

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

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

March 2, 2021

7:00 p.m.

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

Chairman Willard F. Hurd, AIA

Commissioners Present Karl Kadar
Alan Silverman
Tom Wampler
Allison Stine
Stacy McNatt, PE

Commissioners Absent At-Large (vacant)

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

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

Chairman Hurd: Good Evening everyone and welcome to the March 2, 2021 City of Newark 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 through the Go-To-Meeting platform. Our goal is to support the participation of everyone in this meeting. Angela Conrad and Tom Fruehstorfer will be working as organizers and hosts for the meeting and will be managing the chat and the general meeting logistics and presentations and such. At the beginning of each agenda item, I will call on the related staff member or applicant 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. Please try to keep yourself on mute otherwise to prevent background noise and echo. For items open to public comment we will first read into the record comments received prior to the meeting. 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 me or to everyone whichever is easiest with their name, district or address and which agenda item they wish to comment on. The chat window is accessed by clicking on the speech bubble icon on the top bar. For those attendees connected to the meeting only through their phone, and at the moment we have none, but I will go through this again, I will call on you separately and you can press *6 to unmute yourself. In accordance with the Governor's declaration on remote meetings everyone giving public comment does need to identify themselves. We follow public comment with further questions and discussions from the Commissioners and then the motions and the voting. If there are any issues during the meeting, we may adjust these guidelines if necessary. All right, Item 1. Chairs Remarks.

1. Chair's remarks.

Hard to believe I think we have been doing this for a year now. Kind of unusual. Two things from recent Council meetings I just wanted to bring to the Commission's attention so that we can just sort of have it on our radar. First, is that on February 8 Council reviewed the parking waiver we granted to the project at 132 E. Main and rejected it 3-4. There were two arguments that I took from the discussion to just sort of general themes, I guess. One is that there is not enough parking and eliminating required parking leaves a deficit which is an attitude we wrestled with on the parking sub-committee that is that individual businesses should be providing the parking for their customers and not as a service of the City or as a utility. The other issues seem to be with allowing projects to effectively decouple their residential parking before the process to amend the Codes to support the goals and processes and recommendations of the Parking Sub-Committee have worked their way through the system. So, I will say that there was also some general support for the goals of the Parking Sub-Committee from other Council members regarding decoupling and a reduction in parking requirements and a recognition that the transportation landscape is changing. The other issue that has come up, this came up I think last meeting, is the general dissatisfaction with the heights of the current projects that are coming to them. I can't say from reading the articles that Council has fully grasped that this is a result of changes made to the BB Zoning Code back in 2012 to allow height bonuses. Anyway, so there was discussion of doing a review of the BB Zoning Codes through public workshops in the near future so we will see what comes of that. Anyway, ok, Item No. 2. Minutes

2. Approval of the Minutes of the January Commission Meeting

Here are the minutes of the January 5, 2021 meeting to review and approve. The February minutes are being worked on as I understand and should be available to us at the next meeting. Does anyone have any comments or corrections to the minutes?

Commissioner Kadar: Yeah, this is Karl Kadar.

Chairman Hurd: Yes, Karl.

Commissioner Kadar: While I appreciate the promotion, I will have to probably decline, line 377 and line 381, I am but a humble Commissioner.

Chairman Hurd: Did they call you Chair or something?

Commissioner Stine: Mr. Kadar, I sent I caught that as well and sent about half a dozen recommended changes to Mary Ellen prior to the meeting and that was among them. So, I think they have got those changes. There were some other lines where comments were not being attributed to anyone in particular and there was also where Chairman Hurd had been demoted either to Commissioner, so I think all of those have been picked up. Chairman Hurd: Ok thank you Commissioner Stine and thank you Commissioner Kadar for catching those. Any other comments or corrections? All right, seeing no other further objections the minutes will stand by acclamation as amended. All right, Item No. 3.

3. Review and Consideration of a Major Sub-Division with Site Plan Approval Special Use Permit Comprehensive Plan Amendment Rezoning and a Parking Waiver for the property at 268 E. Main Street.

Welcome Director Gray, glad you could make it. Are you leading this off?

Director Gray: Yes, so yes I am, so yeah I am here just a little story here so I had everything set up everything ready to roll this is our you know the trials and tribulations of remote work and all that and everything ready to go my little home office here and I don't know what happened I think it was the dog had got caught up in one of my wires and my computer set up here and I got back from my Taekwondo class and yeah and all that, so, it was a mad scramble I had to call in my 15-year old IT Support along with my husband so we are putting everything back together so funny anyway here I am but you all didn't need to hear that but.

Chairman Hurd: No that's ok. No, we are good. Go ahead.

Director Gray: So, I shall start presenting the Staff component of 268 E. Main Street. Good evening everyone, this is Planning and Development Director Mary Ellen Gray. This is a major subdivision utilizing the Site Plan Approval provision. It is a Rezoning Comprehensive Plan Development Comprehensive Plan Amendment Special Use Permit and Parking Waiver for 1.25 acres of property located at 268 E. Main Street. The plan is requesting approval to demolish the existing two-story motel structure and build a five-story mixed-use building with 20,084 sq. ft. of commercial space and parking on the ground floor and 56 two-bedroom apartment units on the second to fifth floor. This plan includes 36 spaces of parking under the building and 78 spaces in uncovered parking lot in the rear. The existing zoning for this property is BC (general business). The proposed zoning is BB (central business district). The existing use which is a motel is a conditional use requiring City Council approval in the existing zoning district. The proposed mixed-use structure with commercial space and parking on the ground floor and apartments on the second and third floor is an allowable use in the proposed BB zoning district. Regarding density which has been a topic of discussion in the last couple of plans proposed and reviewed by the Planning Commission these last couple of months, the zoning regulations for residential units in the BB zoning district indicate a maximum number of dwelling units for this 1.25-acre parcel with two-bedroom units shall be 62.5 units and with 56 units proposed the proposed project meets the zoning density requirement. This plan as I just mentioned is utilizing the Site Plan Approval provision. As such this Code section 32-97 provides for alternatives for a new development and redevelopment proposals to encourage variety and flexibility and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations. Site Plan Approval shall be based upon distinctiveness and excellence of site plan arrangement and design. In this case and those components are described in your report. In this case the Applicant is requesting Site Plan Approval for relief from the following area requirements. Specifically, the Plan requests relief from the front side setback of 12 the plan shows 12 feet, so the relief is for 8 feet of front setback and a side yard setback the plan shows 5.1 feet and that's on the west side so the Applicant is asking for a 2.9-foot variance. As noted above, this Plan is therefore noncompliant in terms of front building setback and building side yard and the Commission will need to consider the requested area of regulation exceptions against the standards of distinctiveness and excellence a site design is outlined in this Code provision and the developer Site Plan Approval submission. Regarding the Comprehensive Development Plan as I mentioned the proposed Plan will require a Comprehensive Development Plan amendment to change the designation from commercial to mixed-urban. This property is included in planning section A of the Comprehensive Development Plan V which is described as University/Newark Core. The parcel is currently designated commercial but is included within an area recommended for transition to mixed-urban. So, while the proposed Plan does not conform to the current land use designation in the Comp Plan it does recommend this change. It should also be noted that the parcels to the west, north and east are currently designated as mixed-urban. This project includes apartments in conjunction with the non-residential permitted uses and thus requires a Special Use Permit. The Planning and Development Department suggests the proposed apartments meet the Special Use Permit Code provisions. This proposed Plan requires 19 parking spaces for its ground floor restaurant use and 112 spaces for 56 two-bedroom apartments for a total of 131 required parking spaces. The plan provides 78 spaces in the lot behind the building and 36 under the building with a total of 114 spaces provided. The project provides 17 spaces less than required and is requesting a Parking Waiver. As discussed in the previous two Planning Commission meetings, per Section 32-45(b)2 of the Code, there is review criteria for the Planning Commission when considering the review of Parking Waiver requests. We will not articulate all that now, but I feel the Planning Commission is familiar with that review criteria. Certainly, if there is any question, I'd be happy to discuss that. The Code also requires a fee in lieu of parking spaces payment as well as a fee structure with different calculations for residential and commercial spaces. As indicated in a parking waiver letter dated December 2, 2020, which is included in Exhibit I and the Staff Report the Applicant is proposing to make the fee in lieu payment of \$68,788. Staff concurs with this calculation. It should be noted that the parking layout for this project is unique and the layout is described in the Staff Report. I understand that the Applicant will be describing the parking plan so that in the interest of moving this along I will defer to the Applicant on describing this layout and the reasons for their parking waiver. Given that there is not an opportunity for shared parking or related parking agreements

Staff suggests that the fee in lieu Parking Waiver fee is the best approach for this proposal. Finally, the design review is subject to, this project is subject to the requirements of Chapter 27 Appendix 13 design review for downtown commercial property review standards. The review standards are included in Section D which includes appropriateness of design elements and general architectural character. Staff reviewed this design and determined that it does generally comply with review standards. Given that the design committee is currently not meeting the Planning and Development Department is conducting the design review. While the provisions of Chapter 27 are required by Code the design guidelines for downtown Newark are not currently part of the Code and our Advisory. As indicated in a Report found in Exhibit K staff found that this plan generally meets or exceeds the guidelines in the design guidelines for downtown Newark. The proposed development meets all the requirements detailed in the Municipal Code of the City of Newark, Delaware at Chapter 27 Subdivisions with the site plan approval process as detailed in the report. The Department did receive one comment from the public about this project. I'll be happy to read that into the record during the public comment period. So based on this report, because the Comprehensive Plan Amendment Rezoning Major Subdivision by Site Plan Approval Special Use Permit and Parking Waiver with a Subdivision Advisory Committee recommended conditions should not have a negative impact on adjacent and nearby properties. It will improve the current property and because the proposed use does not conflict with the development pattern in the nearby area the Planning Department suggests that the Planning Commission recommend approval of the Comprehensive Development Plan V Land Use guidelines for 268 E. Main Street from a "commercial" to "mixed-urban", approve the rezoning of this property from BC to BB, the Planning Commission approve the 17-space parking waiver with the fee in lieu payment of \$68,788, and that the Planning Commission recommend that City Council approve the major subdivision by Site Plan Approval. That concludes my presentation. I hand it back to you Chairman Hurd. Thank you.

Chairman Hurd: All right, thank you so much. Mr. Tracey am I assuming that you are presenting for the Applicant?

Mr. Tracy: No, actually I just like to ghost these meetings so. Yes, Mr. Hurd it is me back again on behalf of the Applicant for this property who will be presenting.

Chairman Hurd: Ok.

Mr. Tracey: Let me introduce the folks that I have on the line virtually with me this evening Canon Patel is the property owner and the developer, Julian Pellegrini is the Engineer from Pelsa, and Kevin Wilson and Nick Fedyk from Architectural Alliance are the project engineers, and they will be available to answer questions as needed. The Department has obviously given you a thorough overview both and in writing and in Mary Ellen's summary of that report so I will try to be brief keeping in mind the time limits that are applied to these applications as well, but we do have a PowerPoint that I was going to walk you through to kind of illustrate some of the highlights of this project. I will note as I think you heard Mary Ellen was going through a number of a pieces of relief that are part of this application I think you will see that many of these requests are either minor or ministerial in the grand scheme of things and I will touch on those as we get to but if we could go to the first slide which is the area photograph of the site you will see our site bordered in the yellow rectangle on the screen I think it is familiar to all as the site of the Super 8 Motel it is bordered by the Newark Shopping Center to the west, the iconic Grain Craft Bar + Kitchen to the east and the six or seven story, I can never keep it straight, One Easton Building that is immediately to our rear. You will notice also to our east a Y shape building that is the seven story Main Street towers. The property sits to the east of the central business district along Main Street as you can see in this photograph. It is in a decidedly commercial area of Main Street with both standard commercial uses as well as mixed-use projects including the new project for the Fulton Bank property which is essentially across the street from this one. That way we believe this project will fit comfortably here and fits with the City's goals of trying to revitalize these portions of Main Street particularly just outside of the main business district that are in need of revitalization and attraction to both commercial customers as well as tenants. The next slide is the, shows you what the site looks like now again it is the 48 room Super 8 Hotel that despite the

pandemic had a surprisingly good year in terms of rentals. It is not something you hear often from hotel owners. That being said it is a tired and somewhat problematic structure that as some may be aware suffered significant fire damage in 2019. That fire opened the door to reimagining and revitalizing this property as opposed to simply repairing and continuing on. You also notice in the background the One Easton Building and the next slide just simply shows this property and our property again from the rear. The next slide is the survey of the existing property you can see the footprint there of the 48 room two story hotel along with the associated parking this has 70 spots for 48 rooms. This is as folks know primarily a budget or transient hotel serving a need in the community but perhaps over time and use it perhaps wasn't located in the ideal location. The site as it is laid out is devoid of storm water management and as I alluded to has been significantly damaged by fire presenting this opportunity to revitalize the property. The next slide begins the general overview of the project. This is the site plan layout for the proposal. Our proposal calls for the replacement of the 48-unit two-story hotel with a five story 56-unit mixed-use building so the increase of residential units is 8 from 48 to 56 these units are obviously bigger and intended for a less transient lifestyle. The remainder of the site as I think you heard Mary Ellen talk about is being revitalized to, revised to contain 78 parking spots to the rear of the building along with a subsurface storm water management facility and then there will be an additional 36 spaces located beneath the building to serve both the residential and the commercial portions of the building. Note the property also contains the required 5 handicap spots one of which is specifically designated for the commercial use. The next slide shows the floor plans for the project. As you can see the first floor contains a small, less than 3200 sq ft commercial space along with mechanicals and amenities for the residents of the buildings. This commercial space is envisioned to be like a fast casual type of establishment examples given like a yogurt shop a coffee shop something of that nature kind of a grab and go business as opposed to a sit down and linger business, and in that fashion, we envision it to be as attractive if not more attractive to pedestrian and bicycle traffic as it would be to vehicular traffic. There will also be a nice patio area in front of this building in the commercial area and then as you can see below the remaining floors contain 14 two-bedroom units on each floor, one of which is designated as an accessible unit. The next slides reflect the architectural renderings that have incorporated into the building and these are renderings that you have in your packet as well. This is the view that you see on your screen looking from directly in front of the building along Main Street. The next slide reflects a side view of the property from Main Street you can see the Grain sign before you get there as we move around to the next this is looking as you have gone past Main Street looking back towards the buildings then on the next slide is a shot of the rear that kind of shows the underground parking in there as well. These designs have been through a number of different reviews with the Department as we continued to tweak the building as you can see, we have carried around different treatments and different materials around all sides of the building to obviously not give it a uniform look but to have a lot of different features to the building that are architectural and ones that of course Kevin and Nick can explain far better than I. This building while it is 5 stories high is shorter than the building to immediate rear the One Easton which I think is 7 stories as well as the Main Street Towers. The next two slides illustrate some of the more basic relief that you heard Mary Ellen refer to. This first slide is representative of the Comp Plan amendment. This shows the current land use designations or excuse me the current zoning classifications for the property. You can see we are requesting BB and you can see that the property is surrounded by large portions of BB to the east behind excuse me to the west behind the building and across the street. The next slide indicates the same thing from a comprehensive plan perspective while it may be difficult to see, and this material is in your packet as well. We are surrounded on all sides by the mixed-urban designation which we are seeking in this application and as you heard Ms. Gray note that the future land use plan for the comprehensive plan actually contemplates changing this from its current designation to the mixed-use designation that we are seeking. Moving on to the next slide we are seeking Site Plan Approval as part of this application. I know this is something that the Commission is very familiar with, the Commission is also aware at this point of the process the focus is on the general site design and the architectural features of the project. The CIP stage is of course where we get into the nitty gritty of the storm water management and construction details. You will see from this list we are actually seeking two minor deviations the front setback is 8 feet from what is required. I will note that this is actually 3-4 feet further back from Main Street than the current building sits and then

on the side we are seeking a minor deviation of just over 2 feet almost 3 feet excuse me into the side yard setback. The letter details or I guess I should also note even though Ms. Gray noted this that no density bonus is being sought as part of this application; we are below the permitted density that it allowed in the BB zoning. The Commission is familiar with the site plan requirements and we have outlined them in our letters and of course in the submissions as well from the Department. There is a long statement in there regarding the architectural design which I can read but it is in front of you and if needed Nick and Kevin can explain it far better than I do but I can, but we did go for a more modern look for this building while still bringing into a lot of the regular features such as the brick that you see along a lot of the buildings in the Main Street corridor. We did, next slide, we wanted to highlight the storm water management aspect of this. We are doing a subsurface storm water management system on this property that is being over designed and incorporating additional treatment modalities and would ultimately, just be required by Code you will note from the Department's report on page 4 when they go into some detail about this that we are actually treating storm water to a higher degree than what the Code would actually require. We also have from testing determined that there is infiltration capability on this property so in addition to having the detention system we will be able to also infiltrate water into the ground and again this is something that if there are questions that Julian Pellegrini can speak further to. Also, although not highlighted on the slide I wanted to note that this project will meet or exceed the LEED levels. Mr. Hurd as you know this is a project that was in the process before the Code changed to the new energy Code so right now, we are held to the LEED standard which we will meet. That being said we have completed a review of the new standards and we believe and we will be striving to meet the new standards that are in the City's Code but although not applicable I know it is something that you inquire about so I wanted to let you know that we have looked at it, we have dissected it and we think we can do it but we have to run the numbers and convert what we have done to what we have but we think we will be able to meet it here. Lastly, as the Department knows I think was the next slide we are requesting what I would call a minor parking waiver in light of some of the other ones that the Commission and the Council have considered previously. This site requires 131 parking spaces as a whole. We are providing 114 parking spaces, so we are short by 17. We have allocated in yellow 14 spots to the restaurant or to the commercial use we have parked them as a restaurant obviously it could be something else which would have a lesser parking impact. We envision that so that the 6 spots that you see in yellow closest to the wall would be reserved for employee parking, the 8 spots behind would be reserved for customer parking we would incorporate signage behind the employee cars to indicate that those spots are available for customer parking during the day. Those spots at night after the close of whatever business is in there would be available to visitors of the building until such time as the business would open up again in the morning. This was I know something that has been utilized or talked about in other sites over the years around town. With regard to the spots reserved for the residential uses those will be leased to units on a stall basis so you see two spots but one behind each other each of those spots would be reserved to a particular unit so much like if you were like me back in my University of Delaware days we had 4 people living in a townhouse with a 2-car driveway the roommates would gather and would move cars as necessary to allow vehicles to leave so each one of these stalls would be reserved to a particular unit so that those residents would be able to handle moving cars or parking cars how they desire. So, we are, as Mary Ellen indicated 17 spots short the way we have allocated its 5 spots for the commercial use and 12 spots for the residential use and therefore as she indicated we are making the requisite payment to the City to compensate the City as the Code requires for the loss of those parking spaces. I will note also though that we have been working with the owner of the One Easton property to the rear, we are working on a cross access easement that would allow traffic in between our property and their property back and forth from Main Street to One Easton and other locations. They have indicated a willingness to pursue that so that is something that we will be working on as this plan moves through the process. So, with that, I will pause to take a sip of water and so you don't have to remind me I am running out of time and turn it over to you.

Chairman Hurd: All right, thank you so much. We will start with Commissioner questions and comments I guess, and we will start with Commissioner Kadar.

Commissioner Kadar: Hi good evening. Question about the deviations on the setback on Main Street. Let me understand, I think the 8 foot that you are requesting is up to the low wall in front right that is not to the front of the building?

Mr. Tracey: I believe it is to the building and I would ask Julian to chime in I think it is to the front of the building.

Commissioner Kadar: Well, that doesn't leave much room for a sidewalk.

Mr. Tracey: We are beyond the sidewalk I think for point of reference our patio basically extends to the same point of the Grain patio right next door.

Commissioner Kadar: I am looking at the pictures and I am sorry that looks like more than an 8-foot setback to the building.

Chairman Hurd: Commissioner Kadar, it is. It is a 12-foot setback. They are looking for 8 feet of relief from the required 20-foot setback.

Commissioner Kadar: Oh, that's not clear, ok.

Mr. Tracey: Yes, thank you Mr. Hurd we are 12 feet back which is actually 3-4 feet further back then the building that is there today sits.

Commissioner Kadar: All right, I misunderstood the notes that the City provided so my fault, my bad. Ok next question on the parking, can I ask you to go through the explanation on the blocked spaces again?

Mr. Tracey: Yes,

Commissioner Kadar: My experience with those has been that unless you have an attendant that has the keys that can move the cars when people want to leave this is going to be a nightmare.

Mr. Tracey: If you want let's look at the red spaces first the City has up the slide on the red spaces, so you see two spaces one in front of each other in each column. That row of two spaces would be to one unit so the occupants of that unit would have control of those two spaces so they would have to move their cars as they fit. Again, like the City allows developments in some of the areas to count spaces in front of garages as parking spaces this is same idea those two red parking spaces would be the responsibility of one unit so they would not be implying for anybody else to move the car they would move the cars for each other as roommates and if they knew that somebody had to get out the next day they would park one car inside and the person that would have to go out would park outside. With regard to the yellow spaces, those are the commercial spaces and the 6 internal yellow spaces you see closest to the wall would be reserved for employees so they would be there first shift they would know what time they get there and what time they would have to leave. The spots to the rear would be reserved for customers and again with the type of business we are envisioning they will be coming out and leaving pretty quickly. It is not designed to be a long-term staying establishment. For instance, we are not as part of this applying for a liquor license, so it is not going to be a bar type establishment.

Commissioner Kadar: So, I can assume then in the 78 parking spaces that are located behind the building that (inaudible) that unit belongs to a single apartment is that correct?

Mr. Tracey: Correct. Each column of what I would call 2 spaces would belong to one unit.

Commissioner Kadar: Now suppose there is only one car, do they park in the outer one or

Mr. Tracey: It would be up to them we would not be giving a parking space to another unit to complicate matters so you would have those are roughly 78 so that is 39 rows of parking so 39 of the units would have 2 spaces and then you would another it looks like 8 or so underneath the

building. Now, it doesn't mean the owners can't work with each other to do something but that would be how we would be leasing the parking.

Commissioner Kadar: And who would enforce this assuming that inevitably there is going to be dispute. Who would enforce this?

Mr. Tracey: This is a local owner, and that local owner is not going anywhere. There will obviously be signage, there will be explanations to the tenants and there will be communications that will be established so that if there is a problem it can be rectified quickly.

Commissioner Kadar: Ok, all right thank you.

Mr. Tracey: This is a bigger example of it but is really the same as what you see in like on Benny St and Chapel Street where you have those townhouse apartments those five- or six-bedroom apartments where they have 4 or 5 parking spaces two or three inside the garage and then two more in front of the garage that are part of that unit, it is the same concept.

Commissioner Kadar: Ok, thank you very much.

Mr. Tracey: You're welcome.

Chairman Hurd: All right, you're ok. Commissioner McNatt

Commissioner McNatt: Good evening I have a couple of questions regarding the look of the structure, and it says 5 floors can it be described what that sixth top floor is in the visual street view it looks like there is a sixth floor, what does that represent?

Mr. Tracey: Miss McNatt, you and I think alike cause I asked that question of the architect earlier. That is just an architectural feature that is not an additional floor. The one or two units in that corner of the building would actually get the benefit of a little bit more light cause they would have higher windows. But that is not an additional floor that is just an architectural feature and certainly if need be, Kevin Wilson or Nick Fedyk can chime in to give you the architectural explanation for that.

Commissioner McNatt: So those units specifically are just going to have extra windows as part of their internal structure I guess you are saying that they are not used for anything other than the units themselves.

Mr. Tracey: Correct. Yeah, there is not an additional floor there is not a mezzanine or anything in there it is just more window light into those apartments.

Commissioner McNatt: OK, and then I want to go through the parking question as well. In the report dated February 23, 2021, it says you have provided documentation and an access easement is likely to be granted from One Easton. I know you mentioned that you are still working with them, but it sounds like we needed more that this had to be done prior to the Planning Commission meeting. It sounds like we are looking for more of a confirmation that your closer to an access agreement than just you are still talking. So, I just wanted to know more about that.

Mr. Tracey: Yeah, Mary Ellen can confirm that, but we did provide her with an email of the communication between the property owner and One Easton.

Commissioner McNatt: Ok, so when it says likely how likely are you 50% likely, 40% likely, 70% likely?

Mr. Tracey: I would say it is higher than 50. They have indicated a willingness; they want to see this property get redeveloped and they see the benefit for themselves of having that cross-access easement as well. That is what was communicated in the email that we provided the City.

Commissioner McNatt: Ok and if you want to go back to the parking to me, I see the purpose of the access agreement meaning providing internal flow connection from other parcels to allow

them to get direct access to Main Street. While I understand that's what I think your access easement is only for I am slightly frustrated because cross access agreements mean that other people can use the parking spaces if needed when they have other needs on occasion to use additional spaces, if for example let's say adjacent property owners need to use spaces for an event because they are limited, cross access to me provides the opportunity for others to share when needed. This plan doesn't provide for that at all really because you know those spaces in red are only for the tenants of the structure, right, of the building and it is frustrating to me knowing that I visit Main Street right away, and like if I accidentally, right park in this location because I wanted to visit another business on Main Street I probably I'm going to assume get towed. Right? That's probably what is going to happen.

Mr. Tracey: Well, it is certainly possible I mean its look I can speak from experience as somebody who made the mistake of listening to my son when he worked at Grain that said I could park at the Newark Shopping Center at night only to come out after a football playoff game and have to call him to come back and take me to where my car had been towed. Private property owners obviously have the ability to control their parking this has not and never has been a public City lot. The idea for the cross-access easement to be very honest with you was something that DelDOT has pushed when they were reviewing the plans for the property. You can look at One Easton in the background, I mean you can go in there at any time and find they have much additional parking available and simply by the way the building operates and that kind of that age old question of how many students actually bring cars. They have at times allowed others to use their parking it is not a public parking lot, but they will make arrangements with folks if there is something going on to use the parking. This is a situation where we have a commercial use and we have designated property for the commercial use, the rest of which residential parking and it will be signed as such so that people know that.

Commissioner McNatt: I totally understand your point, I get it 100% but knowing the limitations associated with parking availability in and around the area that it is frustrating that private properties don't want to have the opportunity to share and or share together and I understand the private property rights but from a planning perspective you know helping the situation I understand I am just making the point and I understand.

Mr. Tracey: And I completely understand that Miss McNatt and that was a subject of conversation at a prior meeting on a different project and we did, you know when we first started this, we were talking about decoupling, but it became clear that we had to provide as much of the required parking as we could on this property and when you do that that takes away the ability to decouple parking.

Commissioner McNatt: I totally understand so decoupling seems to not be the way to go in this case.

Mr. Tracey: Yeah, it would not work on this property.

Commissioner McNatt: Other than that you did mention the storm water management is being over-sized to manage additional wells and which I think is excellent and has infiltration capacity my only concern is about the downstream conveyance system that it is going into and how that system, is that system adequate to take that run off if there is any because you know don't want to create further flooding, at least to be able to reduce the flooding potential if there is a problem with the downstream system so I just want to make that point that over doing it is great but you also have to think about where it is going in the end.

Mr. Tracey: And again, unlike a lot and you are right we will be looking at that as you know we have to do it doing the CIP process but the fact that we do have the ability to infiltrate here I think is a positive.

Commissioner McNatt: Absolutely, so I appreciate that ability, ok those are all my comments for now thank you.

Mr. Tracey: Thank you.

Chairman Hurd: All right, thank you. Commissioner Silverman.

Commissioner Silverman: I am generally impressed with the redevelopment of this property. It is one of those circumstances where there was a rather old design as Mr. Tracey mentioned in a very tired project exists on the site. With respect to the Comprehensive Plan, I do support the mixed-urban concept. I see an opportunity here with the development that is occurring in the area to have another South Main Street redevelopment kind of effort through here. The slight variations in the site plan development give me absolutely no problem. I think the 20 ft setback in this area is rather interesting. In looking at one of the renderings and street views provided by the Applicant, I think about the only structure along that whole stretch of road that would come close to meeting that would be what was originally a church and had been the City Police Station. So, it appears to be a rather excessive setback with respect to what's already established here with the shopping center and the real estate office to the west. Indeed, the building is setback further than its neighbors namely the Grain and the real estate building to the west I like the idea of the front patio the streetscape the emphasis on walk in and the very deliberate separation with a masonry wall between the sidewalk and the front of the building. Mr. Tracey mentioned the leased parking spaces on the site and when I was looking at this earlier, before I learned some additional information with respect to DelDOT and cross access agreements and the One Easton property, I saw the cross-access agreement as an opportunity when One Easton does lease out their access parking to provide additional parking to tenants on this site with respect to long term storage of automobiles. I think Mr. Tracey pointed out something very significant here. The motel has approximately 48 rooms, the apartment units equal approximately 56 so the residential type of use of this site is only going to increase slightly. I am going down my notes here, I see this as I said earlier a very strong redevelopment anchor for this particular area and on this end of Main Street. I believe it will take some of the development pressure off of the areas further to the west of Main Street. I am familiar with the double loaded parking that has been talked about. I have friends who use that and although it would seem to be an inconvenience, the shared tenants in the buildings seem to work out who needs whose car when and they seem to work out that problem themselves. I have no other questions or comments at this moment. Thank you.

Chairman Hurd: All right Thank you. Commissioner Stine.

Commissioner Stine: Thank you. On the page A6 drawing by the Pelsa I guess it is by Pelsa it shows the ground floor plan and the second through fifth floor plans. How big are those apartments? How many square feet are each of these apartments?

Mr. Tracey: They are bigger than the minimum required which is 800 square feet I believe. I mean I would ask Julian to either text me or confirm that while we are talking about it, but they are not smaller than what the Code allows for the two-bedroom apartments. We did not submit floor plans cause they are not required at this point in time.

Commissioner Stine: Ok but they are at least 800 sq ft which is what I think I had read.

Mr. Tracey: Yeah.

Commissioner Stine: So, it looks like they are interior access through a hallway served with two elevators and then there is a double door off the back of each?

Mr. Tracey: I think that is actually a window. I think if you look at the renderings you will see like I think that represents the window it is not a deck but a place where you could open your window and then there is a lower portion that is kind of like it is not the right word fencing it is decorative, but you can see that in the slide renderings. Also, just to let you know I got a text from my architect the units themselves are 1,000 to 1100 sq. feet.

Chairman Hurd: Commissioner Stine, that is called a Juliet balcony.

Commissioner Stine: Yeah, I could see it I just couldn't get it to line up I couldn't get the drawing the rendering to sort of line up with the second through fifth floor plans.

Mr. Tracey: The beauty of the renderings the concept.

Commissioner Stine: (Inaudible) extra windows in the renderings but (inaudible) floor plans unless those little bump out areas are also windows or are those the Juliet balconies?

Mr. Tracey: I think that the Juliet balconies are where you see what looks like the door.

Commissioner Stine: OK

Mr. Tracey: I got that confirmation again on text from the architect while we were, I think the units are not limited to the one window, so I think there is other windows in there that you see where it's kind of the bump out starts so it is not just one window per unit.

Commissioner Stine: OK, so the floor plans don't necessarily line up with the building renderings.

Mr. Tracey: That is correct. I think that is a fair statement.

Commissioner Stine: OK, all right, I guess I was wondering if I was wondering if I was missing balconies somewhere?

Mr. Tracey: No, again as Chairman Hurd pointed out and as my architect confirmed they are Juliet balconies.

Commissioner Stine: Ok, all right, great. Do students bring cars to campus or don't they? I guess I am kind of struggling with that question because I have sat through, I think now 3 or 4 of these major subdivision by site plan approval and I have heard the same people argue both sides so.

Mr. Tracey: Here is what I will say to that. I believe this building as designed will be over parked. I believe we will have more parking than what the students tend to need. I use One Easton as an example which built Code compliant parking at the time the building was constructed and they have, any day you walk through that parking lot there are lots of extra parking spaces involved. Which I think just reflects that not everybody that rents in these units brings a car or maybe they don't keep their car here. So, I believe this will be over parked but based on the discussions that we had, and it is not really discussions with the Planning Commission but discussions with Council there seems to be, as Mr. Hurd was indicating at the beginning of the meeting a lack of a desire to do away with parking. I mean we had discussions for instance with Mary Ellen before we got to this point of eliminating one of those rows of parking so just have a single row within the double row stack but that would have increased the parking waiver and based on what I have seen I just don't think we are there yet so what we did here is we tried to come as close to the Code as the site would allow us.

Commissioner Stine: And what would you have to give up to make it Code compliant?

Mr. Tracey: We would need six more rows of parking essentially in order to serve this building or we would have to reduce the size of the building which of course the building and units that we have that helps pay for all the other things like the architecture and the storm water management and getting to that new Code certification on the energy side, so it is a tug and pull. What we don't want to do is simply rebuild the Super 8 Motel and just continuing doing that which has always been an option. As you heard the hotel was very successful despite the pandemic last year, but this is the time to move away from that and to bring something that I think is more appropriate for Main Street.

Commissioner Stine: What is putting all the demand on the – is there a report that someone can point me to that says there is this huge demand for student housing but no demand for hotel rooms? Because I see other developers getting away from hotel projects as well and going to student housing.

Mr. Tracey: Well, I think it is a couple of things. I think the pandemic has obviously had a significant impact on the hotel industry. I think at some point that will obviously come back but I think with this hotel it has always been because it is a budget hotel it is a hotel that is designed to serve a particular clientele and unless you are staying at the Super 8 in Penn State as I did for a football game you are not paying the \$400 a night that those rooms get. I think that in Newark and on Main Street there is certainly less of a demand for this type of hotel, or this perhaps is a hotel that is not in the right location now that it may have been 20 years ago. But I have got hotel clients none of them are looking to expand their hotels, they are putting their hotel projects on the sidelines cause right now there is no market for it you couldn't get it financed. At the same time, you have the University decommissioning dorms as they did with the Towers as they did with Rodney and Dickenson and they are not replacing those themselves and that is what I think puts the pressure on the City and the surrounding areas to handle more of the students and then the question becomes where do we want the students. We want the students either in areas that the town has already set up as kind of student enclaves or there has been as you know a lot of the conversation about bringing them into Main Street to get that mixed-use vibe up and down Main Street so I think that what, yeah this hotel because of the fact that it suffered the fire which was a very significant damaging and I will say arson issue for which there was an arrest, this presented the opportunity as Mr. Silverman was alluding to earlier to reimagine and reinvigorate what was a tired property.

Commissioner Stine: Why is this not already in the BB zone? It looks like have other parcels around it just been sort of spot zoned or?

Mr. Tracey: I don't know the answer to that question Commissioner Stine, I know obviously the City is planning from its Comp Plan already to get this to the point where BB would be appropriate even without our application they are already looking to change this to the mixed-urban which would allow the BB but I think I don't know if the shopping center became BB as part of One Easton or it was always BB I don't know how One Easton obviously makes sense as BB because it is that apartment but I don't remember even though it was somebody from my office 15 years ago that handled that project whether rezoning was part of that or not. It used to be the bowling alley as I recall.

Commissioner Stine: Ok, all right, the only other comment I would make because I am a fan of mid mod design, I don't really see what the distinctiveness of excellence of the design sort is of a little lost on me nor do I see any green space of any kind. Can you talk a little bit about maybe why those upper floors weren't stepped back like other developers had proposed and to not give the appearance of a towering building on Main Street and then can you also speak to the complete lack of green space with this project?

Mr. Tracey: Well, if I can I am going to defer to either Kevin Wilson or Nick to talk about the architectural concepts that were in here because that is their department and not mine. So, if one of them will unmute themselves they can respond to that.

Commissioner Stine: Thank you.

Mr. Tracey: I know they are there they were texting me.

Director Gray: Excuse me can you please state your name for the record.

Nick Fedyk: Sure Nick Fedyk, Architectural Alliance, can everybody still hear me. All right great. I just wanted to respond to the question regarding what we are looking at yes, a five story building in this particular section of town we were looking for somewhat of an anchor into the central business district and the way the units laid out and with this corner element it basically kind of made sense to us to keep it five stories all the way to the front in conjunction with that we were also still setting back farther than the existing Super 8 that was there. That kind of tied the whole design element that we were looking for to kind of have a signal to entrance one to the structure and two to really this section of town. We would still placate a little bit you know by the patio that we have out front in kind of separating it from the main sidewalk and thoroughfare through

with a little bit of a retaining wall, but you know the intent was to go you know this five-story element along this particular section of Main Street quite honestly. I don't know if that exactly answers your question but that was the intent was with this modern look not exactly one with a mansard to kind of deviate from that and come up with this particular five story look. In terms of green space there is unfortunately with the property with one parking requirements two with the number of units and retail that we are trying to obtain it doesn't allow for really the development of much green space on the front but you know with what was available we definitely tried to at least achieve the look of green space with the patio out front and carving some niches for plantings in the front of that small little retaining wall that separates the front patio area of the retail spaces from the sidewalk thoroughfare that goes by.

Commissioner Stine: Ok, and then One Easton currently does not access their property from Main Street, is that correct?

Mr. Tracey: Correct, their entrance is the shopping center.

Commissioner Stine: Through the shopping center, ok. So, what I get the benefit of them to be able to cross through your property to exit onto Main is that the...

Mr. Tracey: Well it was originally proposed more so coming in our direction by DelDOT to allow folks from our place to not exit onto Main Street if they needed to go someplace north, but from One Easton it is another opportunity for their vehicles to go out to Main Street and also for people coming in not to have to go through the Shopping Center but to go through the access easement into, directly into One Easton without having to navigate in front of the shopping center and people walking back and forth to shop. So, I can see that as a benefit overall.

Commissioner Stine: Ok, thanks, I think that is all I have. Thank you so much for your presentation.

Mr. Tracey: Thank you.

Chairman Hurd: Thank you. Commissioner Wampler.

Commissioner Wampler: Thank you, I just want to get a couple of numbers straight in my head regarding the setbacks since that is really what we are looking at as far as the site plan approval goes. The existing building that is there now the motel, what is the front setback currently and what is the side yard setback of that building currently.

Mr. Tracey: The front setback of that building we can go back to the table that was up showing the two cause I can do the math off the table Mr. Wampler oh there you go so we are showing it a 12-foot setback is what we are proposing. The existing Super 8 is, excuse me an 8-foot deviation we are providing 12 feet of setback. The existing building would need a deviation between 11 and 12 feet, and it sits at somewhere between 8 and 9 feet off of Main Street, so we are pulling back. The side I would defer to Julian I think the side remains pretty close to what is there now we might be a foot or so closer, but I would defer to Julian to either text me or chime in if he has that answer for you.

Julian Pellegrini: Good evening can you all hear me ok.

Chairman Hurd: Please identify yourself for the record.

Mr. Pellegrini: Sure, this is Julian Pellegrini from the Pelsa Company and I believe the question was the distance of the existing building to the property line that would be 2.87 feet as it currently sits. The proposed structure to the property line - getting that for you - it is actually a little bit further back it is a little over 5 feet from the property line so there is a little bit some of a setback in the proposed condition than it currently sits.

Commissioner Wampler: Ok so in each of the things where you are asking for a difference, in fact, the new building will be setback further than the existing property.

Mr. Tracey: Correct, 3-4 feet more in the front and about double the distance on the side.

Commissioner Wampler: Ok, thank you I just wanted those exact numbers. Thanks, that's all I have.

Chairman Hurd: Ok, thank you. I just had also a couple of questions or clarifications. So, I think I am understanding the cross-access easement and it, at least I guess originally when you were pursuing one with the shopping center it looks like it was so that you could access your parking from both sides and have basically an exit possibility as opposed to having to go up and down the aisle, but I am now hearing it is more of a DeIDOT push so I can see that.

Mr. Tracey: Well, let me interrupt you there Chairman Hurd, the One Easton easement has always been in conversation and that was what was directed by DeIDOT. As you saw there had been some discussions with the shopping center about something that would allow the stacked parking on the western side so that they exit opposite of each other, but those conversations aren't to the level of the One Easton conversation. That had nothing to do with DeIDOT.

Chairman Hurd: Ok cause the responses to the comments never mentioned the One Easton access until the, basically the site plan that we got cause everything was talking about the shopping center access agreement and then it kind of disappeared and then this one showed up. So, I was just trying to understand the process there.

Mr. Tracey: Yeah, the One Easton has actually been in the conversation actually ironically a lot longer.

Chairman Hurd: Ok, thank you for the energy conservation call out it is one of my particular things as you know. So, one of the things that I am struggling with, with the parking is that you are talking about effectively you are sort of saying we are decoupling the parking that the parking is rented separately from the apartment units. But it sounds like if someone in the apartment wants to rent the parking spaces, they have to rent both of them? Is that going to be the structure?

Mr. Tracey: Yeah, basically it would be and I wasn't saying anything about decoupling we are not necessarily decoupling one way or the other but the idea would be each to you know the Code requirement is I think essentially two spaces per unit so each of the units would have two spaces that they would control, you see there is a couple also there is a couple indications where there is just one spot it is not a column spot that one spot would go to a unit as well or I guess since they are a unit could take three spots if they wanted to but the idea is very simply unit one would have parking column one and those two spaces would be tied to that unit.

Chairman Hurd: Ok, yeah, I guess you are right your letter does not talk about decoupling, but it is mentioned in the report so maybe that was just earlier conversations.

Mr. Tracey: It was Mr. Hurd, and I may take some blame for it cause the original letter I sent in as I mentioned earlier, we were considering decoupling but when you have to start providing more parking and particularly when you are double stacking on the residential side, unless you want to employ full time valets as was alluded to earlier you can't decouple it.

Chairman Hurd: Ok, the other comment just on the current site plan that we have got, there had been a comment from the Fire Marshal about not having a loading zone in the fire lane and that plan is showing a loading zone in the fire lane. So is that, yes that one right there.

Mr. Tracey: I will have to defer to Julian on that one because he has been having the direct conversations with the Fire Marshal - obviously we need to satisfy the Fire Marshal to get the final plan approved I mean that is the short answer to that, but Julian would be the one who was having those conversations.

Mr. Pellegrini: Good evening again. In my discussions with the Fire Marshal the location of the loading zone being in a fire lane I don't remember that being a recent discussion on any comment letter, but I do remember there being some question of turning radiuses of a fire truck.

Chairman Hurd: Well, I will pull it up.

Mr. Fruehstorfer: This is Tom Fruehstorfer, Planner, if I could chime in here, it is not something the Fire Marshal mentioned at the end of this process it may have been a comment, he had early on a comment that was made but he did not have a problem with the loading zone later. I think there is a concern with the turning radius to get things in and out of there but that is not actually the fire lane the fire lane possibly now I am just thinking this is it is where the truck needs to be to access the building but that is not back in the parking lot where the loading zone is.

Chairman Hurd: No so I am just looking at the letter to the Applicant on September 3 the Fire Marshal says why is there a loading zone in the fire lane and the Applicant's response on October 1 says the loading zone has been relocated out of the fire lane.

Mr. Fruehstorfer: The Fire Marshal is fine with things as they are now.

Chairman Hurd: Ok cause I didn't see your further comment that said basically from the Fire Marshal going I am ok with what's what, so I just wanted to just double check that.

Mr. Pellegrini: To clarify to add a little bit more there Chairman Hurd, the loading space was right in front of where the handicap spaces are now under the building. The handicap spaces weren't there when we had the loading space there but that's where it was originally, and I think that is why he said that needs to be out of the fire lane. So, we shifted it to the back that is my memory now.

Chairman Hurd: I got you now. Having not seen previous plans I wouldn't have known that. Ok, I think that does it for me for questions cause everyone as always covered a lot of good stuff. All right.

Solicitor Bilodeau: Mr. Chairman, now this is Solicitor I was just going to ask one question for Mr. Tracey if I could. Thanks. John, you know I think you said you are 12 spaces short for the apartments and 5 spots short for the commercial for your parking waiver is that correct?

Mr. Tracey: Yeah, that is how we have allocated it.

Solicitor Bilodeau: Ok so you have got 87% of the parking but my question I guess is since you are 12 spaces short for the apartments is it possible then that some of these stacked parking are going to be actually shared between a couple of units?

Mr. Tracey: It is not designed that way Mr. Bilodeau but I cannot say that if for instance 8 friends get together and they are renting two units and two separate units you know that they might not reach that arrangement, but the intent is two spaces follow a unit. We obviously, I think that I don't want to use this pejoratively but the ubiquitous we always look at things and it almost becomes nanny state issues like we can't figure out that these people will actually be able to handle the parking cause they know what they are getting into when they come there but the simplest way to say it is again, we are talking one column of parking, those two spots would go with the unit.

Solicitor Bilodeau: Right, but there is 6 units that wouldn't have any parking.

Mr. Tracey: Correct. And they would know that coming into there and as we had talked about at the last meeting the University has thousands of parking spaces in and around the University campus that if somebody wanted to bring a car when they came or if they didn't want parking the people may not want parking cause they don't have cars or they don't want you know but yes they would know if all the columns of spaces were leased the last six or so units would know that they wouldn't have parking. Now as I said when the businesses are not operational the spaces reserved for them could be used by people visiting the building so there would be opportunities to come in, park in you are visiting and then leave.

Solicitor Bilodeau: Ok well thanks I was just worried that some of those spaces would be shared in the stacks between different units but since you are a little short. Thank you for explaining that John.

Chairman Hurd: And Mr. Bilodeau That was my concern as well when I saw that he was talking about decoupling or parking would be rented separately cause I am like yeah what happens if someone only wants to rent one where do they go? Yeah. Commissioner Silverman.

Commissioner Silverman: Well, there is another element here that hasn't been discussed and it is illustrated on the top of this slide you are also providing 50 spaces for bicycles, so they are aiming for theoretical multi-modal transportation that we are always striving for.

Mr. Tracey: That's correct. We are actually adding some more because of some comments in there about having some spaces for the commercial and stuff like that we have room for more bike spaces.

Chairman Hurd: All right, Commissioner Wampler did you have

Commissioner Wampler: I have one more question that I meant to ask before and that is in the information from the Electric department on page 11 of our document says the utility pole 15A413 conflicts with the drive aisle/easement this pole cannot be relocated. Has that been dealt with by the way the parking is now?

Mr. Tracey: I believe the answer to that question is yes Mr. Wampler but obviously Julian can correct me if I am wrong, I know there were a lot of back and forth with the electric department.

Mr. Pellegrini: John you are correct, we went back out and resurveyed the poles and the drive aisle is able to fit in between the two utility poles and there is no longer a feeder of a conflict.

Commissioner Wampler: Ok thanks.

Mr. Tracey: That was Julian Pellegrini for the record.

Chairman Hurd: All right, Commissioner Kadar

Commissioner Kadar: One other quick clarification on the Planning and Development Department Report dated February 23, 2021 on page 5 down at the bottom it says that the 110 parking spaces proposed by this project should be more than sufficient to accommodate this project yet on page 9 it is what we have been talking about which is 114 spaces so it is either 17 or 21 spaces that we are short and I think the information on page 5 based on what we have been talking about is not correct, is that right?

Mr. Tracey: You are correct, it is the higher number, I think that was probably again taken from an earlier version of the parking waiver letter I wrote that had a different parking number in them.

Commissioner Kadar: Thanks so just to be clear we are talking about 17 space waiver, 114 spaces provided and 131 required.

Mr. Tracey: Correct.

Commissioner Kadar: Ok, thank you.

Mr. Tracey: Your Welcome.

Chairman Hurd: Ok, thank you everyone, all right we will be moving to public comment. Everyone giving public comment needs to identify themselves. We will first read into the record comments received prior to the meeting. Members of the public who would like to comment on this Agenda item please send us a message through the chat function or if you are on the phone *6 to unmute yourself when I call on those people on the phone. Speakers are allowed 5 minutes for their

comments. Comments are to be addressed to the Commission only and need to be germane to the topic. Each speaker can only comment once for each agenda item. So, Mary Ellen why don't we begin with the letter from Ms. White.

Director Gray: I would be happy to Chairman Hurd. Planning and Development Director Mary Ellen Gray this is to members of the Newark Planning Commission this is from Jean White, Newark resident. This is ok so she has two items on the agenda that she is going to comment on I am just going to read the comments regarding this agenda item, and I'll read the other agenda item when that agenda item comes up. So, this is regarding Item No. 3, Redevelopment of 268 East Main Street site of the Super 8 Motel. I am absolutely opposed to putting a five-story building on this site. Our downtown is being ruined by buildings whose excessive size and extreme height do not fit harmoniously into our downtown street scape. One building should not be grossly out of scale and height or massing to neighboring buildings up and down the street. Buildings on Main Street need to be of a similar or compatible height in massing collectively existing together in harmony. Preferred would be a building on the site that is 3 stories high in front on Main Street with the rest of the building further back being 4 stories high. A good example of the use of this idea which already exists on Main Street is the Kate's building next to and just west of Klondike Kate's restaurant. The front of Kate's building is 3 stories high and the rest of the building further back to the north is 4 stories high, the latter part of which is over some parking area on the ground level. The building Kate's looks good on Main Street and fits in well with the street scape. The fourth story of the building further back does not intrude negatively on the immediate street scape of Main Street. In short, please do not approve this proposed five story building on this site. The building like I have described above three stories in front 4 stories further back would fit nicely and be more compatible with the street scape. To remind the Planning Commission City Council this proposed project needs a zoning change from BC to BB. The Planning Commission is not obligated to approve the developer's proposal as presented but can insist on significant changes one of which could be reducing the height of the building. That concludes Mrs. White's remarks on this proposal. Thank you.

Chairman Hurd: All right, thank you. I have seen no chats from people asking to comment, if there is anyone who does wish to comment you are welcome to unmute yourself. Going once, going twice, all right. Public comment is closed. Bringing it back to the table for our usual round of discussions and conversation or discussion I should say about the item. I will begin with Commissioner Wampler.

Commissioner Wampler: Thank you. Technically, I actually like the proposed architecture I think it is kind of modern and fresh looking I don't have a problem with that. I am not crazy about the motel so. I do have some real problems on a philosophical level that I want to get out and get people's opinions on, several of them. Number one I have a problem in forwarding this to Council if Council is actively in the process of reconsidering how high buildings would be permitted on Main Street. If they are saying that they feel that they something other than these really massive buildings need to be proposed and our first thing, is we propose another one that gives me pause on this. Secondly, I have a problem the only thing we are asked to do from the site plan approval is to change the setbacks and the setbacks of this they are proposing will actually be better than what is there so I don't have a specific problem with this project but I have a big problem with using the site plan approval method in looking at properties that are on Main Street because we are asked to evaluate them based on open space, unique parking, architectural design, landscaping, and relationship to the neighborhood, and for most of these properties, including this one and other properties that we have looked at the answer has been they are open space well there is no open space and for unique treatment of parking facilities well we want a parking waiver and for landscaping well there is really no room for any landscaping so I don't see how we can use these criteria to judge whether or not to grant these variances because in this property and a lot of properties what we are asked to look at isn't even applicable and that is something that concerns me. I am not going to vote against this property for their setbacks because I think the fact that they are enlarging them is a good thing, but we don't have much to go on if we are supposed to be looking at specifically these categories and we are told that doesn't really apply, doesn't really apply well then it is just sort of ok well I like it or I don't like it ok which I think is

unfair. And my final thing is, and this is something I have been talking about for a long time one of the documents we got which is Exhibit H, which is Land Development, page H1 where it says Land Development Core Principles and the third one says, "Encourage a mixture of housing choices both in style and affordability levels for new residential developments that is inclusive of people of different ages and income levels." And all we have done with the exception of College Square which is supposed to be for professionals and not for students, all we have really done is to approve larger and larger and larger student apartments and I think people in the City and including I am pleased to hear that the Council is beginning to have some questions about whether or not these gigantic student apartment complexes are subsuming all of Newark. So Newark isn't, we don't have a University and a town what we have is a University and University housing and this isn't something that the Planning Commission can settle, it is not something that we can settle today but it was mentioned earlier that the University has decided to get out of housing and they are decommissioning dormitories and they feel no obligation to provide any housing and for some reason then the City of Newark is obligated to provide infinite housing for the University at the expense of everything else and at the expense of this principle where we are supposed to be providing housing for a wide range of people of ages and income so I am, I share the concerns of a lot of people that stressed to me that all we are doing is converting the City of Newark into a housing auxiliary for the University and I don't know what can be done about that but I don't know how given that the University is not going to build housing and the only projects that are presented to us are student housing, I don't see how we can then say that we are making any effort to enforce these land development core principles that we are supposed to be dealing with. So I, as I say for this specific project I think it is a nice looking project, I think this could be better than the motel that is there, I don't see that the variances which I think are the setbacks I think are an improvement but I don't see how I can make a decision on those based on the site plan approval process since half the categories don't even apply and if City Council has already indicated that they are looking askance at these gigantic development coming to them I wonder if it is fair to, if they are serious about looking at that, I understand that the law has changed and this has been a frustration for me as well that we get these projects and as long as the apartment side of whatever they are constructing is more than half two-bedroom apartments then they can build it up to 6 and 7 stories and there is nothing that we can say because that is sort of a right that they have. So, I am glad that the City Council is looking at that. I wonder if it fair for us to say yeah, we hear what you are saying and here is another one. So I want to hear what other people have to say regarding specifically voting on the motions that we have for this specific project but I do think that, I at least need to take a few steps back and look at have we been doing what I feel is our mission which would be to do more than just provide student housing and I don't think we have and I don't know how that needs to effect this but I think I'll finish by saying I think a lot of people in the City of Newark are reaching sort of a breaking point as to watching the more and more of Newark just encompassed by these gigantic projects that sort of (inaudible) the University and are squeezing the town out and that's a real concern for me so thanks for listening.

Chairman Hurd: No, I hear you and I am just going to interject here cause I think that is a good thing. You are mentioning somethings that have been in conversation and are I think are on a lot of people's minds. So, one of the things that we struggle with here I'll say I am going to try not to make this too long, but we serve in an advisory function to Council for the most part. So, while Council can say, or I should say a couple of Council members will say we need to look at the zoning Code. They haven't actually done that. They haven't had a meeting, they haven't had workshops, they haven't proposed, and the Planning Department hasn't brought them to us for consideration so while they are talking, we are still, have to use the current Code as it exists to evaluate the projects. And so, in that sense you know were we to rezone this to BB then we apply to it the BB zoning which includes an extra floor for the parking under the building, bonus floors for the two-bedroom apartments because that is the framework that the project was developed under that is the framework that the project came to us in. And Council can say we don't like these, but you know we're not developing the projects the developers have developed them under the current rules and have brought them to us. And I think that is the other thing to sort of to make sure that we are kind of keeping separate in our mind yes, the University is reducing the amount of housing that they are providing. The City itself is not providing any additional

housing the developers are seeing this as an opportunity because they are seeing basically beds being abandoned and students needing a place to live and they are taking advantage of a market that is, you know still hasn't reached the saturation point effectively. So, you know what we are seeing is market forces I think pushing a lot of this coupled with a zoning Code that allows these bonus densities and then you know you get a 7-story building. It is sort of how that comes together. Regarding the site plan approval, you are hitting on something that I had hit on a couple of years ago myself and you know, we are trying to find space in the Planning Department's schedule is difficult, but it is something I want to do. The site plan approval process was written many years ago to basically wrap itself around green field development so that is why there is connection to nature that why there is open space that's why a couple of those criteria are in there because they are regarding taking a green space development and you know, how much of it do you devote to housing how much do you keep open how much do you keep green. Obviously, it falls apart in a redevelopment situation where it is already a parking lot. You know, what is it going to be, well it's still a parking lot. What I do and this is for me internally I use the concept of the site plan approval which is the developer wants some relief from the zoning Code requirements from us. In return they are offering something of value to the City or to the environment, so it is often things like storm water, you know better storm water management is an important factor in a redevelopment project. More attractive architecture is an important thing in a downtown business district. You know more efficient parking or better management or even consideration of additional bike or multiple modes of transit are factors and while they are not listed criteria, they are essentially things that the developer is offering of value to the City in exchange for the relief that they are seeking and that's how I see it in my mind. Is that I don't want to make it a quid pro quo kind of a thing, but I mean that is kind of how it was set up you know if you provide a better development project if you have more green space, we will give you a bonus density you know there is that partly how it was written. Mr. Fruehstorfer you have a comment?

Mr. Fruehstorfer: Yes, if I could add to exactly what you were just saying right now the Code does not say that all those categories need to be addressed. It just says that those, are suggesting some categories that can be addressed so it is just up to you as a Commission to decide if they relief that is being asked for is being compensated with whatever design excellence is being provided so, they could be providing enough with just one of those categories if they are asking for a lot. So, nothing in Code says you have to address all these.

Chairman Hurd: Commissioner Silverman. Quick

Commissioner Silverman: Another aspect of this that I look at is the economic benefit to the City. A structure is being proposed for this site that will generate substantial property tax revenue, substantial utility revenue as an offsetting factor for the kind of use it is, and this multiplier can be incredible we heard one proposal awhile back where there was some 8 – 10 – \$12,000 worth of property taxes on a group of properties being redeveloped and between hotel taxes and property taxes that figure, assuming the hotel is successful could go up to near almost \$300,000 to the City. So, when we have a City where 50% of the tax base is tax exempt because of state owned and university properties it is important to keep up the tax base in the kind of development we are seeing here, even though the relief may make people uncomfortable is highly desirable in my opinion.

Chairman Hurd: Thank you. All right moving back around. Commissioner Kadar, oh Commissioner Stine do you have a comment following Mr. Wampler's?

Commissioner Stine: I do as long as I am not out of turn.

Chairman Hurd: Well, you are last in the cycle.

Commissioner Stine: Ok I will wait.

Chairman Hurd: You can wait, ok Commissioner Kadar then.

Commissioner Kadar: Ok I strongly agree with what Tom has said and I have made those kinds of comments before. The concern is where the City of Newark is going but once again, we are charged to take a look at the requirements as they exist today not as we would like them to be so based on that while the design of the building is interesting to say the least, I would have preferred it to be softened somewhat to fit more well into Main Street. I would suggest one item, I am looking at the east side of the building where it butts up against the Newark Shopping Center. There is a fence there, is there any opportunity to plant some trees there to kind of soften the look of the size of this building which over time would kind of not look 5-stories tall.

Mr. Tracey: Is that being directed to us Mr. Kadar?

Commissioner Kadar: No, I am just asking, I don't know how much space is there, but it looks like there is a strip of the land that runs along the fence line and a couple of nice shade trees there would do a lot to soften the building when you are looking at it from Main Street or from the Shopping Center parking lot.

Mr. Tracey: I am going to defer to Julian, I think we may have some landscaping in there, but I don't want to overstate anything.

Chairman Hurd: And just to add that is shared with Grain not with the shopping center.

Commissioner Kadar: That fire lane is Grain's parking area yeah ok there is the sign. The comment still stands regardless of who it is shared with. (inaudible) There is a question about whether or not we can do something to soften it cause that fence is not really.

Mr. Tracey: The fence is not planned to remain. That fence is going away that fence is part of the existing fence that is part of the Super 8 that is not going to stay there. You see it in this picture because it wasn't edited out of the picture.

Commissioner Kadar: So, you do plan some landscaping there?

Mr. Tracey: We plan on removing the fence, I will defer to Julian to see if we have any room to put some landscaping in those areas?

Chairman Hurd: Well yeah Mr. Pellegrini.

Mr. Pellegrini: Yes, thank you this is Julian. Commissioner Kadar due to the width of the drive aisle lane and the sidewalk providing access around the building there is only room for the drive aisle and curbing and we actually removed the fence which would be, the existing fence would be where you'd be putting curbing so there is not to answer your question there is not room for green space on this side of the property.

Commissioner Kadar: Ok, that's a shame. But it is what it is. All right, my only comments thank you.

Chairman Hurd: OK. Commissioner McNatt

Commissioner McNatt: Hi can you hear me. Again, I also agree wholeheartedly with Commissioner Wampler's comments. I think that there are a lot of issues that we need to work on futuristically. I also brought up the height of the that whatever you call that the sixth looking floor because I think it is important if I reflect one of the comments from I think it was Ms. White that I don't understand why we can't reduce the front of the structure to get it more of the Main Street feel in this side I mean if you are going to keep that sixth looking floor it's not the sixth floor but that extra level to reduce the front of the building to look less tall and add either in the back or lose a few units and then maybe not need a parking variance to achieve a more cohesive Main Street on this end albeit I agree that the project is looks generally ok the achievement of additional of treatment of stormwater management is great and infiltration is great but I just think that the extra level creates such an expansive unit for a building right on the street on this end isn't necessarily what I was expecting to see. I was expecting to see more of a step structure

something shorter in the front a little taller in the back also the setbacks are better in this scenario then they currently are and which I don't necessarily have an issue with. The parking again I am still a fan of making sure everybody can share if they need to if they lose units maybe they don't need as many residential spaces maybe they could get some additional commercial spaces out of it so I am struggling with this one as I felt like others are as well on how I totally feel and what this plan and design represents associated with the site plan approval process so those are my comments.

Chairman Hurd: Ok thank you. Commissioner Silverman

Commissioner Silverman: I think this Plan point continuously points out the deficiencies in the Site Plan Approval Process which needs to be addressed by Council. Also, we haven't mentioned it, but the Special Use Permit required for the apartments, again my pet peeve we have to take into account the impact that this use has on people living a mile outside the City of Newark. I mean those things are designed for rendering plants and junk yards and not for whether we are going to have a group of two-bedroom apartments so again that is something that Council needs to work on. I think as Mr. Bilodeau will reinforce the Delaware Courts have made it very clear that as long as the property owners is within the letter and spirit of the Code that they can proceed, and we can't say no we don't like it. And I generally like this project, I liked the mixed-use aspect of it if I don't believe there is a PowerPoint slide but the rendering drawings that was supplied to the Commissioners if we look at drawing A5 which looks like a Google aerial with the rendering superimposed on the property I think it shows the mass of the buildings particularly right across the street - I see someone is going through - it shows that there is a building directly across the street and I don't recall what is housed in that particular structure.

Chairman Hurd: That is the Market East Shopping Center and those are office buildings. Oh, across the street.

Commissioner Silverman: Across the street to the south. But there is another relatively tall building there it is at least 3-4 stories it has a mansard type appearance around the top which exaggerates the top and so with respect to the building design itself I believe that window arrangement and help me with this Mr. Chairman would be considered a clerestory that lets light down into those top apartments? If people are uncomfortable with the height perhaps that could be eliminated, and a flat roof put in there to at least bring down the visual proportion. Also, one thing we don't have is a pedestrian view from the street, in the scale of looking at this building. Most people will walk by this building and never realize how tall it is even if you are sitting in your automobile, unless you are approaching it from a distance you wouldn't realize the height. So, I think the rendering here gives it's an American heroic type of visual effect as opposed to the way it will probably really sit with respect to how people see it on the street. And the fact that it is surrounded by again some of the illustrations, reused Victorian houses that have been converted to commercial uses, one story incubation type buildings at Market Street East really cause it to stand out. So, I am not particularly bothered by the size or the mass of the building. And I intend to vote for this project as presented and as recommended.

Chairman Hurd: All right, thank you. Commissioner Stine.

Commissioner Stine: Thank you. I agree with Commissioner Wampler and he summed up my feelings exactly with regard to the use of Site Plan Approval. It does lay out six criteria and it says it includes these items, but it is not limited to these items meaning that there could be others. And so, the way I see this project it really only meets two of the criteria for site plan approval - one I think it is outstanding architectural design, I think it is a pretty building I like the building a lot, and the energy conservation you know I have to trust you know it is not my area of expertise, but I trust that it meets or exceeds those LEED standards. I would, could get excited about the addition of a mixed-use building here but I don't see it as being very mixed. What I am hearing is that it is student housing and potentially a yogurt shop. I don't see a lot of mixed-use in the building and that is a shame it doesn't have more commercial space incorporated into it. A wise man once told me it is not my job to prevent a developer from committing financial suicide, but I still feel that the University would not be getting out of the business of student housing if it was

profitable. I just can't wrap my head around the fact that the University is going wow there is a lot of profit in student housing but nah we are going to leave it to other people. So, I always think that these projects will eventually have to be reverted back to condominiums or apartments at some point because the demand for student housing could or will go down and that leaves a building with really lousy parking and you know it is the same concern I had with other buildings although ultimately voted to approve, but I still have a really hard time with this one, the stacked parking is just not marketable you know as a real estate agent if you said hey convert them to condos you know it would be a nail in the coffin for this project so I know it is not my job to prevent you from doing that, but it is weighing heavy on me especially in light of Council's response to other projects and unfortunately you're the third or fourth project and not the first one to come through and also some push back and feedback from residents with regard to the size and scale of these buildings. I am undecided at this point I do think it is a really pretty building and I appreciate the redevelopment of this site no doubt I'm just a little undecided at this point, so but thank you for providing such a wonderful presentation.

Chairman Hurd: Mr. Tracey I see you are unmuted did you have a comment?

Mr. Tracey: I didn't and sorry I probably just left my microphone unmuted; I certainly can comment but I know it is not my place at this point.

Chairman Hurd: No, I think we are good I just it is the only way I can tell if someone wants to talk.

Mr. Tracey: Sorry, I will re-mute.

Chairman Hurd: Ok, for me so the Site Plan Approval process we have discussed, and we will probably continue to discuss. For me it does come back to I think in this spot it does feel too tall and that is the thing I am kind of struggling with is the 20 foot setback is specifically for buildings over three stories tall and this is one of them, and I really feel especially in this area that pushing it back you know the 8 more feet to get the full 20 foot setback would start to help mitigate the height of this building's relationship to the street cause that is what the setback is about. It is sort of saying you know if you are three stories you can be right on the lot line you go over three you got to give 20 feet of clearance and that you know widens the street it makes it visually, you know drops it. So, Site Plan Approval is a place where we can basically place conditions upon the approval so the question of height can be a condition the setback can be a condition. I kind of feel like you know you take off that top story I'd be ok with it being closer, the parking waiver goes away, I think it solves a number of things I just - so that is where I struggle but I also see that we are getting a lot of good stormwater remediation being done which isn't a visible benefit to the City but certainly is a benefit and we are getting a nicer building in the property. So, I mean I guess so part of my issue I think with the height is that if you read the Code the height bonuses are for buildings that are within the minimum setback, the minimum required setback which this building isn't at the moment. I mean we have to grant it relief from minimum setback for it to have two additional stories. So, I feel like you know it really is a balancing it is like you know three stories to five and it is not giving up the front setback that's sort of required, I feel you in this particular case I am feeling more about a need for that. You know 132 was lining up with the adjacent buildings it had more of a context to work with and I was ok with kind of granting it on that because it would look a little odd to kind of jump in and out. But I think here that extra 8 feet could give nicer plaza, it gives a little more graceful approach to the street, it gives a little more breathing room to the buildings around it but that is simply my opinion at this point, and it is certainly something that we can discuss when the motions comes up. Just to touch on the other items that we will be considering conceptually I have no issue with the rezoning, that this area is you know it is becoming you know the BB zone is sort of inching outwards as the projects come and it is a challenge that BC is so restrictive to the basically the apartments which the BB allows and that is usually the only reason that you have to switch from one to the other. I am also fully supportive of changing the Comp Plan from commercial to mixed-urban and that's really only because of the BC zoning, that the future land use can't call this mixed-urban yet because a BC zoned property can't have apartments which is a requirement of the mixed urban type in the Comp Plan. We just had this conversation about this last week in our Comp Plan Steering Committee. So that amendment really is just because the future land use map has to line up with

the zoning or the zoning has to line up with the future land use map and so if we change this to mixed-urban in the Comp Plan it would have to become a BB zoned property. And the Special Use Permit for housing - I have no trouble with and I will just mention in that same conversation at Council about sort of reexamining the zoning Code I saw a note that someone was possibly looking at removing the Special Use Permit for apartments as an incentive for driving development in a particular direction so there might be some movement on that when the BB zone gets examined. Cause I agree the Special Use Permit isn't really, this really doesn't fall into that zone of like use that is detrimental or potentially detrimental to the neighborhood environment like a smelting plant would be or something. What is it you said a rendering plant you know that kind of thing? All right any further comments or discussion from the Commissioners before we move to the motions. Ok, I guess then Secretary Wampler.

Secretary Wampler I move that the Planning Commission recommend that City Council revise the Comprehensive Development Plan V Land Use Guidelines for 268 East Main Street from "Commercial" to "Mixed Urban" based on the February 23, 2021 Planning and Development Report as shown in attached Exhibit H-1 because it's in conformance with the purposes of Comprehensive Development Plan.

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

Commissioner Silverman: I'll second. Silverman

Chairman Hurd: Thank you. Any discussion on the motion? Commissioner Stine?

Commissioner Stine: I am sorry, yes Can you tell me what order these motions are going to be made in cause they are a little out of order.

Chairman Hurd: Page 16 has the motions in order, A thru E.

Commissioner Stine All right thank you.

Chairman Hurd: Yeah, and we have to take them in this order because without the Comp Plan amendment we can't rezone the property, without the rezoning we can't approve the apartments so that is, without the parking waiver we can't approve the proposal and so that is why we are in this order.

Commissioner Stine: Ok, thank you so much.

Chairman Hurd: That's fine, always glad to be clear. All right, no discussion on the motion? Ok moving to the vote. Commissioner Stine.

Commissioner Stine: I vote yes.

Chairman Hurd: Solicitor Bilodeau for Comprehensive Plan Amendments do we need to state a reason for the vote?

Solicitor Bilodeau: I would recommend doing it and it can be as simple as for the reasons in the report or to, yeah, I would recommend doing that.

Chairman Hurd: And then this is also on me I am trying to reestablish a habit that I have been neglecting. I will be asking each Commissioner with their vote to state the reason for the vote which as Solicitor Bilodeau pointed out can be simply stated as for the reasons stated in the Planning Department Report.

Solicitor Bilodeau: The Site Plan Review does not need any reasons, that vote, but so that this one the Comprehensive Plan Rezoning they would need reasons.

Chairman Hurd: Right, Site Plan Approval I think does. I think you well ok.

Solicitor Bilodeau: Ok, well I think you are right I think I am thinking Major Subdivision, I am sorry.

Chairman Hurd: Subdivision probably doesn't, yeah, but Special Use does, yeah ok.

Solicitor Bilodeau: I apologize.

Chairman Hurd: Anyway, sorry, back to you Commissioner Stine cause you get to lead us off.

Commissioner Stine: Ok, I'll vote yes for approval based on the Planning and Development Report of February 23rd.

Chairman Hurd: All right, thank you. Commissioner Wampler?

Commissioner Wampler: I vote yes, I think this is the appropriate designation (inaudible) I vote yes.

Chairman Hurd: Ok, thank you. Commissioner Kadar.

Commissioner Kadar: I vote aye, this project is totally consistent with the direction that we are moving on Main Street and it is also coordinated with the properties nearby.

Chairman Hurd: Thank you. Commissioner McNatt.

Commissioner McNatt: I am voting yes for reasons that for associated in the report and the property is consistent with the other zoning.

Chairman Hurd: Ok, Commissioner Silverman

Commissioner Silverman: I vote yes, I am in concurrence with the Department's report and the recommendation from the Department.

Chairman Hurd: All right, and I vote yes as well for all of the reasons stated by the Commissioners previously. All right, motion A carries. Secretary Wampler.

Secretary Wampler: I move that the Planning Commission recommend that City Council approve the rezoning of 268 East Main Street from BC to BB based on the February 23, 2021 Planning and Development Report as shown on the attached Exhibit E – Rezoning Map dated February 23, 2021 and the Pelsa Company Rezoning, Major Subdivision by Site Plan Approval, Comprehensive Development Plan Amendment, Parking Waiver, and Special Use Permit Plan, dated February 3, 2014 and revised February 18, 2021 with the Subdivision Advisory Committee conditions, because it should not have a negative impact on adjacent and nearby properties, it's in conformance with the purposes of the Comprehensive Development Plan and because the proposed plan does not conflict with the development pattern in the nearby area.

Chairman Hurd: Thank you do I have a second?

Commissioner Silverman: I'll second. Silverman.

Chairman Hurd: Thank you Commissioner Silverman. All right any discussion to the motion? Ok seeing none we will move to the vote. Commissioner Silverman.

Commissioner Silverman: I vote yes in concurrence with the Department's recommendation.

Chairman Hurd: Thank you. Commissioner Stine.

Commissioner Stine: I vote yes based on the Planning and Development Report of February 23, 2021.

Chairman Hurd: Thank you. Commissioner Wampler.

Commissioner Wampler: I vote yes because I think that the BB zoning is appropriate for this property.

Chairman Hurd: Thank you. Commissioner Kadar.

Commissioner Kadar: I vote yes consistent with the Planning Department's February 23, 2021 Planning and Development Report.

Chairman Hurd: Thank you. Commissioner McNatt

Commissioner McNatt: I vote yes too in accordance with the Department's report.

Chairman Hurd: All right, thank you and I vote yes as well for the reasons stated in the Department's report. Motion carries. All right, letter C.

Secretary Wampler: I move that the Planning Commission approve the 17-space parking waiver for 268 East Main Street based on the February 23, 2021 Planning and Development Report because it should not have a negative impact on adjacent and nearby properties, it does not conflict with the purposes of the Comprehensive Development Plan and because the proposed plan does not conflict with the development pattern in the nearby area.

Chairman Hurd: Thank you do I have a second?

Commissioner Silverman: Silverman, second.

Chairman Hurd: Thank you. Any discussion to the motion? All right, seeing none we will move to the vote. Commissioner McNatt.

Commissioner McNatt: Ok, I am here, I do not support the parking variance for the reasons that I discussed in my other comment regarding the associated amount of units that if the reduction of units potentially has better, less restrictive parking variance requests and the lack of I'll call it what you call those the spaces stacked spaces yeah.

Chairman Hurd: Ok thank you. Commissioner Silverman.

Commissioner Silverman: I vote in favor of the parking waiver. I think the parking waiver is de minimis. I also, leaning back on the Parking Commission's recommendations that the calculation for parking spaces is very arbitrary particularly with respect to the non-residential use if the commercial use was turned into a very light personal service there may only be two parking spaces required versus the number that is associated with a proposed food service use, so and there is the potential for additional parking available off-site even though it is not a consideration here, with respect to Easton One so I am voting for the parking waiver.

Chairman Hurd: All right thank you. Commissioner Stine.

Commissioner Stine: Thank you I am not going to support the parking waiver. I think the Parking Commission's recommendations of decoupling parking have yet to be incorporated into the Code. The parking waivers don't seem to be widely accepted by Council and there is no apparent appetite from residents to grant them so unfortunately, I am going to vote to not approve the parking waiver this evening.

Chairman Hurd: All right, thank you. Commissioner Wampler.

Commissioner Wampler: I agree with comments previously made and I am not convinced that the parking arrangement as provided is going to be as trouble free as people think it is I think it is not a good parking arrangement and I vote no.

Chairman Hurd: Ok, thank you. Commissioner Kadar.

Commissioner Kadar: Yeah, I am going to vote no as well. The parking waivers I think we are assuming way too much from the student population in terms of automobile usage or non-usage and as such I know it is only 17 spaces but at some point, in time, we have got to draw the line

and the City Council has made it very clear that they have no desire to continue to grant waiver after waiver and reduce the number of parking spaces in downtown Newark.

Chairman Hurd: All right, thank you. I am going to vote yes for the reasons stated primarily by Commissioner Silverman, but the motion fails 2-4. With that motion failing check me on this Solicitor Bilodeau the other the remaining two items cannot be considered, correct?

Solicitor Bilodeau: If this was a Council meeting yeah, the vote on the parking waiver would essentially kill the project.

Chairman Hurd: So basically, the Applicant could appeal to Council, correct? So, the parking waiver can stand alone.

Solicitor Bilodeau: Yeah, the parking waiver can be appealed by the Applicant, absolutely. So, I think we should proceed.

Chairman Hurd: So, moving on to item D.

Secretary Wampler: I move that the Planning Commission recommend that City Council approve the major subdivision by site plan approval of 268 East Main Street based on the February 23, 2021 Planning and Development Report as shown on the Pelsa Company Rezoning, Major Subdivision by Site Plan Approval, Comprehensive Development Plan Amendment, Parking Waiver, and Special Use Permit Plan, dated February 3, 2014 and revised February 18, 2021 with the Subdivision Advisory Committee conditions because it should not have a negative impact on adjacent and nearby properties, and because the proposed plan does not conflict with the development pattern in the nearby area.

Chairman Hurd: Thank you, do I have a second?

Commissioner Silverman: I'll second. Silverman.

Chairman Hurd: Thank you. Any discussion to the motion?

Commissioner Kadar: Yeah, I have a question, this is Karl Kadar, I question how we can approve a site plan that includes a parking waiver that has not been approved.

Chairman Hurd: Because the, we have the authority to grant parking waivers, that is one of our sole authorities. Council does have the purview of reviewing those waivers either through a Council person's request or I believe the Applicant can in their application process ask for that parking waiver decision to be reviewed by Council. So, while we have mostly final say on it, we don't have absolute final say on it.

Commissioner Kadar: The site plan as it exists includes the parking arrangement that is in the current site plan. Correct?

Chairman Hurd: Yes.

Commissioner Kadar: And if we don't approve that parking arrangement because it is inadequate how can you approve the site plan that has an inadequate parking arrangement?

Chairman Hurd: So that can your choice of how you vote on the additional things.

Solicitor Bilodeau: This is the Solicitor. Karl, those are very good questions, and I would say the only way to square it would probably be to have a similar vote as to both.

Commissioner Kadar: Ok

Solicitor Bilodeau: And once again this is a recommendation.

Chairman Hurd: I will say that 132 East at Council once the parking waiver was not approved that the review of the parking waiver was basically rejected by Council then the project failed because it didn't have the parking required and the Plan couldn't comply. But that was at Council where it has sort of that kind of final authority. We are, we said we don't think a parking waiver should be granted however we can look at the project as a whole and say do we think the project as a whole is ok and that is a yes, no question that you can answer. But they are not as tied - if say the rezoning had failed if we had voted against the rezoning then everything subsequent would stop because you can't do the project without the rezoning. Does that make sense?

Commissioner Kadar: Yeah, I guess so, ok.

Chairman Hurd: Ok, all right, any other discussion on the Site Plan Approval motion? No, ok, moving to the vote. Commissioner Kadar.

Commissioner Kadar: Based on what I heard earlier; I will vote yes on the Site Plan Approval with the understanding that the parking waiver is not voted in the positive light. So, yes, I like the site if the parking were better, but the parking isn't, so I am still going to vote yes.

Chairman Hurd: Ok, understood. Commissioner McNatt.

Commissioner McNatt: Ok I am here. I again am voting no for the reason that I don't believe that this property meets the Site Plan Approval requirement that were recommended in the report.

Chairman Hurd: Ok, Commissioner Silverman.

Commissioner Silverman: I am on the horns of a dilemma here; I am about to offer an amendment.

Chairman Hurd: But we are in the midst of voting on the motion.

Commissioner Silverman: Mr. Bilodeau can I offer an amendment even in the middle of, the midst to a motion.

Chairman Hurd: You muted yourself Paul.

Solicitor Bilodeau: Thank you for that Chairman. Since we have already started voting on this, I think it is too late to offer an amendment I am not the best on parliamentary procedure, but I think once you have started voting on something I think, if the vote fails, I think there can be another vote and then at that point that's when the amendment can take place.

Commissioner Silverman: Ok thank you. I am voting for this particular recommendation with respect to the Major Subdivision Plan including the plan approval and including the parking waiver for the reasons cited in the Department's recommendation report.

Chairman Hurd: Ok. Commissioner Stine.

Commissioner Stine: Thank you. I am going to vote against Site Plan Approval. One the project is non-compliant and in my mind, it does not offer any excellence of design with regard to common open space, unique treatment of parking facilities etc. so for those reasons I am voting no.

Chairman Hurd: Ok. Commissioner Wampler.

Commissioner Wampler: Although I am pleased that the setbacks for the proposal are larger than for the existing use which is a smaller building, I agree that a 5-story building, in order for there to be a 5-story building it must be in complete compliance with the setback, so I vote no.

Chairman Hurd: Ok, and I am also voting not actually for the reasons that Mr. Wampler stated that I think I originally stated. I feel that it is architecturally it is too close too tall for this particular location and so to my mind it doesn't meet those criteria. All right, so Site Plan Approval fails 2-

4. Mr. Silverman what was your, is there a motion that you wanted to propose that you think could salvage this?

Commissioner Silverman: I am going to go in another direction I am going to move to reconsider the motion which I can do since I voted in the affirmative and that we revote, that we approve the Site Plan Approval if the, on condition that the building's design consideration take into account the lack of a parking waiver and the lack of Site Plan Approval. That would be my motion to reconsider.

Chairman Hurd: So, to state, sort of like the way we did with 141 we approve it if they make adjustments to make it Code compliant?

Commissioner Silverman: That's correct.

Chairman Hurd: OK.

Director Gray: So, could you please I need a better motion than that, please gentlemen.

Chairman Hurd: Well yeah, so we are working we are getting there give us a minute.

Director Gray: Sometimes you are just going to leave the station and go so I am putting the brakes on now. All right. Ready to type.

Chairman Hurd: The only thing I will comment cause I am kind of I kind of see where you going with this and I am kind of in agreement I think that is where my issues are I don't think that the side yard setback is something that can be fixed cause I think you've got a drive aisle, you have got a parking, you have got sidewalk you have got double units stack units you know I don't know that is how what we needed 3 feet 5 feet.

Commissioner Silverman: And I think the property lines are irregular too.

Chairman Hurd: Possibly. Yeah, they needed 2.9 feet on the side. So, it would still be on the Site Plan Approval to grant relief for the side yard setbacks if we crafted the motion such.

Commissioner Silverman: I am putting it out there as an idea if my fellow Commissioners have no appetite to do this then it doesn't get a second and it simply dies. Rather than spend a lot of time on this.

Chairman Hurd: Ok. I will also while we are pondering this call in Mr. Tracey cause we hadn't really discussed the conditions of the Site Plan Approval up until this moment, just to sort of see what the Applicants. I mean not that it changes our creation of the motion just to kind of bring you into the loop here.

Mr. Tracey: Mr. Hurd, I understand what you are asking, and I am hoping my client, or somebody chimes in or sends me a text while we are having the conversation. I like the direction that Mr. Silverman was suggesting. It seems that most of the commentary and Mr. Wampler and certainly correct me if I am wrong is on the front setback as opposed to the side setback between the real estate office and the shopping center and our building and you hit on the appropriate points that it is not even so much no matter how you handle that building you are still going to have that pinch point as you are coming into the property to get to the back side so it is going to be difficult as I think Mr. Silverman pointed out to make the side setback, but if you want to condition a motion on revising the you know the front setback as part of our relooking at the project I don't think we have a necessary issue with that at least it is for consideration. We would obviously have to look at it, but it at least gives us some guidance in terms of trying to deal with that.

Chairman Hurd: All right, Mr. Silverman, just to be clear your motion was going to also address the parking? Was that ...

Commissioner Silverman: Yeah, if there is no appetite for parking by the Commissioners, we simply say we approve, if the parking is going to drive the number of units let's put it that way. It's being reduced to conform to the available parking that is within the Code, it is Code compliant.

Chairman Hurd: Ok, so by my calculations that would make the unit count to be 45 instead of 56 cause those 17 parking spaces represent 9 units.

Mr. Tracey: If I could chime in Mr. Hurd, it would also be right now, we park the commercial space as a restaurant which you could actually make it a general retail use and would have a lesser parking demand. There could be multiple ways to skin the cat, there could be reconfiguring units within the buildings that may get less units, but you know can still somehow accomplish that. We haven't dived into the number I mean obviously as I mentioned earlier a lot of everything that is being done, the LEED, the stormwater, and things of that nature you know there is a math equation there. We heard what the Commission is recommending on parking, so I completely understand that.

Chairman Hurd: So perhaps a more generally phrased motion that the buildings configuration match the available parking as opposed to a strict unit count because as Mr. Tracey pointed out that residential, that commercial space drives a piece of that as well.

Commissioner Silverman: I agree.

Chairman Hurd: Do you feel comfortable trying to craft that motion Mr. Silverman?

Commissioner Silverman: Give me a second here. Let's see, recommend that City Council approve the Major Subdivision, Site Plan Approval of 268 East Main Street based on the Department's February 23, 2021 Planning and Development report as shown on the Pelsa Company Rezoning Major Site Development Plan the title, conditioned on bringing the proposed, conditioned on the site being Code compliant with respect to parking and we need to take care of the front setback and conform with the setback associated with the BB zoning district.

Chairman Hurd: Let's say the front setback.

Commissioner Silverman: Front setback

Solicitor Bilodeau: So, you would be BB Code compliant with the front setback too.

Commissioner Silverman: Correct.

Chairman Hurd: Allowing us to grant relief to the side yard setback as requested.

Commissioner Silverman: Yes.

Chairman Hurd: Ok, which would be implied because that is on the plan. Ok, that makes sense to me. Do I have a second?

Multiple: I'll second it.

Chairman Hurd: Ok, lots of chime in. Any discussion on this new motion? Ok, I will move to the vote on this then. Commissioner Wampler.

Commissioner Wampler: Because this is an effort to bring the project into compliance I vote yes.

Chairman Hurd: Ok, Commissioner Kadar.

Director Gray: I am sorry this is Director Gray butting in here, but that motion did not include bringing the side setback into compliance. Correct?

Chairman Hurd: Correct, we are still granting relief to the side setback to the Site Plan Approval as applied for by the Applicant.

Director Gray: OK, I just want to make that clear. Thank you.

Chairman Hurd: That's why I made sure that it said front setback compliance and not all setback compliance.

Commissioner Wampler: It's only the front that I think we are really concerned about the side I don't think there is much you can do about it.

Chairman Hurd: Right. Is that clear enough for you Director Gray? You good?

Director Gray: Yes, I was clear I wasn't sure everyone else was clear.

Chairman Hurd: Ok, thank you. Commissioner Kadar.

Commissioner Kadar: I vote yes. I support the parking matching the size of the building and the front setback going back to the current BB standard. Thank you.

Chairman Hurd: Ok, thank you. Commissioner McNatt.

Commissioner McNatt: I will vote yes to support this site being in Code compliance other than the side yard setback so meaning if the parking becomes Code compliant, the setbacks along the front become Code compliant, and all the other site plan approval items are achieved in accordance with our Department report.

Chairman Hurd: Ok thank you. Commissioner Silverman.

Commissioner Silverman: I vote yes.

Chairman Hurd: Ok. Commissioner Stine.

Commissioner Stine: I am voting no cause last time we did this I ended up voting for something that I didn't understand with regard to a shared parking arrangement, and I think I would like this project to come back to the Commissioners in its compliant state so I can take another look at it.

Chairman Hurd: Ok, I appreciate that, and I am going to vote yes because I believe that this motion addresses the issues that I had and brings the project into compliance. All right. That motion carries 5-1. Which means we can move to item E.

Secretary Wampler: I move that the Planning Commission recommend that City Council approve the special use permit for apartments at 268 East Main Street based on the February 23, 2021 Planning and Development Report at the density requested as shown on the Pelsa Company Rezoning, Major Subdivision by Site Plan Approval, Comprehensive Development Plan Amendment, Parking Waiver, and Special Use Permit Plan, dated February 3, 2014 and revised February 18, 2021 with the Subdivision Advisory Committee conditions because it should not have a negative impact on adjacent and nearby properties, and because the proposed plan does not conflict with the development pattern in the nearby area.

Chairman Hurd: Thank you do I have a second?

Commissioner Silverman: I'll second.

Chairman Hurd: Thank you Commissioner Silverman. Any discussion on the motion?

Solicitor Bilodeau: Yeah, this is the Solicitor. I think the Special Use Permit that was proposed in the staff's report was for 56 apartment units and that number may be changing with the reconfiguration to make Code compliant. So, I am trying to figure out a way to have the motion

for the Special Use Permit for the number of apartments that is Code compliant after whatever revisions are made to the Plan.

Chairman Hurd: I hear what you are saying, and I am not sure.

Planner Fruehstorfer: If they can get it into compliance with 56 apartments, they can do it. If they can't get it into compliance with 56, they need to have less then they'll have less they won't be able to have more apartments and bring it into compliance even if they approve the Special Use Permit for 56, right?

Chairman Hurd: Yeah, so we could say up to 56 apartment units. I guess part of me is feeling like this isn't a big enough change to the design you know in some ways to warrant a continuance in bringing it back, but I understand that we don't want to sort of say go ahead and not have any control.

Solicitor Bilodeau: Maybe we just say the motion would be for Special Use Permit up to 56 units as long as its Code compliant with the front setback and the parking requirements.

Chairman Hurd: So right meets the conditions of the Site Plan Approval.

Solicitor Bilodeau: Right.

Chairman Hurd: Ok, Commissioner Stine did you have a comment.

Commissioner Stine: I guess if the building doesn't get pushed 20 feet back then it is not going to be 5 stories high?

Chairman Hurd: Correct.

Commissioner Stine: And if it is not going to be 5 stories high then it is going to be a significant change to the project so I am not sure why we are redesigning the developer's building for them and pushing it through tonight when and creating all this confusion they could just come back with a new Code compliant plan that we can approve.

Chairman Hurd: All right well so that is an option at this point. If we back out the current motion on the Special Use Permit, it sounds like Commissioner Stine you would like us to consider a motion for continuance?

Commissioner Stine: I want to understand exactly what I am approving, what I am approving and I feel like we did not understand what we were approving because I think we were quite shocked to learn that the developer of another project had no intention of entering into a shared parking arrangement with the City after we thought we were going to gain you know whatever it was 99 or 100 parking spaces I felt really silly voting for something I didn't understand and I feel like I am going to do that again here. I'd love to support this building I think it is beautiful, but it is not Code compliant, it is going to be met with resistance, I know these presentations are expensive and time consuming, but I would love to see a Code compliant building with a really nice parking arrangement.

Chairman Hurd: No, I understand your concern. All right, Secretary Wampler. Would you be willing to withdraw your motion?

Secretary Wampler: I would. I don't believe the motion was seconded, was it?

Chairman Hurd: It was, actually, Commissioner Silverman did. Which is why we are having discussion on the motion.

Secretary Wampler: Yeah, ok if it was seconded then yes, I withdraw the motion with regard to Special Use Permit.

Chairman Hurd: Ok. So, Commissioner Stine do you want to I don't think it has to be that much you just basically need to say you propose a motion to continue this project to the next available space in the Agenda or when the Applicant is prepared for reconsideration.

Commissioner Stine: Right, so I will make a motion that we continue the discussion for the next available Planning Commission meeting with the developer bringing us back a Code compliant design for review and approval.

Chairman Hurd: Ok, right, so basically a design that is in agreement with our Site Plan Approval conditions. OK.

Solicitor Bilodeau: Excuse me this is Solicitor we just have one vote left on this for the Special Use Permit, so will we be reconvening just for a vote on the Special Use Permit? We have voted on everything else.

Chairman Hurd: We have.

Commissioner Silverman: That was my question.

Chairman Hurd: I would feel that yes cause we did that before we stopped for 141 and we stopped at the parking waiver motion vote and then they came back to us with the revised calculations, and we considered the parking waiver question. I think that the Special Use Permit is a broad enough consideration that we can in that conversation be verifying that yes it complies with the intentions of our previous vote on the Site Plan Approval you know that yes, it is Code compliant and here is the you know here it is. But that is why, Commissioner Stine, that's partly why we call it a continuing not a tabling cause we are just stopping at this point and we are picking it up at this point at a future meeting so that yes, the short answer is yes that is my intention that we pick it back up at basically discussion around the Special Use Permit, the apartment portion of the building.

Commissioner Stine: What I am hearing also is that in order to not require a 17 space parking waiver other alterations could be made to the building, like they could reduce the size of the commercial space or the restaurant to reduce the number of required restaurant parking spaces which really takes it out of the mixed-use category in my opinion you are already down to 3,000 sq. feet of commercial space so I would like to see how the, I wish we had not done the Site Plan Approval because I think it should have come back for Site Plan Approval as a compliant Code.

Chairman Hurd: OK.

Director Gray: This is Director Gray; I am interjecting here. I am looking up the Code here, I don't believe the Planning Commission can continue a project, I defer to ...

Chairman Hurd: Well, I am just referring to our Bylaws or our Rules of Procedure.

Director Gray: Ok, but I believe it's approved, table, or recommend approval, recommend denial, recommend approval with conditions, recommend approval, recommend denial, or table.

Chairman Hurd: No, I agree with you so what we have done is we have backed out the motion on the Special Use Permit and put forward a motion to continue which from our Rules of Procedure "a Motion to Continue may be made by a member should they feel they require additional information or more time to review information and or comments that were offered at the hearing. The motion must contain a specific plan for bringing the motion back to the Commission."

Director Gray: Yes, I completely agree with that, but I believe the word to use is table.

Chairman Hurd: But we don't use the word table we use the word continue.

Director Gray: Then that was my error in not making sure that that should be table.

Chairman Hurd: Ok, I feel like the question is we didn't use table because that is a Robert's Rules thing and that has there is a whole lot of stuff around that we are not picking up we are simply continuing the hearing to a later date.

Director Gray: Correct, but I am referring, and I apologize I did not catch that in the Bylaws, but I am referring to the Code that gives the Planning Commission authority. So, if you just give me a second, I will pull up that provision of the Code.

Commissioner Stine: I don't think I am going to achieve what it is I am actually looking for by asking for this continuance because I really don't need more time to think about the Special Use Permit, I would be inclined to grant that if I had supported Site Plan Approval in the first place so I am not going to get a debate or discussion back about Site Plan Approval I am only going to get more time to consider this Special Use Permit for apartments which is the one thing I really don't need but so I will withdraw my motion and allow you know just move on to the vote on the fifth item.

Chairman Hurd: Ok so maybe Director Gray maybe you me and Solicitor Bilodeau need to have discussion about that piece because we had been using it previously.

Director Gray: Yes, but the term we have always used is tabled.

Chairman Hurd: Well, except people use tabled and I had to correct people because they said that the term that we have in our Rules of Procedure is continue and cause some people said what's tabled which means that we pick it up and we would readdress the entire issue all over again and we were like no we stopped and now we are starting again from the point where we stopped at so if we hadn't done that 141 we would have possibly gone back to the beginning.

Director Gray: No, the term we used in the motion was tabled for 141. But let's move on.

Chairman Hurd: Ok, all right

Commissioner Silverman: Point of order tabling often comes with conditions table to the next meeting, table to a new design is submitted, table until the sewer line is in place so there can be (inaudible) the word table.

Chairman Hurd: So maybe we just need to do a little more research and make sure that we are all using the right terms and we have the right structure around it. OK.

Commissioner Silverman: Refresh my memory, what is the issue we are having right now with the Special Use Permit? Right now, in the report it is tied to what I believe 56 apartments?

Chairman Hurd: 56 right. So, there were two issues, Solicitor Bilodeau wanted to be sure that weren't granting a Special Use Permit for basically whatever they decide to bring to Council which is kind of how what we are saying is or maybe conversely, we are approving what's in the report which is 56 units they may not come back with 56 units and so our approval wouldn't match the design.

Commissioner Silverman: We don't have to approve what is in the report. We can approve those units are derived from being Code compliant.

Chairman Hurd: Right, so I think that was also partly where Commissioner Stine came in with, I will just paraphrase she doesn't know what that new building looks like with the reconfigured unit configuration and so that would be what she'd be approving would be a design that doesn't exist yet. I think that was her concern if I am hopefully getting that right. So, but she kind of sounds like she has accepted that, so I think we are back to just saying that we need to make sure that the motion essentially says I think up to 56 apartment units cause that is what is currently sort of on the table in front of us.

Commissioner Silverman: And we know they are not going to get 56 because they need the parking waiver and some other things to achieve 56.

Chairman Hurd: Though I don't know they could go to one bedroom I don't know but. Paul you are muted again.

Solicitor Bilodeau: Yeah, sorry rookie mistake after a year you would think that I would have it. But yeah, I think the motion would be to approve the Special Use Permit for up to 56 units as long as it is Code compliant for the front setback and the parking requirements.

Chairman Hurd: Ok, Commissioner Kadar do you have a comment?

Commissioner Kadar: No, I was going to make the same comment that Paul made, the conditions need to be applied so that they are similar to the ones that we just voted on and if they are consistent up to a maximum of 56 units, I think we are good.

Chairman Hurd: OK, all right so back to you Secretary Wampler.

Secretary Wampler: Yeah, I am thinking that the only thing that we are having a real problem with is in the proposed motion it says at the density requested and we want to change that and we don't know what the density is going to be because we don't know what the final thing is going to be and we have already said in motion D that we approve that contingent upon it being compliant with Code and I am suggesting that we just insert the word Code compliant before density so that it says Special Use Permit blah blah blah at a Code compliant density and not at the density requested as shown on the rezoning.

Solicitor Bilodeau: Mr. Wampler Commissioner Wampler but you also want to leave out the Code compliance as to the side setback, right?

Chairman Hurd: I think if we are talking density the Code compliant density would be tied to like parking availability and such unless you want to tie it back to the Site Plan Approval conditions.

Director Gray: Regarding density the, if it is no higher than 56 units the density will be Code compliant.

Chairman Hurd: All right, so we do want to tie it to then to the compliant parking and front setback conditions that we put in.

Commissioner Stine: Well 56 is Code compliant assuming there is a 20-foot front setback otherwise you wouldn't get 56. Like 56 is Code compliant based on the 1.125 acre the density.

Chairman Hurd: Right, the density is but the parking doesn't support the 56 units at the moment so that is I think that what we need to make sure we get in there.

Commissioner Silverman: The parking is the driver of the number of units.

Commissioner Wampler: Yeah, but I don't see how we can put a number on it if we don't know how the parking is going to be adjusted and what ...

Planner Fruehstorfer: You can't put a number and if you put 56 whatever they come up with for parking if it works would work. If they put 56 the parking can't work. There is no way we can sit here and figure out what the parking number will be now, what the density will be now.

Commissioner Wampler: How about I am not going to make this as a motion, but I want to read this and see if this is what people are talking about because I think we are getting ourselves confused. But we recommend City Council approve the Special Use Permit based on the Planning and Development report at a density which is Code compliant regarding parking and the front setback and not then, the requested on the Site Plan Approval amendment and parking waiver and all that but with the Subdivision Advisory Committee conditions and then continue that. Drop out the whole thing about the requested and the document in which it is requested and say just

that it be granted for a Code compliant density based on the compliance with the front setback and parking.

Chairman Hurd: That work for you Paul?

Solicitor Bilodeau: Yes, that will be fine Commissioner Wampler. Thank you.

Chairman Hurd: Ok, lets read that in.

Director Gray: This is Director Gray speaking; I was just going to request to please read the entire motion again.

Commissioner Wampler: That was not my motion, that was my ...

Chairman Hurd: Just workshopping it out of town.

Commissioner Silverman: Mr. Chairman in the meanwhile we need to extend the meeting time.

Chairman Hurd: Yes, so can I get Commission approval to extend the meeting to 10 o'clock to complete at least this item. I am not sure that we will be able to get to the remaining items. But do I have approval to extend to 10 o'clock. Ok small tap on that. All right, Secretary Wampler are you ready?

Secretary Wampler: I think so.

Chairman Hurd: Ok.

Secretary Wampler: I move that the Planning Commission recommend that City Council approve a Special Use Permit for apartments at 268 East Main Street based on the February 23, 2021 Planning and Development report at a density compliant with Code regarding the front setback and parking and with the subdivision Advisory Committee conditions because it will not have a negative impact on adjacent and nearby properties and because the proposed plan does not conflict with the development pattern in the nearby area.

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

Commissioner Silverman: I'll second.

Chairman Hurd: Ok thank you. Any discussion on this motion that hasn't already been made by us? Discussion which would mean amendments or other things.

Director Gray: This is Director Gray so it's a report ok at a density compliant with Code based on ...

Chairman Hurd: The front setback compliance and the parking available parking basically the two items that we used in the Site Plan Approval are part of the criteria to determine the number of units that we are approving.

Director Gray: Front setback compliance and the available ...

Chairman Hurd: Available parking.

Director Gray: Thank you.

Chairman Hurd: All right, if there is no discussion we will move to the vote and I will start with Commissioner Silverman.

Commissioner Silverman: I vote Aye.

Chairman Hurd: OK. Commissioner Stine

Commissioner Stine: I vote yes for the apartments.

Chairman Hurd: All right. Commissioner Wampler.

Commissioner Wampler: I vote Aye.

Chairman Hurd: Thank you. Commissioner Kadar.

Commissioner Kadar: I vote Aye as well.

Chairman Hurd: Thank you. Commissioner McNatt.

Commissioner McNatt: I vote yes.

Chairman Hurd: And I vote yes as well for the reasons stated in the Department's report. All right, motion carries 6-0. And that closes this item. Thank you everyone. I appreciate it gets in there. So, we have 15 minutes. Director Gray, should we try to handle the change of Agenda notification or do you think that is going to get deeper?

Director Gray: I don't think that should be a long discussion, my thought is I will present it, and should it end up by being a long discussion then we can table it to the next meeting.

Chairman Hurd: There you go using that word again, ok. All right, let's jump into this quick cause I know that this has a direct impact on your operation so let's see if we can make this happen.

Director Gray: Yes, it does.

Chairman Hurd: This is Item 4.

4. Review and Consideration of Chapter of amendments of Chapter 2 Section 2-84a to change Agenda notification from 15 to 10 days.

Director Gray: Thank you Chairman Hurd, this is Mary Ellen Gray, Planning and Development Director. So as this memo that Mr. Fruehstorfer kindly pulled up, the current Code provision requires a 15-day notification that the Planning Commission meeting Agenda it be in a newspaper general circulation within the City and due to our publication schedules, this means that it goes in the News Journal and depending upon holidays and what not so that is at least 19 days prior to the following month's meeting. So that doesn't leave us very nimble with our Agendas, we try to frankly the day after this meeting we have our Agendas planned as far out as we can but things happen, and we need to adjust them and actually we had a change at the last minute with this meeting based on an Applicant's request to change the meeting for 1501 Casho Mill and so we were scrambling to meet the advertisement date within like we had 10 minutes to change the Agenda to get it in by the advertising schedule to make the News Journal. So that is not to say that that wouldn't happen at 10-day mark, but I think that 5 days would allow us to be a little bit more nimble with changes such as that. So, there are some advantages as are articulated on this screen here so it would create parity with Council on their newspaper advertisements and direct mailings and allow a little bit more lead time as I just mentioned and allow the legal ads to be published in the Newark Post which we believe has a wider circulation and is about half the cost of the News Journal. So that completes my presentation we do have a public comment from Mrs. White when we get to the public comment period.

Chairman Hurd: Ok, let me begin with Commissioner McNatt, any questions or comments?

Commissioner McNatt: None at this time.

Chairman Hurd: OK. Commissioner Silverman.

Commissioner Kadar: And you are on mute Alan.

Commissioner Silverman: Thank you. I have no problem with this proposal I think it is an administrative issue that just needs to be corrected.

Chairman Hurd: OK. Commissioner Stine.

Commissioner Stine: I agree with Commissioner Silverman. Thank you.

Chairman Hurd: All right, Commissioner Wampler.

Commissioner Wampler: With regard to creating parity with the Council are we saying that the City Council Agendas are published only in the weekly Post and not in the News Journal?

Director Gray: This is Director Gray speaking yes that is my understanding from Secretary Bensley that they are published in the Newark Post.

Commissioner Wampler: They are always available on-line, right?

Director Gray: The Newark Post? Yes.

Commissioner Wampler: No, no, our Agenda.

Director Gray: Ok let me clear, so in addition this is an additional law, excuse me, regulation in addition to the 7-day agenda requirement. So, 7 days before a Planning Commission meeting, we have to post our Agenda and that is done and that is when the packets go out and actually this month, we made it on Tuesday and so we post the Agenda and then we send out the packet. So that will not change that is a separate part of the Code this is another part of the Code in addition to that also requires us to advertise the Agenda before that in the 15 days ahead of time.

Planner Fruehstorfer: The posting of the Agendas in the lobby, we post it in the lobby, we post it online and we put it in the publication.

Director Gray: And that happens 7 days before the meeting and this other posting or advertisement happens right now 15 days ahead of the meeting.

Commissioner Wampler: OK thank you.

Chairman Hurd: OK. Commissioner Kadar.

Commissioner Kadar: I don't have any questions at this point thank you.

Chairman Hurd: I think I am also in agreement with moving it from 15 to 10 days and I'll just jump ahead having read Ms. White's comment although I guess I wasn't aware that Council only published their agendas in the Post and if Council doesn't use the News Journal then I think we have a leg to stand on for not using the News Journal as well but I understand her concern that the News Journal you know is delivered to their door everyday which means you know the legal notices show up as opposed to the Post you have to actually go out and hunt it down cause I don't think they deliver anymore. So, that would just be a concern about making sure that we are still accommodating those residents who aren't necessarily on-line and aren't as mobile given the current pandemic situation as well and not as likely to go to a store that has the paper and such. All right, public comment. Well Director Gray, I guess we can read the second half of Ms. White's letter.

Director Gray: Yes, Chairman Hurd, this is Director Gray speaking again and this is regarding for Mrs. Jean White a Newark resident regarding Item 4. The consequences of this proposal as I understand it are to 1) to stop putting the Planning Commission meeting Agenda in the News Journal altogether and 2) to put this Agenda in the Newark Post a week and a half ahead. The Newark Post is a weekly newspaper whose print version comes out and is available for pick up once a week starting on Fridays. 10 days ahead of the Planning Commission meeting would be a Saturday but the Newark Post is available for pick up starting on Friday so the proposed change in Newark City Code should be 11 days ahead when the print version of the Newark Post first is

available to the public for pick up. Second, I urge the Planning Commission to still keep publishing the Agenda of the upcoming Newark Planning Commission meeting in the News Journal. I read the legal notices in the News Journal every day and I learn of the Agenda for the upcoming Newark Planning Commission meeting in the News Journal legal notice which is published there 2 weeks ahead of the actual meeting. I get the News Journal delivered to our house 7 days a week. For the Newark Post by contrast I need to go to some location such as the Municipal Building or a store in town to pick it up. The Newark Post may be on-line, but members of the public should not be required to go to the internet to get the Planning Commission meeting agenda. I can understand that the lead time issue described in the background to this proposal. To deal with the latter instead of a legal notice 2 weeks ahead of the News Journal as a citizen of the Newark public, I will be satisfied if the agenda for an upcoming Newark Planning Commission meeting was published in the Saturday News Journal 10 days ahead of the meeting if I were apprised of a change. The agenda could still be put in the Newark Post too not instead of the News Journal. In sum, I am asking the Newark Planning Commission to still keep the agenda of an upcoming Newark Planning Commission meeting in a legal notice of the News Journal for less than 2 weeks ahead if that helps the Planning Department. This does not negate putting the Planning Commission meeting agenda in the Newark Post as well. That concludes Mrs. White's comments. Thank you.

Chairman Hurd: OK. Any other public comments from anyone still hanging around? All right, seeing none, closing public comment, bringing it back to the table. We will start with Commissioner Kadar.

Commissioner Kadar: I understand the concern about the timing given the fact that the Newark Post is a weekly paper as opposed to the News Journal being daily. I understand the conditions of that, but I also agree with the comments regarding the City Council. If the City Council is in fact still publishing in the News Journal and not just in the Newark Post I don't feel we as a committee should be the trailblazers to make changes in that.

Chairman Hurd: Ok. Commissioner McNatt.

Commissioner McNatt: I agree with those comments. I feel that I understand the lead timing issues however I disagree with it only being published in the general circulation within the City and that it is important that we continue to publish in the News Journal as well as other locations.

Chairman Hurd: OK, Commissioner Silverman.

Commissioner Silverman: Am I being asked to vote at this time?

Chairman Hurd: No, this is Commissioner discussion following public comment, that's all.

Commissioner Silverman: If we want to really get picky the publish in the newspaper is another anachronism and it talks about circulation what is the circulation of the News Journal paper in the City of Newark? I know we gave up our \$50 a month subscription a long time ago. So, I don't even know whether it is germane anymore.

Chairman Hurd: I hear you. OK. Commissioner Stine.

Commissioner Stine: I am ok, I have no comments.

Chairman Hurd: Ok. Commissioner Wampler.

Commissioner Wampler: I have a question for Director Gray. The letter that we got from Jean White was that a mailed letter or was that an email?

Director Gray: It was dropped off in our lobby and it was typed on a typewriter.

Commissioner Wampler: OK, because I think the obvious answer was just to make sure people know they can just log on and get it digitally but if she doesn't have that capacity then her

comments I guess are as taken. I think I agree with everyone else, if City Council has a history of doing it only or without the News Journal, I think we should too if City Council is in fact publishing in both the weekly Post and the News Journal then I think we should also I think we should do whatever City Council is doing.

Chairman Hurd: All right I think I understand, I think I can support the 15 to 10 days because that obviously gives the Planning Department more flexibility and it gives them the flexibility of one paper or the other. A quick question Director Gray does the Newark Post have a shorter time between, like a shorter deadline gap cause I think the News Journal has like a 3- or 4-day gap between when you submit it to when they publish it.

Director Gray: Yes, we, due to where it falls, we usually we have to put in since 15 days falls on a Monday, we have to put in the advertisement by Thursday by noon the previous Thursday by noon.

Chairman Hurd: Would that change with a 10-day window if you are trying to get it into the Saturday paper? You know?

Director Gray: So that would go ...

Chairman Hurd: I didn't know if like that gap is because of the weekend? Or ...

Director Gray: So that would buy us a, you know 5 more days I think they would still have a long lead time I haven't talked with Secretary Bensley to find out what the Newark Post lead time is. I will just comment that would be doubling our advertising fee. Mr. Fruehstorfer we just paid the bill for last month, how much do we pay for advertising for the News Journal?

Planner Fruehstorfer: I think it is \$470 for what we are posting now.

Director Gray: How much was it?

Planner Fruehstorfer: I think it was \$430 the last time. It varies depending on the length.

Director Gray: The length. So last month was \$430 yeah. And the News Journal for what we understand since we haven't done one in the Newark Post, Secretary Bensley said it is about half so I am not saying that we would just (inaudible) however directed I am just saying we would just need to find a little more money.

Planner Fruehstorfer: I might add also that the Council agendas are probably longer than ours, so they are probably paying less for more.

Chairman Hurd: Right. And I see you talk about how the land use notices for Council are going to both, but I don't know if the agendas, I mean if Council agendas are still being published or if that maybe it is a separate item. Ok, cause I think I sort of understand I think personally for me and me as Chair as well, I want to make sure that the Commission is accessible to everyone possible. So you know that includes people who don't have internet and people who maybe can't get out to get the weekly paper so, I would strongly support moving it to 10 days but then advertising, basically using it as an ability to advertise in both and gives you the flexibility again of finalizing the agenda and also being able to expand to the Newark Post as well, cause for instance I don't get the News Journal I also don't look at the Post but there might be people in that sort of boat who are just getting the weekly paper as well. All right, I think we have got enough to move to the motion - oh and Josh Shannon just reported that the deadline is Wednesday for the Friday paper at the Post. So, that sounds like it is similar to what the News Journal would be. All right, Secretary Wampler, can we move to the motion.

Secretary Wampler: We can, and I just want to point out that it is a simple motion, and it really deals only with getting City Council to make the change from 15 days to 10 days and it doesn't say anything about which publication it needs to be in so that is something that I find to be handled administratively and not something with us for dealing with. I therefore move that the

Planning Commission recommend that City Council approve the proposed amendment to Chapter 2 Section 2-84a to change Agenda notification from 15 days to 10 days.

Chairman Hurd: Do I have a second?

Commissioner Stine: I will second.

Chairman Hurd: Ok, thank you Commissioner Stine. Any discussion on the motion? All right, seeing none, I will move to the vote. Commissioner Stine.

Commissioner Stine: Aye.

Chairman Hurd: Thank you. Commissioner Wampler.

Commissioner Wampler: Aye.

Chairman Hurd: Commissioner Kadar.

Commissioner Kadar: Aye.

Chairman Hurd: Thank you. Commissioner McNatt.

Commissioner McNatt: Aye.

Chairman Hurd: Thank you. Commissioner Silverman.

Commissioner Silverman: Aye.

Chairman Hurd: And I vote Aye as well. Motion carries. And I will just say I will just ask the Department to sort of take into consideration the comments received from the Commissioners as you consider where you are advertising recognizing that we want to do at least what the Council does and if we can effectively do more that would be my preference, I think that sounds like the preference of some others. All right.

Commissioner Silverman: Mr. Chairman I am echoing your position of making the public as aware as possible of our actions and activity. Can we encourage the Planning Department to use direct mail where those individuals find themselves in a position where they cannot access the newspaper or the internet, for 50 cents first class mailing?

Chairman Hurd: That is a possibility maybe yeah. That may be something we want to explore maybe in next year's plan about sort of what's the better way to reach the public since newspapers are you know are shifting from a print publication that comes to your doorstep you know what is the new model for notification, cause I will say that the City's notifying me a phone call only tells you that there is a Planning Commission meeting it doesn't tell you what is being considered so even that mechanism is limited. All right, we have reached the hour if there is no objection, I will consider ourselves adjourned. All right, thank you everyone and we will be back again.

THE PLANNING COMMISSION MEETING WAS ADJOURNED BY ACCLAMATION.

The March 2, 2021 Planning Commission meeting adjourned at 10 p.m.