating alphabetical order to offer their comments. If a Commissioner has additional comments they would like to add afterwards, they can unmute themselves and I will call on them to make it clear who is speaking next. Michelle will be keeping all other attendees on mute to prevent background noise and echo. Please try to avoid talking over other people so that everyone listening in can hear clearly. Any comments on agenda items received by email prior to the meeting will be read into the record. If members of the public would like to comment on an agenda item during the meeting, they should send a message through the chat function to Michelle with their name, district or address, and which agenda item. The chat window is accessed by clicking on the speech bubble icon on the top bar. Anyone giving oral comments will have the usual five minutes. To support any attendees who are connecting to the meeting only through their phone, we will unmute each phone line one at a time to ask whether you have any comments. When you are unmuted, you will hear the word unmuted in your ear and that is your cue to know that your line is open. If you have no comments, please just say no comments so we can move to the next caller. If there are any issues during the meeting, we may adjust these guidelines if necessary. At the moment, I do not see anyone connecting solely by phone, so we will, we can avoid that.

Alright, Chair's remarks, a couple of housekeeping kind of related things. For those who are not aware, Item 4, the review and consideration of a rezoning of the property at 136 West Main Street has been removed at the department's request. We are going to allow Council to decide about interpretations of special use permits for that use. Also, Item 7, has been postponed to a later meeting at the department's request. And just a reminder, well, not a reminder, on Item 5, the review and consideration of an ordinance granting the City Manager authority, there was a revised amendment sent out this afternoon by email. There was some, there was some mix-up about which was the original document to work from and which was the enacted ordinance. So, we will need to do some housekeeping in the motion to roll the new amendments into the one that we got on Friday, because that's the sort of officially published one attached to the agenda. That is it for my Chair's remarks, because there's been not a whole lot going on.

## **2. THE MINUTES OF THE JULY 7, 2020 PLANNING COMMISSION MEETING.**

Mr. Hurd: And we will move to Item 2, the minutes of the July 7, 2020 Planning Commission meeting. I'm going to do this like we did the last time. I sent my single comment to Michelle earlier today. If anyone has comments or corrections, please unmute yourself and let us know what they are. Otherwise, the minutes will stand by acclamation. I see nothing. Okay, the minutes are approved. I'm hoping that gavel-y noise was loud enough.

THE MINUTES OF THE JULY 7, 2020 PLANNING COMMISSION MEETING ARE APPROVED BY ACCLAMATION.

## **3. DISCUSSION OF 2021 PLANNING COMMISSION WORK PLAN.**

Mr. Hurd: Moving to Item 3, discussion of the 2021 Planning Commission Work Plan. Madam Director, are you leading us off on this?

Ms. Mary Ellen Gray: Yes, Mr. Chair, I am.

Mr. Hurd: Okay.

[Secretary's Note: The Planning and Development Department memorandum for the Planning Commission 2021 Work Plan, including the Plan for Planning, was being displayed for the benefit of the Commission and the public. A link to the Planning and Development Department memorandum can be found at the end of this document.]

Ms. Gray: Thank you. Good evening everybody. We had a discussion last month about the Work Plan. A little bit of background for those who weren't here for the last meeting, the Work Plan is required in our Code that the Planning Commission develop and approve a Work Plan before October 1 and we do have it scheduled for Council at a future Council meeting that I'll get to here in my Planning Director remarks. And so, we had a discussion last month regarding the Work Plan and the main component of the Work Plan for the Planning Commission is going to include the, what we're calling the Plan for Planning, and I'll have Mike talk about that. But before we get to that, I just wanted to make a couple of remarks regarding the Work Plan, which I thank you, Michelle, for pulling it up. We didn't make any substantive changes to the plan from last month because there weren't any comments or substantive changes to the Work Plan itself. So, we're keeping it pretty spare, sticking to our main mission items which include the, obviously, review of development plans as they come in, continuing work on any Code revisions for the, for working with the parking consultant, Kimley-Horn, reviewing and making recommendations on the Transportation Improvement District items as they are presented because that work is ongoing. And then Item 4 is the revision to the Comprehensive Plan, which Mike will get into here in a minute. Review and make recommendations on Code revisions related to the Rental Housing Workgroup. I'll get into that a little bit more with my Director's remarks but basically the Council approved a work plan that staff developed for the Rental Housing Workgroup recommendations, so you'll be seeing some Code revisions come forth for you for 2021. Consider amendments to the Comprehensive Development Plan and zoning changes to facilitate

redevelopment in certain areas for student housing. That's still on the shelf there and if we have time, I'd like to pull it off the shelf and have a look at it. And then, of course, continue quarterly reporting and participate in training sessions, which we talked about last month that we're pulling together based on, pulling those training sessions together based on the schedule we talked about last month. So, do we have any, are there any questions regarding that component of the Work Plan at this point?

Mr. Hurd: I'm not seeing any action on that. I felt it was a good plan, slightly ambitious, and I'm glad to see a few items that were on the bench, if things should shift or if you get any, you know, additional support that allows you to move things around a little bit, we can make some progress on the things. Yeah, I'm not seeing that we're missing anything that we've been discussing as things that we want to try to work on. So, I think good job.

Ms. Gray: Great. Thank you. Okay, so now I'm going to hand it over to Mike who made some revisions to the Plan for Planning document, which is focusing on the outreach effort and kind of the kick-off to our revision, or the framework document for our revision to the Comprehensive Plan. So, Mike?

Mr. Mike Fortner: I'm off mute. Hey, welcome. Thank you. Again, the Plan for Planning, we discussed this last month and I tried to incorporate some of our discussion into this next draft here. So, I'm just going to kind of walk you through some of the changes and then we can have some discussion that we need on it.

The first page, I think it was recommended we more clearly define what the goal or intent of this document is, so I put a little asterisk on the title and I said, per the Code, this is a five-year review that this is part of. Go ahead and scroll down, Michelle. Thanks.

We're going to the first . . . well, skip this page. The stuff in blue is generally new stuff. The stuff in blue is new. What I went with is more of a stricter thing from the Delaware State Law describing what a comprehensive plan is and taking out some of the more original language I think I had for the previous plan. I said let's stick with the State Law. Keep scrolling down a little bit, Michelle.

So, the first part is, that's the description of what a comprehensive plan is in the Code. Then we get to, so it's a full description of what the Plan is under State Law. When you get to Plan 2.0, the first paragraph talks about what the Planning Commission has already done. We've adopted a Comprehensive Development Plan and we did so on January 5, well, really September 26, 2016, and it was signed on January 5, 2017. And so, this next part we quote that section of Code where we're doing our five-year review. Just scroll up a little bit, Michelle. A little bit more. There you go. And so, at least every five years, a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas. The adopted comprehensive plan shall be revised, updated, and amended as necessary. And we'll call this Comp Plan V 2.0. Keep going.

And then we just sort of get into the make-up. We'll have a, we intend to have a community participation process identifying stakeholders. This is the same language from the previous draft. Keep scrolling, Michelle. One little change there, the last Comprehensive Plan that you saw just a little bit of, I removed the section that was basically our vision statement from the Comp Plan. I moved that into the appendix. It was causing some confusion in the last draft that, you know, this was something where we were outlining this Plan for Planning and, no, that's really part of the Comprehensive Development Plan. I was just trying to sort of show what the vision that we came up with and I thought that might have been confusing to put it in this plan, so I just put it as an appendix.

If we go down, we have provisions for open discussion where we're planning to do outreach to groups that traditionally don't necessarily always participate in these types of things. So, we're doing outreach to them. Go ahead and keep that. The project team where we talked about . . .

let's scroll a little bit to get that in there. We're going to have a steering committee. We're going to use the model that we used for the steering committee for the Parking Subcommittee. Again, it's a smaller group consisting of Planning Commission members and other types of stakeholders. And they would go through and meet independently and go through and create the revised draft that would be presented to Planning Commission. Go ahead and scroll down, Michelle.

Then it talks about here how we're going to do our outreach on our website, news and media releases and reports, public workshops and meetings, which we're anticipating at least for the short-term will be online.

And then we get to the part, the schedule. Go ahead and scroll up a little bit to get to the schedule on the full page. Here we are on the first one, August 4, where we're just reviewing a discussion of this. I kind of moved this up a little bit to September, to maybe next month, but I suppose in October, that's fine, too, that we have it. You can see that we'd adopt this plan as our general kind of our working plan. Go ahead and go to the next page. Okay, so at the top there is Community Day. This is something that in the last plan was new because I wasn't anticipating doing a Community Day, but it looks like the Parks and Recreation Department are going to try to do one. And they're looking at ways to try to do it so it can be social distanced more. There's been some ideas and some other parks. The Green, of course, is all torn up right now, where we usually have it. And so, if they do move forward with it, and then another pending thing is the Governor's Orders about group gatherings, if they do do it, we will try to do a table where we'll basically have a Planning table and one of the exhibits will be the Comprehensive Plan and we'll try to do outreach and some sort of activity to collect feedback from the public at that event. And that would be a good event to reach all kinds of people that maybe don't normally come to Planning meetings.

And then we start around November, we start doing the meetings. And it was recommended to kind of group them together for related chapters rather than doing them sort of chronologically. And so, I think I've tried to take an attempt at trying to do that. The first three are Community Profile and Vision, which I think will be a little more straightforward. Meeting 2, I grouped those together because those are Public Works types of chapters. They're heavy on Public Works, so I could have a representative from Public Works there, and Parks and Rec, and they can answer questions that the committee has. Then Meeting 3, Housing and Economic Development, there's obviously a relationship there, and Implementation, which wouldn't be too much work. And then we get to Meeting 4 and we've got a Transportation and Land-Use link and Annexation, so I felt there was a relationship there. And then after we get through those kind of revisions, we would have an open public workshop. Hopefully in April, maybe we would be able to have a walk-in public workshop. We have to see kind of how things are going with how we're going to do it, but that would be something that the steering committee and the Planning Commission would do. There's an asterisk next to each meeting. That means every month I will give you an update on what the committee's work is and get your comments and a follow-up report. So, it's not like you're going to just forget about this until March or April and then we'll see this work from the committee. There will be monthly follow-ups as the committee does its work. And then finally we're having something around the June timeframe where, the June timeframe of next year where we would have a new draft that we would send to Council.

And as you scroll down, we just get into the appendix, where I put it in the State . . . that's the vision that's taken directly from the current existing version of the Comprehensive Development Plan. And then, finally, I think it shows Delaware State Law where I cite the first couple of pages, and that's Appendix B and that's the final, I don't think there's an Appendix C.

Mr. Hurd: No, I think that's it.

Mr. Fortner: So, that concludes my report.

Mr. Hurd: Alright, thank you, Mike. Well, why don't we go around the horn to get comments and such. We'll start with Commissioner Kadar.

Mr. Karl Kadar: Okay, as I read through this, I had a few questions. On line, I want to say 116 or 117, a stakeholder is any individual, group or organization that has a vested interested, present or future. How do you know if you have a future interest?

Mr. Fortner: Well, they could be a business owner coming to Newark that's planning on developing. It could be developers that are looking at Newark that want to participate in it, I suppose. As to where I got that language, I probably stole it from somewhere. But I think future, people are looking to do things in the future here. I think that's part of it.

Mr. Kadar: I can understand builders or developers but that's about the end and the builders and developers are already listed as a key constituency down below. It's just a thought. I don't think it adds anything.

Mr. Fortner: Okay.

Mr. Kadar: Alright, line 127, University of Delaware leadership. Just a question, do we have reciprocal rights with the University of Delaware? When the University of Delaware has planning sessions, do people from the City and the Planning Commission participate in that? Are we represented?

Mr. Fortner: I don't think so all the time. There's been a few things where I've been invited but I think they do a lot more planning that we're not a part of. At least I'm talking about me in the Planning Department. The City Manager also has correspondence. But I don't know if there's a reciprocal agreement. It's more of a courtesy.

Mr. Kadar: Yeah, they could be informal or they could be a courtesy but, you know, I'm not aware of any of the members of the Planning Commission or perhaps, Mary Ellen, some of your Planning staff who regularly participate in planning activities that might impact us with the University of Delaware. We usually hear about it when it's, you know, the ink is dry, and we've got a notarized seal on the signatures and they're ready to go. And we have nothing to say about it. So, it's just food for thought. I'm not advocating that we should muzzle in but just a thought.

On the next line, 128, well 128, 129, when I read on page 9 the Delaware Code, Title 22, it says on line 249, 50, and 51, that the comprehensive plan process shall demonstration coordination with other municipalities, the County, and the State during plan preparation, and I don't see them listed key participants.

Ms. Gray: Well, I'll . . .

Mr. Fortner: Go ahead.

Ms. Gray: Usually they participate when we send them drafts when they review it at the draft stage. Traditionally, they have not participated as stakeholders. Actually, Mike and I were talking about that the other day. That has been our experience and actually my experience as well. They usually don't, having been asked in the past, don't want to participate as stakeholders. They'd rather be as reviewers. Mike, what is your experience, as well?

Mr. Fortner: Well, they're not a steering committee member but they can, will and can be invited to certain meetings. For example, when we do the annexation meeting, I think we'd like to have someone probably from Land Use there. You know, the other ones, too, they can be, we've asked them, but they're not going to be a steering committee member in this group.

Ms. Gray: Yeah, certainly we would keep them apprised of what's going on. Absolutely.

Mr. Hurd: Yeah, I think last month we had talked about having someone from the State Office or someone from the University IPA group probably as a resource and probably less as a member of the committee but more as a resource available. And I think that makes sense, especially for

the Land Use and Annexation one where we're looking at our Comp Plan in the context of everything around us. And I know annexation has been a thing that's come up in conversation and I think, obviously, some clarity around that and possibly having New Castle County and the State involved in that conversation would probably be a useful point. But I don't know that the State would have a lot to say about Parks and Rec, you know, Parks and Recreation, for instance.

Mr. Kadar: No, I'm thinking mostly of New Castle County . . .

Mr. Hurd: Yeah.

Mr. Kadar: And like the City of Wilmington and maybe Elsmere, and what are some of the others?

Ms. Gray: I think that's a great idea, Karl, to make sure that everyone, those entities know what we're doing and kind of know what we're thinking and involve them in the process. Absolutely.

Mr. Kadar: Very good.

Ms. Gray: It's also helpful to get their perspective, too.

Mr. Kadar: Right. Okay, line 144, I used to be, I used to work in a plant site where I was in charge of dealing with OSHA and there the language was very specific. I'll draw your attention to line 144. When the facilitator provides the opening remarks and describes the procedures that the attendees are going to use, should implies you ought to use it and shall implies you will use those procedures. I'd like to see that should changed to shall, to have a little bit more force with anyone who is interacting with the Planning Division.

Mr. Fortner: Okay.

Mr. Kadar: Alright. Let's see . . . okay, line 170, develop a link on the City of Newark website. The phrasing is a little, you know, a little strange. It says the Planning and Development Department will post information regarding the sustainable community planning progress and dates of upcoming public participation sessions. Are we referring to the work to update the Comprehensive Plan?

Mr. Fortner: Yeah, thank you for that. That's . . .

Mr. Kadar: And if so, let's just say regarding the update of the Comprehensive Plan and the dates of upcoming sessions. Why are we adding this flowery language which is really difficult to interpret? I think it's not specific enough. Paul might enjoy it because it . . .

Mr. Fortner: What's the flowery language?

Mr. Kadar: Excuse me?

Mr. Fortner: What part is it? What part are you talking about? Are you talking about this information may include . . .?

Mr. Kadar: Yes, I believe that what we're talking about is the update or review of the Comprehensive Plan.

Mr. Fortner: That's right.

Mr. Kadar: Yet we use language that says regarding the sustainable community planning progress.

Mr. Fortner: We can take that out and put regarding the development of the Comprehensive Development Plan V 2.0 or something like that.

Mr. Kadar: That makes it much clearer. And with that, I am through.

Mr. Hurd: Okay.

Mr. Kadar: Oh, one other point, excuse me.

Mr. Hurd: Yes?

Mr. Kadar: Line, where we have the healthy, active community starting on line 200, when we talk about line 205, ample parks and open space, does that also include playgrounds?

Mr. Fortner: Yes, it's parks in the most general sense.

Mr. Kadar: Okay, but not all parks have playgrounds, rightt?

Mr. Fortner: That's correct.

Mr. Kadar: Okay. I'm just thinking of our young folks.

Mr. Hurd: Yes.

Mr. Fortner: Yes, that's certainly a priority. So, yes, not all parks have playgrounds, but it's parkland whether they include playgrounds or not.

Mr. Kadar: Okay. Now I'm really done. Thank you.

Mr. Hurd: I was just going to comment on the link on the City website. It's something we've done, we did it especially for the Parking Subcommittee which, Karl, you may not have been here when we did that. But it was, basically we put all the documents that we were generating, all the presentations that Mike put together, all the resources that we had found about various things and we put them into that spot just to make it easier for maybe people who weren't coming to every meeting but it was a chance for everyone to see that we were looking at a broad set of data, that we were generating reports. They could see the progress a little better and not just an output of minutes, maybe, but a chance to kind of look at what was going into the process.

Mr. Bob Stozek: Will?

Mr. Hurd: Yes?

Mr. Stozek: Yeah, Bob Stozek. Going back to one of Karl's earlier comments when he was talking about potential interaction between the University and the City, I don't know if anybody remembers but back in the day when both I and Rick Armitage worked for the University, we used to have an annual meeting, it usually was in November. It was an open meeting to the public and it used to be attended by Council people. I'm not sure at that time whether anybody from the Planning Commission came, but basically the University reviewed all of its plans for the next two years on major construction projects and projects that would potentially affect the areas surrounding the University. And it was fairly well-received by the public. You know, that was my perception anyhow. But then when the new administration came in, after Roselle left, they basically killed the idea, saying, in my words, the City, you know, people didn't need to know what we were doing.

Mr. Hurd: Yeah, I would certainly like to see that shifted some and there'd be a little more, yeah, a sense of give and take. Not even give and take, but just what are you thinking about doing so that we can have some heads-up. You know, two years down the road we're going to be taking these dorms offline is a useful thing to know now kind of thing.

Mr. Stozek: Yeah, we would even review drawings. We would have sets of drawings there . . .

Mr. Hurd: Oh, wow.

Mr. Stozek: And go over them with anybody that was interested. So, it was a pretty open forum and we did that in either one or two days in consecutive weeks in November.

Mr. Hurd: Okay.

Mr. Stozek: So, just an idea that maybe the City . . .

Mr. Hurd: Okay. Yeah, absolutely. Alright, Commissioner McNatt?

Ms. Stacy McNatt: Okay. My really only comment that hasn't been addressed is on line 209. And it's that section . . .

Mr. Fortner: Did you say 209?

Ms. McNatt: Sorry, go ahead. Oh, 209. And it's the section of sustainable community. And, as you know, for a long time I've been a strong advocate for making sure not only stormwater management as required by the State regulations are followed, which is kind of identified in the water quality portion of line 215, but for a sustainable community for today, we need to also include adequate stormwater conveyance and that's a whole other level of management that exists, that needs to exist besides stream valley protection and water quality that I think is missing in this planning document. And I think it is extremely important, especially with certain planning aspects associated with certain developments in the future and the location of those developments and the downstream conveyance systems that exist or don't exist. And I think it's important that somewhere in that section that adequate stormwater conveyance is identified.

Mr. Hurd: Okay.

Ms. Gray: So, just for clarification, Commissioner McNatt, this section here, this is an excerpt of what is currently in the Comp Plan. So, certainly that could be part of the discussion for the work group down the road. So, this is . . .

Ms. McNatt: Yes, to be changed . . .

Ms. Gray: Right.

Ms. McNatt: If this is the document that's going to be partially edited at some point in time, I think that's a detailed discussion that needs to be included and added into this document.

Ms. Gray: Well, okay, yes, but point of order, this document is talking about the framework for the discussion . . .

Ms. McNatt: Correct.

Ms. Gray: And this excerpt here on sustainable community is currently the vision statement in the Comp Plan that you're commenting on. So, certainly that can be, your comments regarding stormwater can be a point of discussion when the work group is being discussed, but right now, we . . .

Ms. McNatt: Right. In section, in number, on page, like it's consistent with our number 6, so yes, as part of the discussion as part of this process, I would recommend that that topic gets incorporated into the work plan discussion and the work group as part of this planning document.

Ms. Gray: Yes. Yes, I'm not arguing that point. I'm not arguing with you. I'm just saying we wouldn't be making that change on line 215 in this document . . .

Mr. Hurd: Right.

Ms. Gray: Your comment. I just don't want you to think that we're ignoring the comment.

Mr. Hurd: Right. The steering committee, after say reviewing the public utilities and infrastructure section may say, or you can certainly add this comment to say let's make sure that stormwater conveyance is something we're including in this process and, you know, there could be a question of do we need to amend the goals to make sure that this is a goal that's set up that we're pushing down into these actions or do we think that it's included in the goals? But I am making a note of that item.

Ms. Gray: Right.

Ms. McNatt: Thank you, Will.

Mr. Hurd: Okay. Anything further, Commissioner McNatt?

Ms. McNatt: No, thank you.

Mr. Hurd: Okay. Commissioner Silverman?

Mr. Alan Silverman: Michelle, if we can go back to page 7 to the chart that's shown.

Mr. Fortner: Down a little bit, Michelle.

Mr. Silverman: Okay, under the addition that Michael made with respect to Newark Community Day, even though it's tentative, just a thought, since we are looking to have additional members of the community serve either in a technical or a comment aspect, as well as actively on the committee, perhaps we could make part of our table or discussion, would you like to volunteer, would you like to contribute kind of thing. It will help the Council and it will help the steering committee in filling out some of the work groups and some of the . . . bringing more ideas to the table.

Mr. Fortner: So, you're saying Community Day, that will be, assuming that happens, we would value volunteers for that, Planning Commission or just being a part of that table. Is that what you're saying?

Mr. Silverman: No, I'm saying to offer the opportunity to the members of the public who stop by to participate with the community to become a member of the committee.

Mr. Fortner: Oh, I see, I see.

Mr. Silverman: If you're looking for members of the public . . .

Mr. Fortner: Because we're going to have residents on there, okay.

Mr. Hurd: Right.

Mr. Fortner: That's not a bad idea. Okay.

Mr. Silverman: And also emphasize that the meetings are open. It's not just a working committee doing this, they're open to the public. And this is kind of in concert with what the Council and City Secretary are doing in bringing a broader base of individuals into all of the City's processes.

Mr. Fortner: Very good. Thank you.

Mr. Silverman: And if we go back to the first page, the cover sheet, Michelle . . .

Mr. Fortner: The pretty picture.

Mr. Silverman: Line 1. Now this may be my particular perception, but when it says Newark Comprehensive Development Plan V 2.0, my first read on that is, oh, we're revising the entire Comprehensive Plan. Somewhere after the word Plan, it needs to have the word review.

Mr. Fortner: I can get rid of the whole 2.0 if the committee, the Commission likes. I was trying maybe to be cute with the 2.0, going back to the old computer upgrade, computer software upgrade. If it's just clearer to just say review, I can do that. I don't know if we wanted to call it, I wanted to do something to still show its Comp Plan V but it's the updated Comp Plan V. But it can say updated as of whatever the date is, so we know what Comp Plan we're referring to.

Mr. Silverman: Okay. But somewhere it needs to convey that this is a review of the Plan. This is not 2.0, a substitute for the Plan.

Mr. Fortner: Yeah, so is it the Commission's, just call it, the title should be Comp Plan V Review? And just call it a review and then have the asterisks there and I'll explain what a review is. And then we'll call it Plan 2.0 eventually, but not confuse it right now.

Mr. Hurd: I'm almost thinking you could take out the big title and just say, a five-year review of the City's Comprehensive Development Plan V, you know, pursuant to the Delaware Code. And then you could go Plan for Planning and later in the document you could sort of say we're calling it, you know, V 2.0 just for clarity. But it pushes the statement, a five-year review to the top.

Mr. Fortner: Okay.

Mr. Hurd: I see that point there.

Mr. Silverman: That concludes my comments.

Mr. Hurd: Okay, thank you. Commissioner Stozek?

Mr. Stozek: No other comments.

Mr. Hurd: No comments for you? Okay. Commissioner Wampler?

Mr. Tom Wampler: I just have one point I'd like some clarification on. Line 155 where it says project team, it says the Plan project will establish a steering committee to bring a diverse range of government agencies, blah, blah, blah. The project team will include and then it has all the people on it. And at the bottom, 168, it says the Plan V 2.0 project team will use a variety of approaches to inform the public. And in the schedule, all of the meetings of the steering committee, the way that reads to me is there's going to be a steering committee and there's also going to be a project team. And I don't think that's what is intended. But my question is, is the project team and the steering committee the same thing?

Mr. Fortner: So, you're correct that it's the same thing and I should clarify that and take out project team and start using . . . well, I guess I could put project team. I think I should just go with, just call it steering committee and just keep consistent with that language. So, I'll change the title to steering committee and I think I should just continue with that.

Mr. Hurd: Yeah.

Mr. Fortner: Does that sound good, Will?

Mr. Hurd: Yeah, it makes sense because I think it does keep it consistent and then you're not going, right, which is which?

Mr. Wampler: Because on the first reading, it sounds like we'll establish a steering committee and then the steering committee will form a project team of these people. I just wanted to . . .

Mr. Fortner: Well, I guess in that sense, the Planning Commission is the steering, so maybe we should just keep it that the Planning Commission is the overall facilitator of this. They're delegating, they're creating a steering committee to do the nuts and bolts work and report back to the Planning Commission. So, I think the idea of getting rid of the project teams, getting rid of that and clarifying the Planning Commission and steering committee. Those are two separate things.

Mr. Wampler: Yeah, and then line 158 instead would say the steering committee will include and then it would be those . . .

Mr. Hurd: Right.

Mr. Wampler: Those people. Okay, yeah . . .

Mr. Fortner: Yeah.

Mr. Wampler: That was confusing to me.

Mr. Fortner: Good point.

Mr. Wampler: I appreciate that. That's all I had.

Mr. Fortner: Okay.

Mr. Hurd: Okay. Oh, that's everyone. That leaves me. I think this was a good revision, Mike. I appreciate you bringing in all of the comments and especially the clarifying language on the front there to help sort of do it. The thing that I think we're missing, and I'm not sure if this is something that we need to put into this document or if it needs to be part of sort of the conversation around the steering committee formation, is kind of making sure we're clear about what the scope is of this review. I don't, I'm trying to avoid giving people an opening to go through every single word in the Comp Plan and revise it or re-examine it. Because we're not doing that. We're not rewriting the Comp Plan. We are reviewing it in the context of changes that have been going on. And I think, and it's not said in the State language, but I think in some sense, it's a chance to look and say we've been running with this for five years, what kind of issues have we, has this generated, what kind of criticism has this generated, what kind of comments do we seem to be getting? Because that would then inform the areas that we want to look at. So, Alan and I briefly were talking about sort of high-level things. One thing I'm going to try to do is to go through our minutes and the Council minutes to see if I can pull out times when people have made sort of specific criticism or comments around the Comp Plan. Because I know in my mind I'm like I know people say, well, we amend the Comp Plan a lot. Well, maybe we can pull some data from the department to say how many have we actually done? Oh, actually the Work Plan, the Work Plan reports should have that, right? So, we could just pull the last five years and sort of go, we made, you know, some number of Comp Plan amendments and we can look at them and go, are they because of the issue of the low and high residential density not always matching up with the zoning underneath it and we had to kind of tweak it. And so, you go, you know, is this the time re-examine residential high- and low-density designations? But basically, if we had a little bit more data about issues or concerns or things going on, then I think we can feed that to the steering committee to go, here are areas we think you should focus on. Rather than kind of opening the whole thing up and going, please go through every single chapter and kind of have at it. Because that's going to lead to, I mean we're not going to get that done in a month. It's going to take, I think, too long. So, that's something I'm going to try to take on for the next, so that we have that for September so that we can talk about either whether that's in this document or whether that's just sort of a standalone report that goes to the steering committee might be a way to do that.

I do like Alan's idea of kind of soliciting for people at Community Day because that's the one thing I was kind of struggling with is how are we going to find at-large residents because we're really

going to have to reach out to like Council people, our own networks, and such, and at the same time, if we're trying to reach to communities that we don't normally reach to, the usual networks aren't going to reach there. So, a couple of thoughts were possibly talking to Josh Shannon from the Newark Post to say, hey, this might be a time for kind of a carefully-worded article that sort of says we're looking to do a review and we were looking to have a broader participation and maybe also talk to the City, the person at the City who does social media and communications about how to kind of push that, once we get kind of clear about what we're looking to do, we can start to push that out a little more. Am I right in that in your sort of timing between now and September, the idea was to try to come up with a list of members of the steering committee to try to get approval for that?

Mr. Fortner: I don't know if it was necessarily September but certainly by October or November . . .

Mr. Hurd: Okay.

Mr. Fortner: We certainly want to get, start getting that committee together.

Mr. Hurd: Okay.

Mr. Fortner: I mean, our target is to have a meeting in November and then December, it could even work in early December.

Mr. Hurd: Okay.

Mr. Fortner: I think you're right on about the scope. It's not to go paragraph by paragraph but it's mostly to look at the goals, the vision again, you know, the land use. You know, like we had that thing with the KA House where maybe it wasn't the correct designation that we had on that. There are a few other kinds of things like that where it just got mis-tabulated. You know we had the focus group areas which are sort of in your work plan, but they could be incorporated into that. I'm not sure how we would want to do that. We put a lot of time into coming up with those focus areas and it was supposed to, and to your further point about what had been the amendments to the Comp Plan, it's been usually in certain areas of the town that are transitioning from low density to high density.

Mr. Hurd: Right.

Mr. Fortner: That's mostly where Comp Plan amendments come from. Someone has a residential low density and wants to do high density. It's in transitioning areas. And so, I don't think it's been as extensive as people's perception is sometimes.

Mr. Hurd: Oh, no.

Mr. Fortner: So, I don't know how to change that. I mean we tried to address that through these focus areas. Rather than trying to anticipate what's going to be high density and changing all their zonings, because once you make the land-use designation, you have to change their zoning before they even turn in a development. I don't think that's necessarily the best approach either. So, we wind up having little amendments piece by piece which . . .

Mr. Hurd: Right.

Mr. Fortner: People don't like that either.

Mr. Hurd: Right.

Mr. Fortner: So anyway, I don't know how we'll fold in the focus areas.

Mr. Hurd: Yeah, I actually hadn't thought of that until you mentioned it but that might be something that we could, if we can push that through, push that up in our agenda a little bit and get some general approval from the Commission of this is the language we want to do for those planning areas, the focus areas, we might be able to say here is that language we wanted and we can kind of hand it off to the steering committee and say we'd like to get this incorporated into the sections on land-use or future use because, I mean, it was almost all finished the last time we left it. I think it was mostly when we went to Council with it and the Council was doing a lot of push-back on every area except 4, so I don't know, I don't know politically if we can just sort of roll it in or do we have to have conversations about the groups, about the focus areas. But I think this is the opportunity to sort of go, we're making revisions, this is the time to insert those pages about here is the focus area, here is the language about, you know, how we're going to handle zoning and density in that.

Mr. Silverman: Will?

Mr. Hurd: Yes?

Mr. Silverman: Will, keep in mind that we have a brand new Council and we have a brand new economic circumstance and a brand new impact on the major employer in the City, so it's time to bring all of these issues back to the table. They can be discarded if there's no interest, but I think we have an obligation to bring them forward again.

Mr. Hurd: Okay. That's a good point and I think I should have mentioned that probably earlier that, you know, we're talking about changing conditions in the municipality and it's like, well, the coronavirus has had quite an impact and will continue to have an impact. And it's something I think we have to take into account if we're going to look forward, how we're going to address that.

So, I guess in terms of the schedule, what I'm comfortable doing is to say that, yes, by, for the next meeting, we should be able to finalize the Plan for Planning document. I think we've got some good comments, there's not a lot of big changes. And we can start to talk a little bit about the construction of the steering committee, perhaps, or the charge to it. And then in October, we should be to, that gives us two months to find people and make sure we've asked them and get some agreement so that we can come in in October and says here's the proposed list of members and have a little conversation about that and say we're ready to go. And then they can take off for November. Okay. Did I have anything else in my notes? I don't have anything else in my notes. Any further final comments?

Mr. Kadar: Yeah, this is Karl Kadar.

Mr. Hurd: Yes, Commissioner Kadar? Yes.

Mr. Kadar: It was not clear to me in the discussion between Tom and Michael . . .

Mr. Hurd: Yes.

Mr. Kadar: About the steering committee versus the project team, whether or not they picked up the line 97 references to project team. And I think that needs to be changed to steering committee.

Mr. Hurd: It is. So, they are the same thing. So, Mike is going to, if I understood correctly, is going to change this to say steering committee instead of project team. We might even say the Planning Commission will establish a steering committee to bring together a diverse range of blah, blah, blah.

Mr. Kadar: Okay, I just wanted to make sure they picked up line 97, which referenced it.

Mr. Hurd: Yeah.

Mr. Kadar: Okay.

Mr. Hurd: Yeah, there is one group. We're going to form a group that's going to be composed of these people from these various areas, they're going to do this work, and they're going to be reporting out to us both monthly and at the very end. And they'll give us a final document to review and discuss and approve and send forward. Alright, anything else further? Okay, Mike and Mary Ellen, you're kind of clear about what we're doing?

Mr. Fortner: Yes.

Mr. Hurd: Okay, great.

**4. REVIEW AND CONSIDERATION OF A REZONING OF THE PROPERTY AT 136 WEST MAIN STREET FROM RS (ONE-FAMILY DETACHED RESIDENTIAL) TO BLR (BUSINESS LIMITED RESIDENTIAL) AND A COMPREHENSIVE DEVELOPMENT PLAN AMENDMENT TO CHANGE THE LAND-USE DESIGNATION FROM "RESIDENTIAL, LOW DENSITY" TO "MIXED URBAN."**

Mr. Hurd: Okay, moving on. Skipping 4 and going to Item 5.

[Secretary's Note: Item 4, review and consideration of a rezoning and Comprehensive Development Plan amendment for 136 West Main Street was withdrawn from the agenda by the Planning and Development Department.]

**5. REVIEW AND CONSIDERATION OF AN ORDINANCE GRANTING THE CITY MANAGER AUTHORITY TO ALLOW OR DENY APPLICATIONS OF FOOD AND DRINK ESTABLISHMENTS TO EXPAND OUTDOOR SEATING AND AMENDING CHAPTER 20A (NOISE) AND CHAPTER 32 (ZONING), CODE OF NEWARK, BY EXTENDING EMERGENCY ORDINANCE 20-03.**

Mr. Hurd: Item 5, review and consideration of an ordinance granting the City Manager authority to allow or deny applications of food and drink establishments to expand outdoor seating and amending Chapter 20A Noise and Chapter 32 Zoning Code of Newark by extending Emergency Ordinance 20-03. Alright.

Ms. Gray: Okay, thank you, Chairman Hurd.

[Secretary's Note: During the Planning Commission review and consideration of an ordinance granting the City Manager authority to allow or deny applications for expanded outdoor seating, the Planning and Development Department memos, email, and supporting documents on the subject were being displayed for the benefit of the Commission and the public. A link to the Planning and Development Department memorandum and supporting documents can be found at the end of this document.]

Ms. Gray: So, a little bit of background on this, as part of the program for the gradual opening of Delaware, Governor Carney, it seems like forever ago but then it seems like only last week . . . there's a lot going on the last couple of months . . . on May 19 he announced that food and drink establishments, in our Code we call them restaurants but, so there's a little bit of food and drink establishments and then restaurants in our Code, that they can apply to local government authorities to expand outside seating. And what that in effect is, is they cannot expand their current capacity, but they can bring the inside out. And it sounds great when you go, wow, that's a great idea, but then when you go into the details, we ran into some Code issues right away. And so what we did, being the good bureaucrats that we are, we issued, we put together an emergency, with our Solicitor's great assistance, we put together an emergency ordinance which allowed us to issue, the City Manager to issue permits because we immediately ran into some Code issues. And that was passed but an emergency ordinance can only last for sixty days and so then it has expired and we're doing a new emergency ordinance, which we'll do another one.

But in the meanwhile, we need to put this into Code to sunset at a later date because we can only do an emergency ordinance for sixty days and to do one every sixty days isn't the intent of an emergency ordinance. And the Governor, from what we understand, has indicated that this might, that he might extend this given the COVID situation, might extend the emergency order and this ability to have outside seating, yeah, expanded outside seating, inside outside, outside seating for longer than the original order, which was, I think, to July 31 and then he extended it.

So, we put together language for that, which you see, and then we also sent out an addendum to that because when the, because we have two, as I just had mentioned, two emergency ordinances. The first that I had attached originally had four amendments to it and there were two amendments that were done on the floor, and so it ended up by having six amendments. And when I put together the emergency ordinance, excuse me, this standard ordinance, I'll call it a standard ordinance, I used the one that was just the ordinance that was just put together that was presented. So, hence we needed to go back and put in the other two amendments.

So, we have, so, Michelle, if you could please pull up the language, the proposed language for the ordinance. So, it's written somewhat broadly. So, we have, so the tenets of it is that the City Manager approves the permits and it's a standard building permit that has to be applied for and we have a permit application that the City Manager can waive the temporary noise, can give a special noise waiver pursuant to Chapter 20A. And Chapter 20A, Amendment 3 allows the utilization of public parklets subject to DeIDOT approval and, let's see, and then the ordinance will sunset upon the expiration of the Governor's Order allowing food and drink establishments to apply for expanded outdoor seating. And then we have the two other amendments. Michelle, if you can kind of pull that one in that we sent out this afternoon. Okay, the language to that is, so the Code provisions including those of Chapter 32 Section 32-56.4 restricting expansions of patios into alleys and onto neighboring properties to expand outdoor seating for serving food and drink are amended to allow the City Manager to issue the permits. And Code provisions including those in Chapter 22 and Chapter 32, and I list out those sections, restricting open containers in public spaces are amended to allow the City Manager to grant permits. And there's more specific language in that.

So, that's the proposed ordinance and I'd be happy to answer any questions and discussion. Thank you. Will, you're on mute.

Mr. Hurd: The language in the email that you sent doesn't line up with the language in the PDF that you sent out directly. It looks a lot, the, but the amendment numbers are different and the PDF that you sent out, Amendment 6 about the sunset date still has the 61<sup>st</sup> date. So, I'm now a little confused about which is the one, what's the language that we're trying to consider here.

Ms. Gray: Okay, the language that we're trying to consider here is the language that I just articulated.

Mr. Hurd: So, from the email?

Ms. Gray: Yes, sir. The language that was sent out in the first email is the emergency ordinance language that is going to be presented August 6 to Council. And so, as I mentioned in the email, since this is going from what I would call from emergency ordinance language to standard ordinance language, we needed to modify it a little bit to make it flow a little bit more. Does that make sense?

Mr. Hurd: Well, yes, it's just that earlier today you had sent us a revised version of the PDF packet for this that had now six amendments for the new code. But that language in that PDF doesn't match the amendments as you listed in the email. So, I just want to be sure that we know which one we're discussing so that we can include the right language in there. Because the PDF you sent looks a lot like it took the previous six amendment adopted code and just copied it over and

said here it is as the new emergency ordinance. But that still had the 61-day sunseting and stuff which sounded like you're saying you want to remove.

Ms. Gray: Yes

Mr. Hurd: Okay.

Ms. Gray: So . . .

Mr. Paul Bilodeau: Mary Ellen, if I may.

Ms. Gray: That would be great.

Mr. Bilodeau: I believe in the six amendments that are listed in the PDF, the order might be a little skewed, but the first five are the same. The only one that the language changed, if you will, was the one that talks about sunseting because, you know, the ordinance we're passing is not going to sunset in 61 days. It's going to, and that's where Mary Ellen changed it to the sunseting, I believe, will, or the ending will occur whenever we revoke it or when the Governor's Order, he rescinds the Order allowing the seating. Because I think he, we've received some indications that the legislature will extend this, I think, through several months to allow the restaurants to kind of recoup.

Mr. Hurd: Right, I'm just, I'm not seeing in any of the documents we've seen sent that revised, the amendment revised to say no sunseting.

Ms. Gray: Okay, so the proposed ordinance that we are presenting this evening for review . . . so, Michelle is pulling up . . .

Mr. Silverman: Will, I think the ordinance . . .

Ms. Gray: Right. Michelle has the proposed revisions to Chapter 32 dated July 31, and I believe that's in Amendment 4, as the sunset provision in that one there.

Mr. Silverman: Are we discarding the document that has line numbers?

Ms. Gray: No. The ordinance that you're considering this evening is the ordinance that . . .

Mr. Silverman: So, is your . . .

Ms. Gray: The ordinance that we would like you to consider this evening is the ordinance that was sent to you on Friday via email and then hard copy on Monday. And then . . .

Mr. Silverman: Okay.

Ms. Gray: And then there were two emails that were sent today, and the second email had Amendments 5 and 6 that has language so that, in addition to what was sent to you on Friday, plus Amendments 5 and 6 that were emailed this afternoon, that is the language we would like you to consider. So, when you pull those together, that equals the ordinance that Mr. Bilodeau is presenting to Council on August 6 as the emergency ordinance, with the change to the sunset language and some minor changes to the other amendments to make it flow for . . .

Mr. Hurd: Okay.

Ms. Gray: Standard, to be in a standard ordinance. Is that clearer?

Mr. Hurd: Yes, I was pulling out the wrong document.

Mr. Silverman: I'm totally lost.

Mr. Hurd: I think I'm good. Alright, so the document titled Proposed Revisions to Chapter 32 Temporary Expanded Outdoor Seating Ordinance has line numbers, has Amendment 4 saying the ordinance will sunset upon the expiration of the Governor's Order, that's the basis and then there's the two, let me go back to the email because I think that's where we mostly have it . . .

Ms. Gray: Right, so that's the one that's on the screen right now. Yeah, and then amendment . . .

Mr. Hurd: And then the text in there . . . okay. Because the document that was sent today, which was all this collected, doesn't line up with that, so it was getting confusing.

Ms. Gray: Correct.

Mr. Hurd: So, it was . . . right. Okay. Alright, so we'll throw that aside. Throw that one. Alright.

Ms. Gray: And I apologize for the confusion. We, it's been a little bit of a whirlwind pulling this together.

Mr. Hurd: It has. Okay.

Ms. Gray: So, I apologize, and I appreciate everyone's patience and understanding. When we say emergency ordinance, this was an emergency ordinance.

Mr. Hurd: Right. Alright, so thank you, Michelle, for . . .

Mr. Wampler: Will?

Mr. Hurd: Yes? You have a question, Mr. Wampler?

Mr. Wampler: Including what was sent to us this afternoon, do we have a single document or ordinance which has the exact wording that we want to go to the City Council? Because the last two pages of the PDF that we got today still refer to it as an emergency ordinance, not as a regular ordinance. So, I'm with Will. I don't see what it is that we're . . .

Mr. Hurd: So, you're correct. We do not have . . .

Mr. Wampler: Going to recommend to Council as . . . what we're going to call that because all of the things I think we've gotten so far refer to it as Emergency Ordinance 20-05 and I don't think it is that if it's not an emergency ordinance. But I don't think I have a copy of anything that's a new ordinance as we want to present it.

Ms. Gray: Okay, Michelle, could you pull up the July 31 document, please, that was sent on Friday? Okay and what's the title to that? Can you pull it down? So, that's the title. Proposed Revisions to Chapter 32, July 31, 2020, description, so that's the description. So, this is not titled emergency ordinance. So, this is what's being presented as the ordinance.

Mr. Hurd: Okay.

Ms. Gray: It's what was sent out on Friday.

Mr. Hurd: That's, I think, part of my confusion is that . . .

Mr. Wampler: Okay, so this is what we're voting on?

Ms. Gray: Yes, sir.

Mr. Hurd: This came early, and the other stuff came later.

Ms. Gray: Yeah, and the other information was sent as reference. And I apologize, that ended up by being confusing.

Mr. Hurd: Yeah, because I thought the reference was in fact what we were considering for adoption. Okay.

Ms. Gray: So, Commissioner Wampler, is that clearer that this is the document that you're considering Amendments 1 through 4, plus the language that was sent via email that has Amendment 5 and 6?

Mr. Bilodeau: And those two items, the 5 and 6, would be about expanding into alleyways and the language about open containers.

Mr. Hurd: Right.

Mr. Silverman: And that's the one that ends, see you virtually?

Mr. Hurd: Yes.

Ms. Gray: And that's the one, Michelle, could you pull that up one more time, please, for that one? Oh, there we go.

Mr. Hurd: Yes.

Ms. Gray: Amendment 5 and 6, yes.

Mr. Hurd: So, to Commissioner Wampler's point, how do we refer to this because normally if we're seeing an amendment, we're seeing the chapter and headings and we say that this is going to be, you know, line or section . . . we're adding a new letter F to the thing. Is this just sort of being amended to these two chapters? Or are we, or because this is sort of emergency-based, are we not getting into the exact, like where in the Code it goes in?

Ms. Gray: Michelle, can you please pull back up the July 31 document?

Mr. Wampler: The July 31 document has the four amendments and then there are two additional amendments.

Mr. Hurd: Right

Mr. Wampler: I think what we want to do is recommend that Council adopt the four amendments as the proposed revisions to Chapter 32, including Amendments 5 and 6 and read that into the record so that there's no mistake as to what the total wording is.

Mr. Hurd: Right.

Mr. Bilodeau: Correct, correct.

Mr. Hurd: I'm just saying that normally when we get amendments, it talks about like where in Chapter 20 . . .

Mr. Wampler: Right.

Mr. Hurd: It's amending and changing, and we don't have that context.

Ms. Gray: Right, right. So, if we could articulate that, and I just noticed I do have a mistake in the heading here under the description. The last line on line 8, going to line 9, actually the last words in line 8, by extending Emergency Ordinance 20-03, should more than likely come out. So, we should take that out because that is confusing. So, this would be put in, and I believe I have

that in the description in the memo to put this, to, let me just double check here, to put this in Chapter 32, and perhaps I did not put that in. Because I was talking with Renee, City Secretary Bensley, on this and I was asking where we should put this in the ordinance, and I was recommending to put it in Chapter 32 after Section 32 dash, I have to double check where that is, after the patio ordinance. And she indicated that that would most likely be the case but that for the Planning Commission recommendation, it didn't need to have a specific home . . .

Mr. Hurd: Okay.

Ms. Gray: And that she was comfortable with just having the recommendation and that she would find a specific home before it went to Council.

Mr. Hurd: Okay. That was part of my concern, was that this is sort of floating like a nebulous set of amendments, so . . .

Ms. Gray: With the intent that it would go in Chapter 32.

Mr. Hurd: Alright. Okay, I think we're all clear on that and so I will open for Commissioner comments starting with Commissioner McNatt.

Ms. McNatt: After still being a little confused, but that's just me, I have no comments at this time.

Mr. Hurd: Okay. Commissioner Silverman?

Mr. Silverman: I support the document as proposed and also the formatting referencing proposed revisions to Chapter 32, the exact placement to be decided by the City Secretary, and with the addition of the, I believe it's Amendments 5 and 6 as reflected on today's email.

Mr. Hurd: Okay. Commissioner Stozek?

Mr. Stozek: No comment.

Mr. Hurd: Okay. Commissioner Wampler?

Mr. Wampler: Yeah, I think this is great, but I was confused on the various iterations of it, but I think I'm okay with what we're going to do now. And I just want to say that I'm up on Main Street a lot and seeing the way the restaurants have utilized the space to try to get people to spread out, I think it seems to be working great and I'm very much in favor of this.

Mr. Hurd: Okay. Commissioner Kadar?

Mr. Kadar: One comment and a question.

Mr. Hurd: Yes?

Mr. Kadar: First, the question is on Amendment 2, the temporary special noise waiver. So, if the temporary special noise waiver disappears and we have somebody who decides he wants to use some headbanger music at really high decibels, is there something else you can do to shut that down because you now no longer have a noise ordinance? Not that I'm opposed to headbanger music. I like it in moderation.

Mr. Bilodeau: Karl, Paul Bilodeau here. The noise waiver, each one of these restaurants is going to have to apply for, basically, a permit to have outdoor noise and if they violate, they're going to lose that waiver and they can be cited for violating our noise ordinance. So, if they play that headbanger music that you like so much, it's going to cause them some trouble.

Mr. Kadar: Yeah.

Mr. Hurd: There are provisions for restaurants about outdoor amplified music. I think it's also in the patio ordinance, I believe. Didn't we refer to it? So, that's why there's a waiver, because currently there's a prohibition on having it, I think, in general and the idea being that if you're moving the inside to the outside, you want to move what's on the inside also to the outside, so we're kind of creating this waiver to allow that to happen when normally we wouldn't allow amplified music outside, I think, under the Code.

Mr. Bilodeau: And if a certain restaurant is playing music too loud, I think some City official will go up to them and say, hey, you have to turn this down. And if they refuse, they're going to lose their permit. But I think they're going to be asked nicely, say it's a little bit too loud, you might want to turn it down.

Mr. Kadar: All under the guise of a public nuisance or something like that? Alright, I just bring it up.

Mr. Hurd: Okay.

Mr. Kadar: And the other comment I have is on the first page of the July 31 document. It says, down towards the bottom, that Council adopted Emergency Ordinance 20-03 on June 1. By its terms, it sunset on August 1 and there's not enough time for Council to pass a regular ordinance adopting these programs. So, is there an ordinance in place now, because if it expired on August 1, then I guess everybody on Main Street on Thursday is going to be, actually on Wednesday, is going to be out of compliance. Because Main Street is shut down for another one of the outdoor dining events tomorrow and the Council doesn't meet until Thursday to give them the authorization to do that.

Mr. Bilodeau: Correct.

Mr. Kadar: Okay.

Mr. Bilodeau: So, between August 1, really, and August 6, we don't have, anyone that's out there with expanded outdoor seating is technically in violation of our Code.

Mr. Kadar: Okay, I'm just pointing it out. That's it. I have nothing else.

Mr. Bilodeau: Unless they're playing headbanger music.

Mr. Kadar: Then let me know, especially if its Finnish headbanger music because I will be out there, probably with Will Hurd.

Mr. Hurd: My kids were into Viking metal at one point so, yeah, it's interesting. Alright. I don't really have any comments. I think we've seen that these have been successful. I will just note that I'm slightly, I don't know, it's interesting that we went through all this trouble to have a patio ordinance, that Council went back and forth on it, and very quickly they're kind of waiving a lot of the provisions of it and it seems to not be causing a problem. So, I'm just, it's interesting that a lot of the concern about the patio ordinance may have been misplaced. Alright, that said, Mr. Secretary, are you read for the motion?

Mr. Wampler: I am. Do you want me to, for the sake of clarity, read in Amendments 5 and 6?

Mr. Hurd: Yes. Yes, we should read those into the record . . .

Mr. Wampler: Okay.

Mr. Hurd: Because they're not part of the documents attached to the agenda and included as part of the official packet.

Mr. Wampler: Alright, in that case, I move that the Planning Commission recommend that City Council approve the proposed revisions to Chapter 32 as shown in the July 31, 2020 document which includes four amendments and, in addition, Amendment 5, which I will read, the Code provisions including those of Chapter 32, Section 32-56.4 restricting expansions of patios and alleys and onto neighboring properties to expand outdoor seating for serving food and drink are amended to allow the City Manager to consider, grant, deny, or revoke such applications, and Amendment 6, the Code provisions including those of Chapter 22, Article X, and Chapter 32, Section 32-56.4 restricting open containers in public spaces are amended to allow the City Manager to grant, deny, or revoke applications to exempt expansions of outdoor seating for serving food and drink for employees of the applicant, their contractors, and patrons of the applicant.

Mr. Hurd: Thank you. Do I have a second?

Mr. Silverman: I'll second.

Mr. Hurd: Okay, Commissioner Silverman seconds. Any discussion on the motion? Hearing none, we'll move to the vote. Commissioner Silverman?

Mr. Silverman: Aye.

Mr. Hurd: Commissioner Stozek?

Mr. Stozek: Aye.

Mr. Hurd: Commissioner Wampler?

Mr. Wampler: Aye.

Mr. Hurd: Commissioner Kadar?

Mr. Kadar: Aye.

Mr. Hurd: Commissioner McNatt?

Ms. McNatt: Aye.

Mr. Hurd: And I vote Aye, as well. The motion passes. Alright. I've got to figure out how to make gavel noises on this thing. It's driving me crazy.

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

THAT CITY COUNCIL APPROVE THE PROPOSED REVISIONS TO CHAPTER 32 AS SHOWN IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JULY 31, 2020 WHICH INCLUDES FOUR AMENDMENTS AND AS MODIFIED BY THE COMMISSION AT THEIR MEETING ON AUGUST 4, 2020 WITH THE ADDITION OF TWO AMENDMENTS BELOW:

- A. THE CODE PROVISIONS INCLUDING THOSE OF CHAPTER 32 SECTION 32-56.4 RESTRICTING EXPANSIONS OF PATIOS INTO ALLEYS AND ONTO NEIGHBORING PROPERTIES TO EXPAND OUTDOOR SEATING FOR SERVING FOOD AND DRINK ARE AMENDED TO ALLOW THE CITY MANAGER TO CONSIDER, GRANT, DENY, OR REVOKE SUCH APPLICATIONS.
- B. THE CODE PROVISIONS INCLUDING THOSE OF CHAPTER 22, ARTICLE X, AND CHAPTER 32 SECTIONS 32-56.4 RESTRICTING OPEN CONTAINERS IN PUBLIC SPEACES ARE AMENDED TO ALLOW THE CITY MANAGER TO GRANT, DENY, OR REVOKE APPLICATIONS TO EXEMPT

EXPANSIONS OF OUTDOOR SEATING FOR SERVING FOOD AND DRINK FOR EMPLOYEES OF THE APPLICANT, THEIR CONTRACTORS, AND PATRONS OF THE APPLICANT.

VOTE: 6-0

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

NAY: NONE

VACANT: AT-LARGE

MOTION PASSED

**6. REVIEW AND CONSIDERATION OF REVISIONS TO CHAPTER 14A AND CHAPTER 32 ARTICLE XXVI OF THE ZONING CODE TO REVISE THE NAME OF SPECIAL FLOOD HAZARD AREA FROM “SFHA/OFD” TO “SFHA” AND OTHER FEMA REQUESTED REVISIONS.**

Mr. Hurd: Alright, that moves us, we’re moving along, to Item 6, review and consideration of revisions to Chapter 14A and Chapter 32 Article XXVI of the Zoning Code to revise the name of Special Flood Hazard Area from SFHA/OFD to SFHA and other FEMA-requested actions, revisions, sorry. Alright.

Ms. Gray: Okay. Planner Fruehstorfer is on vacation this week so I will be taking this and hopefully this is a simple change.

[Secretary’s Note: During Planning Commission’s review and consider of revisions to the Zoning Code to revise the name of the Special Flood Hazard Area and other FEMA-requested revisions, the Planning and Development Department memo regarding the topic was being displayed for the benefit of the Commission and the public. A link to the memo can be found at the end of this document.]

Mr. Gray: The first proposed revision is to change the name of the Special Flood Hazard Area from SFHA/OFD to SFHA in the table in Section 32-5. In general, all references to, let’s see, in the Sections 14A and 32 of the Zoning Code were revised in January 2016. Included in that revision was the change of the reference of the flood zone from the previous name of OFD to the FEMA designation of SFHA, which is short for Special Flood Hazard Area. In general, all references to OFD were changed to SFHA with the exception of the actual name of the zoning district, which was changed to SFHA/OFD. It was determined at the time that it might be too confusing to change the name of the zoning district without reference to the previous name and that the removal of OFD from the designation should be delayed until a future date. There has recently been some confusion as to the name of the zoning district and it has been determined that now it might be more clear to change the name of the district to simply SFHA.

So, next it should be noted that Section 14A-4 of the City Code currently references the FEMA Flood Insurance Study [FIS] dated February 4, 2015 and the FEMA Flood Insurance Rate Map [FIRM] dated February 4, 2015. The FIS and the FIRM have since been updated with a new effective date of January 22, 2020, so the second proposed revision is to change the effective date of the FIS and the FIRM in Sections 14A-4(a) and (b) from February 4, 2015 to January 22, 2020.

And then we have attached the sections of the Code with the proposed changes in bold, excuse me, the changes are shown in red with strikethrough, underlined and bolded.

Mr. Hurd: Okay.

Ms. Gray: So, it’s a pretty simple administrative change.

Mr. Hurd: Yes, it is. Thank you. Alright, so quickly around the horn. Commissioner Stozek? Any comments?

Mr. Stozek: No comments.

Mr. Hurd: Okay. Commissioner Wampler?

Mr. Wampler: I have no comments.

Mr. Hurd: Alright. Commissioner Kadar?

Mr. Kadar: No comment.

Mr. Hurd: Thank you. Commissioner McNatt?

Ms. McNatt: No comments.

Mr. Hurd: Commissioner Silverman?

Mr. Silverman: Referring to page 2, subparagraphs A and B, with reference to putting a date in a document, is there any advantage to adopting some kind of language, and Stacy's going to have to help me here, the most current adopted FEMA Floodplain or whatever the source of the information is, so this does not have to be amended every time there is a new version printed?

Mr. Hurd: I had a similar thought because I know we've done that with like fee schedules and such, put it into sort of an administrative area that doesn't require review.

Mr. Silverman: Yes.

Mr. Hurd: Obviously, too late for that now but I think that's something we could look at for the next go-round to see if there's a place to put that . . .

Ms. Gray: Do you, Mr. Hurd, do you want to try to change the language now?

Mr. Hurd: No.

Mr. Fortner: Excuse me, Commissioner Hurd, it does currently say and/or the most recent revision thereof. I mean it wasn't incorrect, but I think it's nice to have a date that we at least recognize as the most recent one and just changing it periodically when it does happen. I mean it was five years since the last one.

Mr. Hurd: That's true.

Mr. Fortner: This ordinance was compliant because it says February 4, 2015 or the most recent version thereof. So, it's just sort of an acknowledgement that there's been one since then and just sort of recognizes it. I think FEMA likes that.

Mr. Hurd: Okay. That's a good point.

Mr. Silverman: I can go with that.

Mr. Hurd: Okay. And I have no comments. Alright. Mr. Secretary, let's do the motion.

Mr. Wampler: Alright. I move that the Planning Commission recommend that City Council approve revisions to the flood plain Code to change the name of the Special Flood Hazard Area from SFHA/OFD to SFHA in the table in Section 32-5 and to change the effective date of the FIS and the FIRM in Sections 14A-4(a) and (b) from February 4, 2015 to January 22, 2020.

Mr. Hurd: Thank you. Do I have a second?

Mr. Stozek: Second.

Mr. Hurd: Thank you. Any discussion? Seeing none, we'll move to the vote. Commissioner Wampler?

Mr. Wampler: I vote Aye.

Mr. Hurd: Commissioner Kadar?

Mr. Kadar: Aye.

Mr. Hurd: Commissioner McNatt?

Ms. McNatt: Aye.

Mr. Hurd: Commissioner Silverman?

Mr. Silverman: Aye.

Mr. Hurd: Commissioner Stozek?

Mr. Stozek: Aye.

Mr. Hurd: And Commissioner Hurd votes Aye, as well. The motion carries.

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

THAT CITY COUNCIL APPROVE REVISIONS TO THE ZONING CODE TO CHANGE THE NAME OF THE SPECIAL FLOOD HAZARD AREA FROM SFHA/OFD TO SFHA IN THE TABLE IN SECTION 32-5 AND CHANGE THE EFFECTIVE DATE OF THE FLOOD INSURANCE STUDY (FIS) AND THE FLOOD INSURANCE RATE MAP (FIRM) IN SECTIONS 14A-4(a) AND (b) FROM FEBRUARY 4, 2015 TO JANUARY 22, 2020, AS SHOWN IN THE PLANNING AND DEVELOPMENT DEPARTMENT MEMORANDUM DATED JULY 28, 2020.

VOTE: 6-0

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

NAY: NONE

VACANT: AT-LARGE

MOTION PASSED

**7. REVIEW AND CONSIDERATION OF REVISION TO CHAPTER 32 ARTICLE IX TO ADD A ZONING DEFINITION TABLE.**

[Secretary's Note: Item 7, review and consideration of a revision to Chapter 32 Article IX to add a zoning definition table was withdrawn until a future Planning Commission meeting.]

Mr. Hurd: Alright, let me look over my agenda. Item 7 has been postponed.

**8. INFORMATIONAL ITEMS.**

**a. PLANNING AND DEVELOPMENT DEPARTMENT CURRENT PROJECTS**

**b. PLANNING DIRECTOR'S REPORT**

Mr. Hurd: That takes us to Item 8, informational items. Madam Director, again.

Ms. Gray: Thank you, Mr. Chair. I have some updates for the benefit of the Planning Commission. Let me pull up my notes here. Okay, so we have, starting with approved projects and projects going to Council, on July 13, as I mentioned before, the Rental Housing Work Plan was approved

at Council on July 13. There were some minor revisions. Council had asked for some minor revisions to the recommendations to the work plan and, excuse me, not to the work plan, to the recommendations which we made, and then staff put together a three-year work plan for the implementation of the recommendations based on the prioritization schedule that Council had approved. And I'm not going to go over each one but basically for next year we have a couple of to-do's between now and the end of the year. But for 2021, most of the to-do's are with the rental permits and the Code Enforcement Division and there aren't any zoning, given our other work that we are looking at with the Comp Plan and the zoning update that we'd be looking at on the Parking side with the Parking consultant and the prioritization of the recommendations in the Rental Housing Work Group, we do not have any zoning ordinances for 2021. The zoning ordinances, the heavy lifting for that is the following year in January 2022. Yeah, January 2022 for that year. And then we'd be looking at the ordinances for the affordable housing components, accessible dwelling units, the accessible dwelling units, what was the other one? They're the two and I'm looking here, give me a minute here, adding affordable housing units for the fee in lieu for adding additional housing units for student, what we call workforce housing, and there are some other affordable housing components in there. And also on July 13, the Planning Services Request for Proposal RFP was approved, and we are working on the contracts for that. And what that is, is we were approved, there are three consulting firms that were approved with, and we have some limited funding left in this year's budget to bring on a consulting firm to help out with permit review and other planning type services given the current and anticipated land-use activity. And that RFP was also written in a way that we could also bring somebody, bring a firm on to help out with other Planning Department activities such as code enforcement and property maintenance, as well.

On August 10, upcoming, we will be giving a presentation and discussion on impact fees. Staff has been meeting from, we started meeting in December and then we paused in March because other things started happening in March. So, we kind of had a little pause there. But we were looking at, actually it was all the Directors and Mike Fortner, as well, and Deputy Director for Public Works and Water Resources, Ethan Robinson. We've been meeting to identify areas of the City or programs that we can potentially look to issuing or apportion impact fees to and then researching those. And so we're at a point, and so Council had asked for a status report on that and so we're at a point, given we're at a pause, we're reporting where we are and we are recommending to move forward with further investigating sewer and water impact fees utilizing a capital recovery format. So, we'll be having a further discussion with Council on that on August 10. Also on August 10 is the special use permit for the pedestrian bridge over White Clay Creek that Planning Commission recommended approval for last month.

Upcoming on August 24 is the first reading for the Green Building Code, yay, and the second reading will be September 14. So we'll be presenting, Commissioner Hurd, Chairman Hurd has already put together the documents for that, so we'll including that in as an informational item next month so everyone, and we'll be talking about that, just presenting what we'll be presenting to Council for first and second reading to keep the Planning Commission informed on what's going on for that. Also on August 24 is the special use permit for fraternities and sororities.

And then on August 31, just FYI, is the Planning and Development Department budget hearing for 2021, so put that on your calendar. It's going to be exciting.

Some land-use projects that going on, just very briefly, that are kind of active. We have a long list of projects, but we have a core group that have been active that we're looking at. A couple that, you know, we hear from every once in a while, but this list is ones that we're currently engaged in reviewing. Well, this is a new one. We received a project for 141 East Main Street. That is the Lot 7. That's where the Starbucks is on East Main Street going all the way down to Delaware Avenue. So, that's a one-and-a-half-acre parcel and we do not, we just got it in on Friday. Was it Friday? Yes, last Friday. So, we haven't had a chance to post it on our Development Proposal website, but we'll be posting it there shortly. It's an ambitious project. It's commercial, mixed-use commercial on the first floor. The Starbucks, DelOne, and Duck Donuts are still going to be there and the building behind it with shared use parking, a parking deck, and student

housing on top. We're working on a revision with the developer for 132-136 East Main Street. We're hoping to get in a revision on that. We've been going back and forth with the developer on that. Other projects that we have in play, I think I mentioned last month is 1501 Casho Mill, 151 Capitol Trail, and these are project we've been waiting, where we've already submitted the SAC comments and we're waiting on the revisions. 268 East Main Street, we just recently sent out the SAC letter on that. And then we're also waiting on revisions to the Green Mansion project. Those revisions should be coming in here shortly.

Project activity-wise, just a couple of updates, the 924 assisted living, Barksdale, 924 Barksdale Road, that project is on hold until October. It's not so much COVID related from what I understand, it's somewhat COVID related, but their crew is working on another project elsewhere so they need to finish that up so they can come back there. Some student housing projects that are nearing completion, and from what we understand, soon will be moving in, the Haines Street project, 22 Benny Street, as well as Campus Walk II. Those are all nearing completion here in the next couple of weeks. The Fulton Bank project is at the beginning stages. They're starting to pull some permits. They're not full blown, but they're looking to move the current banking facilities to a trailer and doing some lines and grades. College Square is very exciting. Their permits have all been issued, at least their initial permits, and site work, storm tech installation is ongoing and pad site permits have been reviewed. The apartment permits have not yet been submitted but site work has begun in earnest on College Square, so we're very excited about that. Work is ongoing at the Newark Charter School and 321 Hillside Road, the above-grade demolition has been completed and they're digging out on the foundations and crushing a lot of concrete out there. So, that is moving forward. Let's see, we've got all that.

Just a couple of other projects, activities, CARES Act funding, Community Development Block Grant program, it's called CDBG something something. Mike, what's it called? CDBG, COVID CDBG, I think. Anyway . . .

Mr. Fortner: CDBG COVID-19. It's COVID.

Ms. Gray: Thank you. We're getting a chunk of funding to help out our community for, where, to help out with utility payments, folks who are falling behind in utility payments. Also to help house homeless folks and also for some community assistance, like to, the port-a-potties we have throughout the community for our homeless folks. So, that funding has been released so we are starting to work on establishing partnerships to spend that money. Work is ongoing with Kimley-Horn and Associates on our parking plan and also we're working with UD on Ucity and what that's going to look like given UD's plans on reopening. So, that's pretty much, that's a nickel tour.

Mr. Hurd: Alright, thank you so much. A lot of stuff going on, as always.

## **9. NEW BUSINESS**

Mr. Hurd: Moving now to new business. I guess if any Commissioners have anything they want to bring forward for the good of the Commission to talk about or to put onto future agendas, you can unmute. Commissioner Silverman, did you have something?

Mr. Silverman: Yes, Will, just comments for the good of the order. Campus Walk II has been completed. For those of us who were on the Commission at the time it went through the approval process, there was a lot of heartburn over how that irregular-shaped lot with intrusions and neighbors and dead-end streets and drainage problems was going to work with the site plan development procedure. It's worth taking a drive or a walk through that particular complex and just witness how the site plan development procedures lent themselves to what appears to be a quality development in the community.

Mr. Hurd: Alright, thank you so much. Anyone else?

## 10. GENERAL PUBLIC COMMENT

Mr. Hurd: Alright. We'll move to general public comment. We have two people from the public. Anything? I'm seeing no action. Alright, I will accept a motion to adjourn.

Mr. Wampler: So moved.

Mr. Hurd: And a second?

Mr. Kadar: Second.

Ms. McNatt: Second.

Mr. Hurd: Alright. And I see no discussion, so by acclamation, we are adjourned. Thank you, everybody.

THE PLANNING COMMISSION MEETING WAS ADJOURNED BY ACCLAMATION.

The August 4, 2020 Planning Commission meeting adjourned at 8:41 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 \(Planning Commission 2021 Work Plan\)](#)

Exhibit B: [Planning and Development Department memorandum 07-31-2020 \(Outdoor Seating Ordinance\)](#)

Exhibit C: [Planning and Development Department memorandum 08-04-2020 \(Outdoor Seating Ordinance\)](#)

Exhibit D: [Planning and Development Director follow-up email 08-04-2020 \(Outdoor Seating Ordinance\)](#)

Exhibit E: [Planning and Development Department memorandum \(Revisions to Zoning Code related to Special Flood Hazard Area\)](#)

Exhibit F: [Planning and Development Department memorandum \(Zoning Definitions Table\)](#)