

**CITY OF NEWARK  
DELAWARE**

**PLANNING COMMISSION  
MEETING MINUTES**

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

**April 6, 2021**

**7:00 p.m.**

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

**Chairman:** Will Hurd

**Commissioners Present:** Karl Kadar  
Alan Silverman  
Tom Wampler  
Allison Stine  
Stacy McNatt  
Jen Wallace

**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.

Chair Hurd: Good Evening everyone and welcome to the April 6, 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 on the Go-To-Meeting platform. Our goal is to support the participation of everyone in this meeting. Angela Conrad our shared Administrative Professional is the organizer for this meeting and will be managing the chat and the general meeting logistics. 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 for questions of the presenter. If a Commissioner has additional questions, they would like to add afterwards they can unmute themselves and I will call on them to make it clear who is speaking next. Otherwise, please keep yourself muted to avoid background noise and echo. Please also try to avoid talking over other people so that everyone listening in can hear clearly. For items open to public comment, we will first read into the record comments received prior to the meeting followed by open public comment. If members of the public attending tonight would like to comment on an agenda item during the meeting, they should send a message through the chat function to me 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, 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 needs to identify themselves and I will probably ask also just because we do have newer people handling the minutes if everyone can try to announce themselves prior to speaking, that would help everything. We will follow public comment with further questions and discussion 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. So, it takes us to Item 1, Chair's Remarks which is my favorite one.

**1. Chair's Remarks**

49 Chair Hurd: First I want to welcome our newest Commissioner who is a familiar face to many  
50 of us, Jen Wallace, former Council Representative of District 3. She joins us as the at-large  
51 Commissioner. Jen, you can have a few minutes to say hi and all.

52 Jen Wallace: I am sorry, I am here. Hi everyone, my name is Jen Wallace as our Chair said, I am  
53 a former City Council person for District 3, and I am looking to stay involved in the City and this  
54 was an opportunity that I felt was the right place right time. I expressed my interest in being  
55 serving on a committee to Jerry or Mayor Clifton and he said this opportunity was available and  
56 I am happy to come aboard. And I am very excited about this opportunity particularly because  
57 we will be reviewing the Comprehensive Plan which I think is without a doubt is one of the most  
58 important things we do as a Planning Commission. So, I am excited and thank you.

59 Chair Hurd: Alright, good to have you here. Welcome aboard.

60 Jen Wallace: Thank you.

61 Chair Hurd: Second, I do want to say a couple words. Just want to sort of remind us all as we  
62 are working here that our responsibility is to review the applications that come to us against the  
63 current Code. I know there have been discussions with Council and opining about directions for  
64 things but none of those of course have changed the actual Code yet. So, we do need to be  
65 cognizant of using the Code in force at the time that we are doing this. The other thing I would  
66 ask us to sort of keep in mind is to try to use the New Business item as a time to raise any issues  
67 that you are seeing with say the application of the Code or if other issues you have with the  
68 current system so that we can keep our discussions focused on the item at hand and not try to  
69 get too far into the weeds with sidebar thoughts. Alright, that takes us to Item 2, the Minutes.

## 70 **2. Minutes**

71 Chair Hurd: We have in our packet the minutes from the February 2 and March 2, 2021  
72 meetings to review and approve. Alan has been through and made some corrections which I  
73 forwarded to you Mary Ellen for when you are back in the office to incorporate. Does anyone  
74 have any additional comments or corrections? Alright, seeing no action I move the Minutes  
75 approved, both of them, and we are moving on.

## 76 **3. Old Business from Last Month**

77 Chair Hurd: Item 3, Old Business from last month which is a Planning Commission review of  
78 Land Use applications and the process of it. There was a memo that got forwarded from last  
79 month for this month that is there up on the screen, this is awesome. I will just do a little bit of  
80 lead in but there isn't a lot more to say than what is in the memo. I think we have all seen I hear  
81 from others that getting a project kind of right at the end of its process doesn't give us a lot to  
82 work with if we have minor issues if we have concerns there is often a rush not a rush but there  
83 is pressure to either approve it and then move it on to Council or to continue it or postpone it to  
84 the next meeting so that we can get further information or address some issues. What I would  
85 like us to start talking about and this is something that City Manager Coleman is also in favor of  
86 which is to expand the process so that development projects can basically come to us as part of  
87 sort of the SAC review process I guess is the best way to think about it so that we can have  
88 preliminary conversations, we can address issues that seem to be coming up, we can express  
89 concerns at a time when changes could actually be made. I think the other thing I like is it kind  
90 of expands on the public's ability to see projects come in earlier, so they are not as surprised  
91 when it appears the week before they find out about something. So those are just my initial sort  
92 of thoughts in thinking, and I will start with Commissioner comments and I will start with  
93 Commissioner Kadar.

94 Commissioner Kadar: Ah question, this appears to be an informal process. Is that correct, it is  
95 just kind of (audible) with no obligation one way or the other?

96 Chair Hurd: Well, that is what we can be talking about, certainly we wouldn't be taking votes and  
97 I don't know that we could be directing either action, but I think for me I would like to see like

98 most projects come this way. I think I would certainly want Site Plan Approval projects to come  
99 early cause those are the ones that we do have some influence on the final sort of outcome.

100 Commissioner Kadar: My question, do you then foresee this being a formalized submission like  
101 "X" number of weeks before the approval meeting or is this just kind of freeform.

102 Chair Hurd: I think that is on the table for discussion about how it would fit in. Mary Ellen?

103 Mary Ellen Gray: Commissioner Hurd, this is Director Gray speaking, I guess though from the  
104 City's perspective one of the things that we have been talking about is to have this be what we  
105 have in our Code right now is that we are looking at essentially revising our Code regarding  
106 Subdivision review but one of the things that we have in our Code is the Sketch Plan so we were  
107 thinking of having this be a Sketch Plan and possibly revising that part of the process so a thought  
108 would be to have it be the formal part would be it would be formerly a Sketch Plan but then the  
109 comments from the Planning Commission wouldn't necessarily be formal in that as Chairman  
110 Hurd indicated they wouldn't be formal as in you wouldn't be taking a vote or they wouldn't be  
111 binding comments.

112 Commissioner Kadar: No, that is excellent, I support that. Thanks very much.

113 Chair Hurd: Okay, Commissioner McNatt? Commissioner McNatt are you ready?

114 Commissioner McNatt: Hello, are you there?

115 Chair Hurd: Hello, yes.

116 Commissioner McNatt: Sorry, I am doing this from my phone tonight.

117 Chair Hurd: Oh, what fun.

118 Commissioner McNatt: All my other items are taken. I support I like the idea that this process  
119 gives us, gives us more opportunity to I will use the word soak in the project and review things  
120 earlier and the ability to have ideas or thoughts on what is going on to maybe get more  
121 clarification at times if that is allowed as part of this process so I support the opportunity to be  
122 able to do this in this forum so I think it is a great idea and I appreciate the opportunity to try  
123 something new to be able to voice our concerns. So, thank you.

124 Chair Hurd: Okay. Commissioner Silverman?

125 Commissioner Silverman: I too support this notion; I would like to add a word to the title that  
126 the Director talked about. The jurisdiction I worked for called this an exploratory sketch plan I  
127 think it describes the context that both parties are exploring what can be done with a particular  
128 site...so this wordsmithing here Exploratory Sketch Plan Submittal and that is my comments.

129 Chair Hurd: Okay. Commissioner Stine?

130 Commissioner Stine: Thank you, I think this is a great idea. At what point in the review process  
131 would this come before the Planning Commission and how do you envision that happening? We'd  
132 set time aside at our regular meeting or would this be done in an additional meeting?

133 Chair Hurd: I would see it as being a short agenda item that we would be working in. I think  
134 certainly it wouldn't be I don't want to put a time; it would be like a 20-minute kind of thing.  
135 There wouldn't be any report to read. It would be kind of like here it is, talk a little bit from the  
136 Applicant, asking questions, kind of go around on it, and move it on. That is my initial thought,  
137 certainly I don't want to be adding more meetings and I know our agendas can sometimes get  
138 full, but I think hopefully we can work out how to fit this in. I think personally if we do this well,  
139 it will help cut down on also the time spent in the actual final meeting because there will be fewer  
140 questions we will have said oh yes that project we have seen it a couple of times we have been  
141 through this we understand the ideas bring us up to speed let's talk about what we are looking

142 at this time and not to say that it would just always go through but that front end question and  
143 comment period could get reduced some I think.

144 Commissioner Stine: Okay, great thank you.

145 Chair Hurd: OK. Commissioner Wallace?

146 Commissioner Wallace: Hi, yes, I think this is a good idea and coming from my recent  
147 experience as a Council person, there were times that projects came before us, you know Site  
148 Plan Approval projects and while there were some things that I liked I thought maybe there  
149 wasn't just quite enough there to warrant Site Plan Approval from my perspective and I felt like  
150 there were times when I wished there had been a few more steps in the process to maybe get a  
151 better project, I hate to use the word better, but little changes here and there. Maybe there were  
152 times that I felt I needed to vote against things as a Council person but if there had been an  
153 opportunity to tweak them, I would have felt differently about them. So, I would support this  
154 without a doubt.

155 Chair Hurd: Okay, thank you. Commissioner Wampler?

156 Commissioner Wampler: I like the idea that this would take place within the context of a  
157 regular meeting because that would guarantee that it would be on the agenda, the agenda would  
158 be published, and the public would be encouraged to take part in that. I support it for those  
159 reasons. I think a lot of times when we are looking at particularly really large and visible projects,  
160 people feel by the time it comes to a Planning Commission meeting or worse a City Council  
161 meeting it is too late to do anything about it and they didn't understand what the project was or  
162 what was happening, so I think this is definitely a step in the right direction.

163 Chair Hurd: Yeah, I agree, and I certainly don't want this to take the place of say a public  
164 meeting that we often have for some projects which is more about the developer or the Applicant  
165 talking to the public directly and it is not a Planning Department run event. So, I do want to make  
166 sure that this doesn't turn into that, but I do agree that more opportunities for the public to see  
167 and comment on something is always good. Alright, Director Gray, do you have enough  
168 information to go away and draft a proposed process or is there anything more that you need  
169 from us before we come back with a proposed process?

170 Director Gray: This is Director Gray here, Chairman Hurd, we are not quite ready to pull  
171 the trigger on a revised process. We are still talking about this internally (audible) certainly we  
172 wanted the Planning Commission's input and feedback on that. So certainly we have what we  
173 need from the Planning Commission that you guys are all in favor of it and that you would want  
174 it included in your regular part of your agendas and I would certainly stay tuned on as we move  
175 through internally on our discussions and revising the review of our process and our steps or look  
176 internally on improvements we can make without changing the Codes and any improvements we  
177 can make that would require Code changes so stay tuned on that it is not going to be a quick  
178 process so stay tuned it is a work in progress so I thank you all for your comments and your  
179 thought on this it is very helpful.

180 Chair Hurd: Okay, and it may be something if we haven't moved too far it may be something  
181 we would have to bring up in and discuss in our work plan come October. Alright, my bad, is  
182 there anyone from the public who wishes to speak on this item? I have received no direct  
183 communication but if there is anyone from the public who wishes to speak and wants to unmute  
184 go ahead. Alright, I will call that a no. Alright, closing that item, moving on to Item 4.

185 **4. Review and Consideration of Major Subdivision with Site Plan Approval and Special Use**  
186 **Permit for the Property at 141, 143, 145 East Main Street and 19 Haines Street and**  
187 **proposes a Mixed-Use Development of Commercial Space and Residential Apartments**

188 Chair Hurd: Director Gray – the Agenda does not say Parking Waiver? Do we need to amend  
189 the Agenda or is that an issue?

190 Director Gray: This is Director Gray speaking, not from my perspective and the reason for that is  
191 that certainly we can talk about it the Parking Waiver was approved for this project at the January  
192 meeting, which part of my presentation.

193 Chair Hurd: Alright, so just as a reminder for everyone my understanding is that this project is  
194 back to us partly because of Solicitor's Bilodeau's recent interpretation of the building setback as  
195 defined in the Code and also because the Applicant has made changes to the project which  
196 necessitated review by us again. The format of this item will be the presentation by Director Gray  
197 and then the presentation by the Applicant, questions by the Commissioners, public comment,  
198 discussion by the Commissioners and then our vote. Alright, Director Gray.

199 Director Gray: Thank you Chairman Hurd, let me pull up my Application, I am working on  
200 one screen tonight, thank you. Good evening Chairman Hurd, Planning Commissioners and the  
201 public this is Mary Ellen Gray, Planning and Development Director for the City of Newark. This  
202 project is an Application for a Major Subdivision by Site Plan Approval and Special Use Permit for  
203 the 1.52+/- acre property located at 141 East Main Street and 19 Haines Street. The property is  
204 proposed to be developed for the 6-story mixed-used building composed of 17,540 sq. ft. of  
205 ground floor commercial space and 221 spaced parking garage split between 4 levels and 5  
206 stories of apartments including 80 two-bedroom units. By way of background, at the December  
207 1, 2020 Planning Commission meeting this property was proposed to be developed as the same  
208 project except with 94 apartment units composed of a mixture of one, two, three, and four-  
209 bedroom units. The 94 units was utilizing a waiver provision for density of a Site Plan Approval  
210 provision of the Code. At this meeting there was a spirited discussion regarding the applicability  
211 of utilizing the Site Plan Approval provision of the Code for density waiver. City Solicitor Bilodeau  
212 has since opined that a 15% increase density is allowed in a BB Zone utilizing the Site Plan  
213 Approval provision. However, at this meeting in an effort to move this project forward the  
214 Applicant offered to reduce the number of units to 60 units. The Planning Commission  
215 recommended approval of this project with Site Plan Approval and Special Use Permit by a vote  
216 of 3-2 with a reduction of the number of units from 94 to 60 and tabled the Parking Waiver. The  
217 Applicant was granted a 52-space Parking Waiver at the Planning Commission meeting on  
218 January 5, 2021 with the conditions that the City Council direct the City to develop a shared use  
219 agreement with the Applicant for the parking garage and that the granting of the 52-space  
220 parking waiver does not grant increased density of this project of 60 units to 88 units and that  
221 this would require another action by Planning Commission and City Council. The Applicant did  
222 not wish to move forward with the 60 apartment units, rather they are seeking to now have 80  
223 apartment units which is why this application is back before the Planning Commission this  
224 evening. Moving on to Zoning. The existing zoning for this parcel is BB Central Business District  
225 and the existing uses are approved for the zoning district. The current use is currently commercial  
226 property containing three buildings including a Starbucks, DeOne a Federal Credit Union and  
227 Duck Donuts, and finally an empty structure the Simon Eye which has now been relocated. I want  
228 to spend a minute on project density. The zoning regulations for residential units in the BB Zoning  
229 District indicate a maximum number of dwelling units for this 1.52-acre parcel. The 2-bedroom  
230 units shall be 76 units. The number of units proposed for this plan is 80 units and exceeds the  
231 allowable number of units. A 5% variance for maximum allowed density is being requested  
232 through the Site Plan Approval process which will be described further here in a couple of  
233 minutes in this presentation. It should be noted as part of the density consideration that density  
234 can be increased by as much as 15%, utilizing the Site Plan Approval process. As such, the plan  
235 could propose as many as 88 units for this proposed parcel. The City of Newark zoning code 32-  
236 18(d)(4)(a) allows structures in the BB zoning district to be erected to a height of 3 stories and 35  
237 feet and includes provisions to add 4 additional floors provided they meet certain requirements.  
238 This project is utilizing a provision that allows the addition of 3 floors if more than one half of the  
239 apartment units have a maximum of two bedrooms and occupancy by one family or up to 4  
240 unrelated tenants in each with the provision that the structure cannot exceed 15 ft per floor. The  
241 proposed structure includes 80 two-bedroom apartments of the total 80 units. As such, the  
242 zoning code allows the construction of the 6-story structure up to a height of 78 feet. So, the  
243 proposed height meets Code requirements. As we previously discussed this application is utilizing  
244 the Site Plan Approval Code Provision Section 32-97 which provides for alternatives for new and  
245 redevelopment proposals to encourage variety and flexibility and to provide the opportunity for  
246 energy efficient land use by permitting a reasonable variation from the use and area regulations.

Site Plan Approval shall be based upon distinctiveness and excellence of site arrangement and design including but not limited to common open space, unique treatment of parking facilities, outstanding architectural design, association with natural environment including landscaping relationship to neighborhood and community and or energy conservation. In this case the Applicant is requesting Site Plan Approval for relief from apartment unit density, zoning setback and signage. The Commission will need to consider the size of the requested area regulation exceptions against the standards of the distinctiveness of excellence of site design as outlined in the Site Plan Approval section 32-97 and the developer Site Plan Approval submission. The description by the Applicant meets the Site Plan Approval criteria and support documents are provided by the Applicant are included in your report. The proposed plan does conform to the Comprehensive Development Plan V and will not require an Amendment to change a designation. The project includes apartments which are permitted in conjunction within a non-residential usage permitted in this district for this Special Use Permit. The standard requirements under the zoning Code Section 32-78 Special Use Permits stipulates that Council may issue a Special Use Permit providing that the Applicants demonstrate that the proposal will not affect adversely the health or safety of persons residing or working within the City of Newark boundaries or within one mile of the City and within the State of Delaware be detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark or within the State of Delaware or be in conflict with the purposes of the Comprehensive Development Plan of the City. Staff feels that this proposal meets these Special Use Code requirements. Like to wrap up my presentation with a discussion regarding design elements. The design is subject to a requirement to Chapter 27 Appendix 13 Design Review for Downtown Commercial Property. Review standards are included in Section D which includes appropriateness, the design elements and general architectural character. Also included in the section of the Code is that the Planning Commission and City Council may consider comments from the design committee and may also consult the design guidelines for downtown Newark. In light of the fact that the design committee is currently not meeting staff conducted this review as well as that of Chapter 27 requirements and this is included in the attached memo dated March 29, 2021. As indicated in this memo staff had articulated some concerns regarding the design of this project in the November 25, 2020 Planning and Development Report when this project was presented to the Planning Commission at the December 1, 2020 meeting which included that this design was too stark and does not compliment the streetscape. The Applicant has sent re-modifications to the architecture to address his concerns. Staff is in favor of the overall design of the building and appreciates the stepping or wedding cake style of the building facing East Main and Delaware Avenue as well as incorporation of some brickwork and design elements in the current streetscape into the first floor along East Main Street and Delaware Avenue and the top floors facing Delaware Avenue. As described in the March 29<sup>th</sup> memo the building meets the design guidelines for pedestrian connectivity, park and auto and bike but exceeds the elements for parking for both auto and bike location for arts and parks the roof and cornice lines composition the historic front layer as well as the relationships to the streets. However, staff feels that architecture still does not compliment the streetscape and does not meet the guidelines for height width and overall proportion. It is my understanding that the Applicant will be addressing these issues in his presentation. In conclusion, this proposed development meets all the requirements detailed in the municipal code of the City of Newark, Delaware Chapter 27 of the Site Plan Approval process as detailed below. Because the Special Use Permit and Major Subdivision Plan with Site Plan Approval with the Subdivision Advisory Committee recommended conditions should not have negative impact on adjacent and nearby properties, and because the proposed use does not conflict with the Comprehensive Development Plan V the Planning and Development Department suggests that the Planning Commission recommend approval for the Major Subdivision with Site Plan Approval as well as the Special Use Permit for 80 two-bedroom apartment units. Chairman Hurd.

Chairman Hurd: Alright, thank you very much. Ok, I guess that takes us to Mr. Hill.

Mr. Hill: Good evening can you hear me, ok?

Chairman Hurd: Yes

Mr. Hill: Good, my name is Alan Hill, I am with Hillcrest Associates and I will be presenting tonight on behalf of my client Main Street Acquisition Co., LLC who are represented here tonight by Mike Scally. Also, with me this evening is Miss Pam Scott from the law firm of Saul Ewing, Arnstein and Lehr. The plan this evening was for us all to be safe with distance and same location unfortunately Mr. Scally has to be remote due to a family COVID scare. While we are making the bulk of the presentation or I am making the bulk of the presentation Miss Scott will be doing the closing to summarize the Application and she will also be here to help me guide me through any of the legal questions that may come up during the course of conversation. So, with that may we have the next slide please Tom? So, this will be the third time about discussing this application with the Planning Commission so much of the material here tonight you will be familiar with, but we do have some changes to the previous application which is primarily the reason why we are here tonight. Since our first presentation to the Planning Commission in December of last year there has been a couple of legal determinations made by the City that have impacted the application. The first of these was the clarification to allow a density bonus in central business the BB district and the second is a change in the interpretation of the building setbacks and we will address both of these as I make the presentation. Next slide please. Here we have an area photograph with the property highlighted in yellow fronting up to East Main Street, Haines Street and East Delaware Avenue. Next slide please. This parcel for much of the surrounding area zoned BB which allows a mix of commercial residential and institutional uses with apartments of both nonresidential uses. A common use in the BB district requires the issuance of a Special Use Permit this proposal also conforms with the City of Newark Comprehensive Development Plan V which designates the area as mixed-urban. Next slide please. A close up of the development feet shows approximately 16,000 sq. ft. of commercial space and associated parking. Currently two of the unit spaces are vacant and the City has been leasing the parking spaces for a nominal fee to replace the lost parking that the Green Mansion Project and the redevelopment of Main Street by DelDOT. Next slide please. Here we show the street view of the existing buildings the Simon Eye and Wooden Wheels buildings will be demolished while the existing buildings and tenants, Starbucks, DelOne and Duck Donuts will remain. Next slide please. This next slide shows the ground floor layout of the proposed building with the old bike shop being replaced by new commercial spaces plus the new commercial spaces at the corner of Haines Street and East Delaware Avenue we will increase the commercial space by approximately 1500 sq. ft. to 17,540 sq. ft. We also show that we are keeping the current entrance to the proposed parking garage from East Main Street plus an entrance and exit to and from the parking garage on Haines Street. Next slide please. Finally, we have reached the part of the presentation where things start to change. The original application presented to Planning Commission was for 94 units. This application is for 80 units. The BB zoning district allows the density of 50 units per acre for two-bedroom units with a track take up of 1.52 acres the Code permits 76 units. The Site Plan application allows for a 15% density bonus which in this case would be an additional 12 units. However, we are only applying for a density bonus of 5% for this project which is for 4 units and it is this density bonus which allows us to have the flexibility for my client to pursue the shared parking agreement with the City. Next slide please. The next series of slides depict the building setback relief that we are now requesting which the previous application didn't need due to the change in interpretation by the City since we were last here. The design of the building hasn't actually changed dimensionally just the interpretation of the setback regulations between when we were here last and when we were due to appear before City Council. I believe if time permits tonight there is an Agenda item that aims to reinstate the interpretation of the Planning Department from when this application was originally made in July of last year. On this first slide we can see the black and white image of the site with the proposed first floor of the building. The red line is showing the building setbacks which now apply to the entire building if any portion of the building is above 35 feet in height. The previous interpretation was to have this building setback decrease only after reaching 35 feet in height which was creating the wedding cake setback design of the building which the Planning Department prefers. The new interpretation of the building would require a flat façade with less character. The existing buildings audible chapter remain are shown shaded in yellow. As you can see the existing buildings are in violation of the 20 ft setback and would require relief as the current building is only setback 5.8 ft. from the Haines Street right-away. Next slide please. On this slide we have shaded in purple the proposed building under the 35 feet in height. The building setback is still a red line and the existing buildings to remain are now outlined in yellow. The proposed 4 ft. building setback

request is shown on the slide located at the Delaware Avenue end of Haines Street. It might not be clear to everyone from this slide, but this portion of Haines Street has an increased width of the existing right-of-way to 50 ft. as opposed to 30-ft. right-of-way for the majority of Haines Street. Even with the setback relief we are proposing we have a sidewalk of over 40 feet wide because of the extra wide right-of-way. This slide shows that without the setback relief we would have to reduce the size of the parking garage and we wouldn't be able to provide parking as part of the shared parking agreement. Next slide please. This is the last of my setback slides and again the building setback is the red line and shaded green parts of the building are all the parts of the building over 35 feet. As you can see no part of the building either proposed or existing are over the setback line which provides us with the wedding cake façade of the building. Next slide please. As required by the BB Zoning Special Use Permit as part of the application which allows requirements in conjunction with any nonresidential uses permitted in the BB District. Planning Director Gray has already stated that requirements for Zoning Code Section 32-72 and that this application complies with these requirements. Next slide please. The Planning Commission previously approved a Parking Waiver for this project at the January 5<sup>th</sup> Planning Commission meeting of up to 52 parking spaces with the recommendation the City Council shall direct the City's developed shared use agreement for the parking garage. The day after this recommendation my client reached out to the City Manager and it is my understanding that this agreement has been reached or is very close to being reached with the City for the shared parking garage. I think everyone on both sides is excited about the agreement with only the plan approval holding the final agreements up. I would like to quickly review the parking calculations. We are required to provide 97 spaces for the commercial space and 160 spaces for the apartments. With the existing 52-space Parking Waiver we are required to provide 205 spaces. This proposal is for 221 spaces. As part of the current lease agreements 12 of the spaces will be reserved for the existing commercial tenants. As part of the shared parking agreement 120 of the spaces will be offered to the residential tenants with those not being used added to the remaining 89 spaces that will be exclusively managed and controlled by the City as public parking spaces. These 89 parking spaces are new (audible) parking spaces to the City which the client expects to be a minimum of 180 spaces available for public parking. Next slide please. Moving back to the parts of the application that you have seen before I wanted to just quickly refresh the Commissioners about the layout of the building. We have color coded the three main elements of the building to hopefully give everyone a good feel for the building of how the elements interconnect. Next slide please. Starting at the ground floor we can clearly see the three elements of the building with parking in brown, commercial in blue and the residential in green. We can see the existing commercial spaces along East Main Street separated by the main entrance to the apartments. The new commercial spaces either side of the Post (audible) parking garage can be seen on Haines Street as can the access to the parking garage from both East Main Street and from Haines Street. Next slide please. With keeping the existing buildings along East Main Street, we have had to elevate the first floor of the residential units (audible) and normal, but this allows us to include an intermediate parking level between the ground floor and the second floor. Next slide please. Here we see on the second floor the residential units and the parking. Next slide please. On the third floor we show the top level of the parking along with additional residential units. Next slide please. The fourth floor of the building attaches the residential units all the way from East Main Street to East Delaware Avenue. Next slide please. This is the 5<sup>th</sup> floor which is very similar to the 4<sup>th</sup> floor with the layout. Next slide please. The 6<sup>th</sup> floor only extends partially along Haines Street creating a step down in the building before it reaches East Delaware Avenue. Next slide please. This final slide of the building interior is to show a typical layout for the center core space of the building above the parking garage. The center core of the building for the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> floors will have amenity space for the tenants that may include gym, yoga studio, lounges, conference and study rooms and other (audible) and back storage. Next slide please. Finally, on to the exterior of the building this first slide we have inserted the image onto a streetscape. Next slide please. Here we are looking at the proposed building from the intersection of East Main and Haines Street and we can clearly see the inspiration of the existing building updated with a natural brick and cast stone detailing in the style of the currently pumpkin colored painted brick (audible) Next slide. This view also shows you relief of the building along Haines Street and the multiple levels of the façade as it steps back and forth as it goes along the street. We can also see the strong vertical elements that are cut off by the horizontal cornices that both visually lower the building and add detail. Here it is showing the raised panel

417 detailing of the lower floors of the residential units together with the transition of the vertical  
418 elements of the building transitioning into the horizontal tower of the upper elevations (audible)  
419 of the building. Next slide please. Again, showing the details of the cornices and the visual effect  
420 it gives with the top floor stepping back with the use of different column and window treatments.  
421 Next slide please. This time we are showing the brick and stone detail at the main entrance to  
422 the apartments between the DelOne and the Duck Donuts buildings. This also shows how we  
423 incorporate the original design details of the existing building into the new building. If you look  
424 above the window area you can see the stepping of the stonework which matches the current  
425 stepping of the brick work and some of the lower-level cornice detailing of the existing building.  
426 Next slide please. Here you can see how we have expanded the sidewalk in front of the new  
427 commercial space along Haines Street. This also shows how far the upper levels of the building  
428 are set back from the commercial spaces as you can see the setback above the Starbucks  
429 buildings (audible) the residential space. Next slide please. This image is looking back at the  
430 building from the intersection of Haines Street and East Delaware Avenue here we can see clearly  
431 the different aspects of the building with all the different offsets and changes in the façade. Next  
432 slide please. This is showing the transitions of the buildings as it sets back above the parking  
433 garage and the façade changes above the upper floors of the residential units at the Delaware  
434 Avenue end of the building. Next slide please. Another view of the five-story part of the building  
435 from Haines Street showing the different materials colors and the stepping back of the building  
436 above 35 feet. Next slide please. This is a view of the building looking northwest from Delaware  
437 Avenue. Next slide. And finally, the (audible) images of the building this is the East Main Street  
438 elevation. Next slide please. The Haines Street elevation. Next slide please. The East Delaware  
439 Avenue elevation. Next slide. This is the elevation from the Traders Alley point of view. Next  
440 slide please. And finally, the sunset slide which I think everyone is relieved to see as it signals my  
441 hand up to Miss Scott to summarize the application.

442 Miss Scott: Thank you Alan, and good evening to members of the Commission, I will be very  
443 brief.

444 Chairman Hurd: Briefly, I am sorry could you introduce yourself and make sure you spell your  
445 name so we can get that correct for the records please.

446 Miss Scott: Sure, Pamela Scott - S C O T T and I am an attorney with Saul Ewing Arnstein  
447 & Lehr representing the applicant.

448 Chairman Hurd: Thank you.

449 Miss Scott: Sure. Mr. Hill has provided you an overview of the application and the approvals  
450 that we are seeking. The application as he indicated has now been revised to provide for 80 two-  
451 bedroom apartment units along with the same amount of commercial space as was included in  
452 the site plan that was approved by this Commission in December. The Code permits 76 two-  
453 bedroom apartment units as of right and allows for a density bonus of up to 15% above that the  
454 applicant is requesting what amounts to a 5% increase in density which can be granted pursuant  
455 to the provisions of the Site Plan Approval process. We are also seeking relief from the setback  
456 and side yard requirements of the Code but only with respect to certain portions of the overall  
457 building as Mr. Hill has indicated in his presentation. As you know Site Plan Approval is an  
458 alternative available for new development and redevelopment proposals to encourage variety  
459 and flexibility and which permits reasonable variations from the use and area regulations of  
460 Chapters 32 of the City Code. It is based upon distinctiveness and excellence of site arrangement  
461 and design as it is related to but limited to common open space, parking facilities, architectural  
462 design, association with the natural environment, relationship to the neighborhood and  
463 community and energy conservation. This project addresses each of those factors. Obviously, a  
464 determination as to whether site arrangement and design are excellent and distinctive is very  
465 subjective, but I offer that the proposed project does an excellent job of incorporating the  
466 existing commercial uses into the facade of the building adding residential uses above. In  
467 addition, green space is being added where none currently exists. The parking garage for the  
468 building is entirely self-contained thereby hidden from the view a rather unique component of  
469 the design. Landscaping elements add some taste of the natural environment and energy  
470 efficiency elements are also being incorporated into the design. The development in keeping

471 with surrounding uses and proposed plan conforms with the Comprehensive Development Plan  
472 which calls for a mixed-urban use for these parcels. Regarding the Special Use Permit for the  
473 proposed apartments consistent with the Code requirements including apartments as part of this  
474 project does not adversely affect the health or safety of persons residing or working within the  
475 City of Newark boundaries or within one mile of the City of Newark boundaries and within the  
476 State, the apartment use will not be detrimental to the public welfare or injurious to property or  
477 improvements within the City of Newark boundaries or within one mile of the City boundaries  
478 and within the State and such use will not conflict with the purposes of the Comprehensive  
479 Development Plan for the City of Newark. No doubt you will hear the same refrain that you have  
480 heard previously from certain members of the community that the design is not based upon  
481 distinctiveness and excellence and as such approving this application would be bastardizing the  
482 Site Plan Approval process. We disagree wholeheartedly and I believe that you do too (audible)  
483 having approved this project in December for somewhat less density. You also have no doubt  
484 here that the application should not be approved because it goes beyond what the Code permits  
485 relative to density and setbacks. As stated, the Application is virtually Code compliant but for a  
486 request to increase density by 5% and the need for some slight variations for setback and side  
487 yard for portions of the building which only comes as a result of a revised interpretation of the  
488 Code by the Planning Department which they are now seeking to make changes to, and you may  
489 be considering later this evening. It is up to you the members of the Planning Commission to  
490 determine whether the application meets the requirements of Site Plan Approval and the  
491 opinions of those representing other development interests in the City of Newark should be  
492 (audible) consequence. Relative to density and setbacks the Code provides for variations on the  
493 requirements where the standards established by the Code can be met. In addition, with respect  
494 to density the City Solicitor has opined on this issue the density bonus up to 15% is permitted  
495 pursuant to the Site Plan Approval process in the BB zoning district. The fact that certain  
496 members of the community may not agree with this opinion does not detract from its validity.  
497 So, it is for this Commission to now determine whether or not the required standards have been  
498 met we submit that they have and ask that that you approve the Application as presented. Thank  
499 you and Alan and I are certainly available to answer any questions you may have.

500 Chairman Hurd: Alright, thank you very much. We will begin Commissioner questions with  
501 Commissioner McNatt.

502 Commissioner McNatt: Here I am sorry, and just a couple quick questions and maybe because  
503 I didn't hear it what is the stormwater aspects and how is it being addressed as part of this  
504 project?

505 Mr. Hill: So, we have been through the process with the Public Works Department, and we  
506 have a stormwater facility behind the building it is a planter box essentially behind the building  
507 that is taking the runoff from the building in the green space that is adjacent to it is towards the  
508 south end of the parking garage, there is a planter box there. (Audible) the \_\_\_ is limited on here  
509 because we are actually reducing the (audible) coverage of the site so we are adding green space  
510 along the east side of the property which is currently parking and so we have stormwater which  
511 has been approved as part of the application to get to this point.

512 Commissioner McNatt: And would you say that you are doing above what is permitted or  
513 needed or are you saying you are meeting what is needed or permitted?

514 Mr. Hill: We are meeting the Code.

515 Commissioner McNatt: Okay, thank you and that is my only current question, I think your  
516 presentation provided answered all my other questions at the moment.

517 Chairman Hurd: Alright, thank you. Commissioner Silverman? Alan you are muted.

518 Commissioner Silverman: I have no questions at this time.

519 Chairman Hurd: Ok, thank you. Commissioner Stine.

520 Commissioner Stine: Thank you. When we saw this project before wasn't it at 90 some  
521 apartments?

522 Mr. Hill: It was 94.

523 Commissioner Stine: 94 and then we voted to approve that there would be 60 apartments and  
524 a shared parking arrangement with the City. Is that correct?

525 Mr. Hill: You voted for 60 units based on the application at the time and the  
526 confusion over the density bonus and at a later date you voted for a Parking Waiver with the  
527 condition or the recommendation sorry that the Council would direct City staff to look into the  
528 shared parking arrangement which we followed up the following day with the City Manager and  
529 that was moved to a point where it is almost ready to be signed that away.

530 Commissioner Stine: Ok that is my recollection too, I just to make sure – so how do we get back  
531 to 76 or how do we get back to 80? Where (audible) to 60 I guess is my question if according to  
532 this calculation 76 units would be Code compliant correct?

533 Mr. Hill: Yes, so 76 is Code compliant so the 60 units came out of the calculation  
534 from the 94 units based on the original application that had a mix of unit sizes and that was why  
535 that had come from there so it was based around not needing a Parking Waiver at the time and  
536 that was where the unit breakdown came from the 94 it was something that we had worked with  
537 the Planning Department on that we thought we could do and it turned out from comments in  
538 the meeting that we essentially couldn't do so we had to re-evaluate the density based on what  
539 the City determined was the correct way of doing it.

540 Commissioner Stine: And did I hear you correctly, thank you for that explanation, did I hear you  
541 correctly in saying that if it were to be approved with the 60 units that the stepped back design  
542 of the building would not be possible?

543 Mr. Hill: No I didn't say that so if – that is actually a separate item so the building is  
544 the same design as we had it for the 94 and the 60 what happened since we were at Planning  
545 Commission was a change in the determination of the building setbacks so if we were to push  
546 the building well for one we can't make the building comply with the setback because of the  
547 existing parts of the building but if we were to push the proposed half of the building back to  
548 meet the setbacks all the way from the ground to the 6<sup>th</sup> story we would have a flat elevation on  
549 the side of the building for all six stories plus we wouldn't be able to provide the parking that we  
550 are providing as part of the shared parking agreement because the parking garage encroaches  
551 into that building setback up to the 35 feet which is what the original determination was.

552 Commissioner Stine: And how close are you to signing that agreement with the City is it just  
553 contingent on you getting Site Plan Approval?

554 Mr. Hill: My understanding is that it is contingent on getting the Site Plan Approval at this  
555 time. I know there has been a lot of discussions with the City Manager and my client but from  
556 the conversations that I hear from the client it is very very close to being agreed.

557 Commissioner Stine: If you received Site Plan Approval is there any chance that you would not  
558 reach a shared parking arrangement with the City?

559 Mr. Hill: I think the goal was to have the parking agreement actually signed prior to this  
560 meeting for whatever reason I think with vacation schedules it hasn't been done so my  
561 anticipation is that it will be signed if we are – the recommendation is to go to Council if granted  
562 tonight that situation is that going to be signed or be part of the development agreement to be  
563 signed as part of the Council approval.

564 Commissioner Stine: Ok, thank you. Thank you for a beautiful presentation.

565 Mr. Hill: Thank you.

566 Chairman Hurd: Alright. Commissioner Wallace? Commissioner Wallace are you connecting?

567 Commissioner Wallace: Can you hear me?

568 Chairman Hurd: There you go. Yes

569 Commissioner Wallace: Okay I am having technical difficulties I won't go into detail let's just  
570 say there is multiple devices involved. Hopefully this will continue to work. So, I have a couple  
571 of questions I would like to go back to Commissioner McNatt's questions about the green space.  
572 Besides the bio retention area, can you point out for me the other green spaces that are included  
573 on the plan?

574 Mr. Hill: Yes, if Tom could put that slide up, so looking at site plan where Tom had it right  
575 up, okay, so the entire portion of the property to the right side of the building so you have the  
576 shaded part of the building and the dark line is property line, all that white space between the  
577 building and the property line which is currently paving is going to be green space. So, it goes all  
578 the way from Delaware Avenue all the way to Main Street there will be a strip of green space in  
579 that we don't have currently.

580 Commissioner Wallace: Ok, and then if I understood correctly you anticipate that the stormwater  
581 from the property will all be managed through the bio-retention area or other stormwater  
582 controls?

583 Mr. Hill: No there are no more stormwater controls. So currently there are no storm water  
584 controls on the property, so we have to create a 20% (audible) effective reduction in stormwater  
585 enough on the property and we do that by managing it through the bio-retention stormwater  
586 facility that we are proposing on that.

587 Commissioner Wallace: Ok, thank you for that, moving on I have a question about planting. I  
588 saw on the plan that you are proposing quite a number of non-native species at least one of  
589 which I believe is considered to be invasive by some and I did notice in the subdivision advisory  
590 committee remarks that the Parks and Recs Department mentioned trying to include native  
591 species, so I wonder if there have been any changes or discussion on the part of the Applicant  
592 about that?

593 Mr. Hill: So, all the planting on the Plan has been approved by Parks and Rec  
594 Department and I believe they have had some comments but everything on there is the  
595 comments from the Parks and Rec Department so if we have something on there that is invasive  
596 it certainly not as difficult for us to change it but we plant from a list of plants that the State  
597 provides us and then we make edits from that from review. So, they reviewed this Plan I think  
598 four times at this point so I think anything that they would not approve would have been taken  
599 out of the Plan, I believe.

600 Commissioner Wallace: Ok, that is all the questions I have. Thank you.

601 Chairman Hurd: Ok, thank you. Commissioner Wampler?

602 Commissioner Wampler: Yeah, I have a couple of questions, thank you. In spite of the  
603 presentation about the redesign and the setbacks we are I assume still looking at variances which  
604 were being asked to endorse of a setback instead of 20 feet being 4 feet and the side yard instead  
605 of 8 feet being 0 feet. Is that still the case?

606 Mr. Hill: So that is correct you didn't have to do this on the previous application.  
607 Even though the building hasn't changed the interpretation has so we are asking for relief based  
608 on the Code interpretation of the setbacks.

609 Director Gray: (audible) it varies.

610 Mr. Hill: So it is not the entire building it is just certain points of the building should we say  
611 so you mentioned the 0 zero setback where Tom has his cursor on the screen right now that is  
612 for a very small space where the building façade encompasses the existing driveway so that is  
613 purely an aesthetic (audible) there we could stop that façade short at the aisle way it would just  
614 look awkward and less designed but I am sure Will has a better Mr. Hurd has a better technical  
615 term than I can come up for it but it would just look incomplete if we didn't extend that over so  
616 it is only at one location it is only single story height of that one just as it goes above the garage  
617 the rest of the building the rest of the side yards are fully compliant on the building it is just that  
618 one location.

619 Commissioner Wampler: Yeah, in considering whether we think the design warrants these  
620 variances our direction is that our approval should be based upon distinctiveness and excellence  
621 of site arrangement and design and then in several categories some of which I think don't apply  
622 here but things that we are really advised to consider. One of them is unique treatment of  
623 parking facilities. Could you tell me what it is about the parking facility that is unique?

624 Mr. Hill: The fact that we are entering into a shared parking agreement with the  
625 City is a shared use agreement with the City is a very unique situation. The fact that we are  
626 actually providing parking spaces to the City as part of the development and not taking parking  
627 spaces away from the City I believe is unique I think we cover all the parts of the unique treatment  
628 of the parking itself the Planning Directors Report covers it, yes, the fact that we build the building  
629 around the parking garage so that the streetscape of the garage is limited. I think those things  
630 cover it as being a unique space and without the setback relief we wouldn't be able to do that  
631 unique space of the parking garage. So that is one of the things the reasons we need the setback  
632 relief, and we are only asking for it for areas up to 35 feet in height, once the building gets past  
633 the 35 feet we are not asking for any relief on the setback. So that is all part of the design concept  
634 that the Planning Department likes with the wedding cake look and we are complying with those  
635 things.

636 Commissioner Wampler: Ok, thank you, those are my questions.

637 Chairman Hurd: Ok. Commissioner Kadar?

638 Commissioner Kadar: I just have a point that I would like to clarify, and I think I am reading it  
639 correctly, but I want to make sure that my interpretation is correct. On the Planning and  
640 Development Report dated March 30, 2021 on page 4 we talk about Site Plan Approval and it  
641 says that the approval shall be based upon attractiveness and excellence of the site arrangement  
642 and design and including but limited to. Am I correct to read that to mean items 1, 2, 3 and 4  
643 must be included it is not either or it is all four of them and that item 5 and/or 6 are also part of  
644 that? Can anyone, Paul, or the Planning Department?

645 Chairman Hurd: Solicitor Bilodeau do you want to take a first shot at this?

646 Solicitor Bilodeau: I'll take a look at the Code and just double check but is that a direct quote  
647 from the Code Mary Ellen or Tom?

648 Director Gray: This is Director Gray speaking, yes, that is direct quote from the Code, yes.

649 Planner Fruehstorfer: This is Tom Fruehstorfer the difference with 5 and 6 doesn't seem to be  
650 part of the direct I don't see anything there differentiating 5 and 6.

651 Commissioner Kadar: 5 Says relationship to neighborhood and community and/or and then goes  
652 to number 6. So, it is either and/or number 6 isn't it I am a little confused I was always under the  
653 impression that all 6 of those components needed to be present.

654 Chairman Hurd: Alright, so Commissioner Kadar I will say that in previous meetings and  
655 discussions and I would have to reach around behind me to find Max Walton's training that he  
656 did on the Site Plan Approval but my understanding is that those are areas for consideration but  
657 they are not requirements I don't believe in fact that the Site Plan Approval process has any direct

658 requirements I think it is saying that these are areas to be considered in your consideration for a  
659 Site Plan Approval process or project. I think that that and/or is just terminating that list of 6  
660 items to say it is 1, 2, 3, 4, 5 and/or 6, I think.

661 Solicitor Bilodeau: Commissioner Kadar I will definitely agree with what the Chairman has just  
662 said I have always thought that these were all just factors to be considered you don't necessarily  
663 have to have 5 out of 6 or 6 out of 6.

664 Commissioner Kadar: Ok, so it is just guidance and there is no point of having all of those  
665 (audible)

666 Solicitor Bilodeau: Correct and I have never had to opine that all 6 were present in order to  
667 get it passed Site Plan Review.

668 Commissioner Kadar: Ok, on that basis, I look at the comments on page 15 of that same letter  
669 that I reference from the Planning and Development Department which talk about the color  
670 scheme does not complement the streetscape and is still too stark. I think the Planning and  
671 Development Department is being freely kind in those kind in those words. I think this building  
672 as I said in the previous meeting (audible) fine for a suburban application and not necessarily in  
673 the downtown central business district and as such I have trouble seeing this as a viable design  
674 for what currently exists on Main Street. I know that from a Code perspective there are a few  
675 minor issues that need to be dealt with. The 80-unit vs 76 and I don't necessarily have a problem  
676 with that. The 4 ft setback instead of 20 ft, that is okay given the fact that the sidewalk is still  
677 going to be as wide as it is today if not wider and the 8 ft 0 ft for such a small piece property at  
678 the rear of the south side of the building also does not disturb me so from a zoning perspective I  
679 think I am good however I still have a serious issue with the look of this building and the current  
680 downtown core and with that I am done.

681 Chairman Hurd: Ok, thank you. Ok, I think if I have any actual questions. I guess I will just  
682 do generally that I think that this is getting to be a better building with those restrictions that you  
683 have sort of had to work with I think that the Haines Street I think feels a little better with the  
684 building pushed back some and that upper setbacks being deeper I think is helping things. I guess  
685 I am coming around to the building I think originally, I was sort of in Commissioner's Kadar camp  
686 it was very large and very massive, and I think now it is starting to read better I have a better  
687 relationship to the street oh and Mr. Hill the word I would probably use for a roof that didn't  
688 touch like that would be goofy that is my architectural style. Alright so we have had Commissioner  
689 questions sort of first round so we will move to public comment so everyone giving public  
690 comment needs to identify themselves we will first read into the record comments received prior  
691 to the meeting if members of the public would like to comment on this agenda item please send  
692 me a message through the chat function or when it comes time to poll anyone on the phone and  
693 I actually currently don't see anyone using the phone you can use \*6 to unmute yourself.  
694 Speakers will have 5 minutes for their comments. Comments are to be addressed to the  
695 Commission only and not to the Applicant and need to be germane to the topic. Each speaker  
696 can comment only once for each agenda item. So, Director Gray, I know we have one submitted  
697 comment, who is reading that into the record. Alright, have at.

698 Director Gray: Thank you Chairman Hurd, let me pull up that screen there. This is to  
699 members of the Newark Planning Commission (audible) White and this is regarding two items on  
700 the agenda for April 6 meeting of the Newark Planning Commission consideration of the Major  
701 Subdivision for Property at 141, 143, 145 East Main Street and 19 Haines Street. I am horrified to  
702 look at the pictorial representation of a six-story building proposed for the 141, 143, 145 East  
703 Main Street and 19 Haines Street which goes the whole length of Haines Street from Main Street  
704 to Delaware Avenue. The proposed building will ruin the small-town character of our town. This  
705 is not New York City!! This is not Washington, D.C.!! I am appalled that the property owner and  
706 developer think that this is appropriate for our downtown. The City of Newark Code should have  
707 been written to prevent this abominate. In this case the developer gave three extra stories  
708 because more than half of the apartments have a maximum of two-bedrooms. On what date  
709 was this provision enacted in our City of Newark Code. I have regularly attended Planning  
710 Commission meetings and City Council meetings for many years, and I am totally unaware of this

711 being in Newark Code until the Super 8 motel project came to the Planning Commission one  
712 month ago. After the Simon Eye business closed on Main Street and I would walk about in this  
713 area and on Haines Street I knew something else would be built there and envisioned something  
714 in the scale of the surrounding area and most three stories on Haines Street broken up in different  
715 buildings or in separate individual architectural delineation portions not a 6 story essentially  
716 monolithic building. Not only does the proposed development plan disappoint, it is profoundly  
717 upsetting. I am not the only Newark resident to feel this way. The plan may be legally Code  
718 compliant, but it is an insult to many Newark residents who have appreciated what remains of  
719 the small-town character of downtown Newark. One even question whether all of the vehicles  
720 able to park in the 221 parking spaces in the 4-story parking garage inside the enclosed building  
721 will increase traffic congestion in the outside area rather than alleviate it. I hope that the City of  
722 Newark is not too complicit in supporting this proposed oversized development in order to get  
723 extra public parking. One can only hope that there is some possible way to reduce the height  
724 and overall size of this proposed development project for 141,143,145 East Main Street and 19  
725 Haines Street and that concludes Mrs. White's comments on this proposal, thank you Chairman  
726 Hurd.

727 Chairman Hurd: Alright, thank you, I have had no one contacting me by chat for comments  
728 if there is anyone from the public who wishes to comment you can unmute yourself. Going once,  
729 going twice, alright, closing public comment. Bringing it back to the dais for further discussion  
730 prior to the vote and I will begin with Commissioner Silverman. Mr. Silverman you have muted  
731 yourself again.

732 Commissioner Silverman: I am having a problem here with my vision on my screen. I am  
733 generally in favor of this project. The scale of the building does not frighten me as I said on the  
734 record the last time, we saw this project the thing I think is becoming inappropriate for downtown  
735 Newark are buildings the scale of the buildings found to the east of this site it is a terrible  
736 underutilization of very valuable downtown property. The one thing that was not discussed  
737 tonight that may have been discussed before was the revenue that this property will be bringing  
738 in in direct property taxes plus utilities. With respect to site plan development, I think site plan  
739 development even though it is quirky was designed for a parcel like this parcel the earlier exhibit  
740 showed how irregular the parcel was...with the Main Street frontage being a setback of 8 ft and  
741 the Delaware Avenue frontage being a setback of I believe 24 ft, so it (Site Plan Development) is  
742 designed for irregular parcels and that are reflective in the older parts of Newark. With respect  
743 to the parking design itself and I like the fact that the architect and the design of the building lent  
744 itself to a semi-level additional parking space in the building, there is a reference to that earlier  
745 in the presentation and was pointed out by Miss Scott the entire building parking is enclosed so  
746 we don't have a naked parking structure like one would see in West Chester, Pennsylvania in the  
747 CBD. With respect to the size of the building we did not see a perspective from a human scale I  
748 believe that all of the building is designed with an American heroic style presentation that  
749 architects like to use that if one was standing on Main Street particularly with the linear visual  
750 obstructions looking up and down Main Street and the wedding cake set back the mass of this  
751 building for the average person on the street would be de minimis. I have no problems with  
752 going from 76 units to 80 units. I have no problem with the setback and side yard variances that  
753 are being requested. One thing that I think this project does illustrate is by the Applicant going  
754 back to the Code requirements of two-bedroom units it does take away, that particular part of  
755 the Code, does drive some of the design features and also takes away from the ability to provide  
756 a variety of square footage and 1-, 2-, 3- and 4-bedroom units...as the original application...said  
757 and that is the end of my comments. Thank you.

758 Chair Hurd: Alright, thank you. Commissioner Stine?

759 Commissioner Stine: I have no further comments. Thank you.

760 Chair Hurd: Ok, Commissioner Wallace?

761 Commissioner Wallace: I am here, can you hear me?

762 Chair Hurd: Yes.

763 Commissioner Wallace: Ok, good. So, my comments are I would like to focus mostly on-Site  
764 Plan Approval, but before I get there, I would like to say that I do appreciate the challenge that  
765 often arises for developers in juggling the various components of the City code and existing  
766 challenges of properties and that sort of thing. I will say that, and I am new coming into this  
767 project, I understand that it has been through the Planning Commission, so this is my first  
768 opportunity to share my thoughts, but I think there is a missed opportunity here with just having  
769 two-bedroom units. I think that the community would be better served with a variety of unit  
770 types. I understand how the Applicant got here but I just think that overall, that is a loss for the  
771 community. I think that two-bedrooms will undoubtedly work for student renters, but I think it  
772 will be limiting for attracting other types of renters to the property. So, my comments as far as  
773 Site Plan Approval I don't while the relief requested, I will agree is somewhat small at least in  
774 regards to other projects that I have reviewed I do not think that this is a good candidate for Site  
775 Plan Approval. I do not think that the architectural design is a good fit I would like to echo many  
776 of the comments that were made in the review of the design by staff members. I also do not see  
777 that a shared agreement with the City is to me a unique enough treatment of parking spaces of  
778 the parking and I am also I think there was a missed opportunity in choosing different plantings  
779 you know even though I understand these were approved by the Parks and Rec Department I  
780 would like to see more use of native plantings. I think overall for me this is while some aspects  
781 of the project I may be in agreement with looking at this purely from the lines of Site Plan  
782 Approval I just don't think that this project is a good fit for that process it seems somewhat of  
783 trying to fit a square peg into a round hole. That is the end of my comments. Thank you.

784 Chair Hurd: Alright, thank you very much. Commissioner Wampler.

785 Commissioner Wampler: When we looked at this before and the agreement that I thought we  
786 had reached was that the project was going to be reduced from 90 apartments to 60 apartments  
787 I thought that solved a lot of problems and this is a big piece of property and it is a big project  
788 and it seems to me there should be a way where a project could be built that was actually in  
789 compliance with Code and I am having trouble going back up to the 80 and having everything  
790 pushed all the way out so far. When I think about outstanding architectural design, I am not an  
791 architect, and I am not a critic of architecture but looking at this building I would not describe it  
792 as outstanding I would say it is fine it is a building, but I can't say that it is so outstanding that we  
793 should be granting variances so that we can have this building on Main Street. I have a bigger  
794 problem with the relationship to the neighborhood. I don't see a relationship of this building to  
795 the rest of the neighborhood. I think that is a problem that a lot of us are having that the  
796 neighborhood isn't this gigantic kind of a structure this building extends all the way from Main  
797 Street to Delaware Avenue, one continuous building. That doesn't relate to anything that is on  
798 Main Street that I am aware of, so I am having trouble supporting this just on the fact that it is so  
799 large that we need to grant variances to make it this size in particular because my anticipation  
800 was that they were actually going to scale it back not up, so I am having trouble saying that I think  
801 it meets the requirements.

802 Chair Hurd: Alright, thank you. Commissioner Kadar?

803 Commissioner Kadar: I am going to go ahead and agree with Tom and he more eloquently put it  
804 and once again while in and of itself the design of this building is not to my liking but I could see  
805 this building located in downtown Wilmington or a suburban area in fact would even make a very  
806 good looking hotel but considering where it is located or potentially going to be located in  
807 downtown Newark I think the building does not fit the character of the downtown core it is huge  
808 as Tom pointed out and not very interesting to the pupil and the colors and the styling just do  
809 not fit with the downtown core and as such I have trouble approving it. Thank you.

810 Chair Hurd: Ok. Commissioner McNatt?

811 Commissioner McNatt: Hi, I too share the same comments and sentiments that  
812 Commissioner Wallace and Wampler and Kadar have already shared so I don't really need to  
813 expand on them I do not agree that this building meets the outstanding character. Additionally,  
814 things that I find that should be done to go above and beyond also includes stormwater and  
815 conveyance and prevent flooding and I know that certain things aren't there currently, the

816 current building doesn't meet the setbacks but why should you strive to not make sure it does  
817 meet all the Code compliance the monolithic term stuck with me that this building is very  
818 monolithic and does not fit the community character in my opinion. Now I do like the potential  
819 of a parking agreement I think that in general is a very useful item I believe that more properties  
820 should try to achieve this type of goal because of the parking issues in and around downtown but  
821 as Commissioner Wallace pointed out I don't find it to be something that is putting this project  
822 over the top. The increasing of the units just to the two-bedrooms I believe it is 10 lbs. of  
823 something in a 5 lb. bag, it is just too much for what is trying to be done in the area. In general,  
824 the mixed-use concept in zoning I agree with I just think that this is not the appropriate building  
825 in size at this location to make it work in the community. Those are my general comments. Thank  
826 you.

827 Chair Hurd: Alright, thank you. So I am finding myself I think in agreement with several of the  
828 comments and I think in the consideration of Site Plan Approval while I personally have no issue  
829 with the architecture I think it has one been improved and two it is growing on me but I think it  
830 is working I am thinking about the other aspects of Site Plan Approval that we look at and some  
831 that we have used but others that have been offered for other redevelopment projects which is  
832 things like improved stormwater, improved energy conservation, I think that the LEED certified  
833 here was a little weak, I mean it hit the points but we didn't touch materials in some other key  
834 areas and while I appreciate the parking I use lots of it all the time and I think it is a now critical  
835 lot for the City and I guess what I am struggling with and I am trying to work through is that the  
836 items seeking relief are indeed small and some of them are in fact the way the property lines  
837 move. But I do think it is sort of like if we are going to grant it, we need to be seen that we are  
838 getting an improved project for the relief and I think that besides the shell there really isn't a lot  
839 of improvement I think that we are getting. We are not getting improved stormwater; we are  
840 not getting improved energy performance, and this is a big building that is going to use I mean  
841 all of this should save energy but overall energy and environmental performance and this is a big  
842 building it is going to take a lot of materials and it is going to take a lot of effort to build it and I  
843 think this is a building that should be a flagship in some ways for that process. That is kind of  
844 how I am feeling. Ok, been around the horn, does anyone have anything further they need to  
845 add before we move to the motion? Alright, Oh, Commissioner Silverman?

846 Commissioner Silverman: No

847 Chair Hurd: Alright, Secretary Wampler?

848 Secretary Wampler: Yes Sir, because it should not have a negative effect on adjacent and  
849 nearby properties and because the proposed plan does not conflict with the development  
850 pattern in the nearby area and based on the March 30, 2021 Planning and Development Report  
851 I recommend that the Commission approve the 141 East Main Street Major Subdivision and Site  
852 Plan Approval plan as shown on the Hillcrest Associates Site Plan Approval Special Use Permit  
853 and Major Subdivision Plan dated July 17, 2020 and revised March 24, 2021 with the Subdivision  
854 Advisory Committee conditions as described in the March 30, 2021 Planning and Development  
855 Report.

856 Chair Hurd: Thank you, do I have a second?

857 Commissioner Wallace: This is Commissioner Wallace I will second.

858 Chairman Hurd: Thank you very much, any discussion of the motion? Alright, hearing none  
859 we will move to the vote. Commissioner Stine?

860 Commissioner Stine: Aye

861 Chairman Hurd: Thank you. Commissioner Wallace?

862 Commissioner Wallace: Nay

863 Chair Hurd: Thank you. Commissioner Wampler?

864 Commissioner Wampler: I vote no.

865 Chair Hurd: Thank you. Commissioner Kadar?

866 Commissioner Kadar: I also vote no because in my mind the building does not provide any  
867 distinctive character to Newark other than being totally inconsistent with the current downtown  
868 core.

869 Chair Hurd: Thank you. Commissioner McNatt?

870 Commissioner McNatt: I vote no for the previous comments I made.

871 Chair Hurd: Alright. Commissioner Silverman?

872 Commissioner Silverman: I vote yes.

873 Chair Hurd: Alright and I vote not as well. Motion fails 5-2. Alright, Solicitor Bilodeau since  
874 this is a recommendation do, we still need to vote on the Special Use Permit? And carry both  
875 recommendations to Council?

876 Solicitor Bilodeau: Yeah, this is Solicitor Bilodeau I would say yes since its recommendations  
877 we should vote on both motions here.

878 Chair Hurd: Ok. Alright, Secretary Wampler can we formulate the second motion please.

879 Secretary Wampler: Sure, because it should not have a negative impact on adjacent and nearby  
880 properties and because the proposed use does not conflict with the development pattern in the  
881 nearby area and based on the March 30, 2021 Planning and Development Report I move that we  
882 approve the 141 East Main Street Special Use Permit for 80 two-bedroom apartments as shown  
883 on the Hillcrest Associates Site Plan Approval Special Use Permit and Major Subdivision Plan  
884 dated July 17, 2020 and revised March 24, 2021 with the Subdivision Advisory Committee  
885 conditions as described in the March 30, 2021 Planning and Development Report.

886 Chair Hurd: Thank you, do I have a second?

887 Commissioner McNatt: I'll second, this is Stacey.

888 Chair Hurd: Alright, thank you. I have a motion and second do discussion of the motion?  
889 Commissioner Stine, yes?

890 Commissioner Stine: Question. Thank you. Are we approving a specific number of units or just  
891 apartments?

892 Chair Hurd: The recommendation for approval would be based on what was presented which  
893 is the 80 two-bedroom units.

894 Commissioner Stine: OK

895 Chair Hurd: Alright, does anyone need to make any (audible). Ok, moving to the vote.  
896 Commissioner Wallace?

897 Commissioner Wallace: Nay.

898 Chair Hurd: Thank you. Commissioner Wampler?

899 Commissioner Wampler: No

900 Chair Hurd: Thank you. Commissioner Kadar?

901 Commissioner Kadar: I vote not as well.

902 Chair Hurd: Thank you. Commissioner McNatt?

903 Commissioner McNatt: I vote Nay.

904 Chair Hurd: Ok. Commissioner Silverman?

905 Commissioner Silverman: I vote Yes.

906 Chair Hurd: Thank you. Commissioner Stine?

907 Commissioner Stine: I vote no for the number of apartments that are being proposed.

908 Chair Hurd: Alright, and I vote yes because I am in general favor of apartments on Main Street  
909 and such. Alright, that motion also fails 5-2 as well. Alright, that ends our item. Thank you  
910 everyone. Alright, moving now to item 5.

911 **5. Review and consideration of amendment to Chapter 32 Section 32-18(d)(5) Building**  
912 **setback lines in the BB (Central Business District) Zoning District.**

913 Chair Hurd: Director Gray are you handling this or who is handling?

914 Director Gray: This is Director Gray, that would be me. Getting my screen here, I am  
915 working off a very small screen if you will bear with me for a moment. Thank you, Chairman  
916 Hurd, this is Director Gray again and this is regarding the proposed amendment to Chapter 32  
917 Section 32-18(d)(5) to revise building setback lines in BB Central Business zoning district. By way  
918 of background that section that I just articulated states that except as specified in Article 16  
919 Section 32-56.2(d)(1) and Section 2 no setback is required for all structures 3 stories or 35 feet in  
920 height or less. A 20-foot setback shall be required for all buildings above 35 stories or 35 feet in  
921 height subject to the provisions of Article 25. For the past couple of years since I came on board  
922 as Planning Director for the City of Newark staff has interpreted the 20-foot setback requirement  
923 as referring only to the portion of the building above 35 feet in height and not to any portion at  
924 or below 35 feet in height. This interpretation allows a wedding cake effect for buildings whereby  
925 the first 3 stories have a no setback usually lining up with the adjacent buildings and all additional  
926 stories are stepped back 20 feet. This interpretation was applied to the first plan that was  
927 approved for the Green Mansion project as well as the original plan for the 141 East Main Street  
928 project that was presented to Planning Commission in December of 2020. As a result of a  
929 challenge to this interpretation the planning staff initiated a review of Section 32-18(d)(5) with  
930 the City Solicitor. While recognizing the ambiguity of the Code based on the definition of setback  
931 and building in Section 32-4 the City Solicitor had concluded that the 20-foot setback applies to  
932 the entire structure of the building not just portions over three stories but 35 feet in height. So,  
933 the proposed revision section staff is concerned that the effects of the revised interpretation  
934 could encourage a massive effect of tall buildings along the streetscape and recommends revising  
935 the BB Code to allow for the option to create a wedding cake effect on the streetscape. The  
936 proposed change also incorporates the average setback requirement in Section 32-65.2(b)(1)(b)  
937 which currently only applies to buildings less than 35 feet or three stories. Therefore, planning  
938 staff is proposing revising this Code section as shown in Exhibit A of this report. The proposed  
939 change to (audible) setback requirement will clarify that portions of buildings with a height of  
940 below 35 feet and or three stories shall have a zero setback for the average setback of existing  
941 buildings within 200 feet of the side lot lines and within the same block front and zoning district  
942 whichever is greater and portions of buildings above 35 feet under three stories shall have a 20-  
943 foot setback requirement. Chairman Hurd, that concludes my comments on this approval. Thank  
944 you.

945 Chair Hurd: Alright, thank you very much. I will begin with Commissioner Wampler.

946 Commissioner Wampler: In looking at the Code I think it is pretty clear to me why we are doing  
947 this because it says clearly that the 20-foot setback shall be required for all buildings above three

948 stories or 35 feet in height and that sounds like it means the entire thing, so I understand why  
949 this is being done and I think it is fine. I do have one quick question, we are talking about setbacks,  
950 when we talk about this specifically is the setback from the front is that correct this is not the  
951 side setback am I misreading that?

952 Director Gray: This is Director Gray. Yes, this is just the front setback Commissioner.

953 Chair Hurd: And I think I will add, and this applies to the street setbacks which is slightly  
954 different than just the front because I think as we just saw on 141 it had a setback along Haines  
955 Street of 20 feet and from Delaware and from Main Street it had a push on all those three sides  
956 and its only side yard was the property line that it shared with the adjacent property. Am I  
957 reading that?

958 Director Gray: This is Director Gray. For the Haines Street side that was a corner and  
959 Planner Fruehstorfer if you could please jump in here if I get this incorrect it was not a side yard  
960 that was considered a corner lot is that correct Tom? For the Haines Street side? So, this, to clarify  
961 this is regarding the front setback.

962 Chair Hurd: OK, I just want to make sure we are using the same terms because I had thought  
963 but I hadn't checked it in the Code whether to use street yard street setback street yard setback  
964 or front setback because they are slightly different and corner lots I think are where that gets  
965 thrown in there.

966 Director Gray: Let's look at the definition of setback which is on the first page of the  
967 footnote on the first page of this – so we have got a setback on 32-4(12) Building: any enclosed  
968 or open structure setback is an area extending the full width of the lot between the streets right  
969 of way and the building setback line within which no building or part of a building may be erected.

970 Chair Hurd: OK, I am trying to find the BB zoning, but I did see a note I think this was for BN so  
971 in their definition of a building setback line they say shall be setback from the line of the street  
972 on which the building fronts – front, rear and side. OK

973 Director Gray: Yes, you have a front setback, and you have a side setback. This would be  
974 the front setback.

975 Chair Hurd: I am sorry I am jumping ahead. Commissioner Wampler you may finish.

976 Commissioner Wampler: When we are talking about a setback is that setback from the property  
977 line or from the right-of-way.

978 Director Gray: The setback is from the parcel line it is determined from the parcel line.

979 Commissioner Wampler: From the parcel line and typically is that – where is the sidewalk in  
980 relation to that. Is the sidewalk come up to the building at the property line?

981 Director Gray: Well, the property line varies especially on Main Street. Sometimes the  
982 parcel line can be across the street sometimes it can be in the middle of the street sometimes it  
983 can be at the curb. I think the plan we just reviewed illustrates that as Mr. Fruehstorfer is  
984 demonstrating that so that might be the next thing we tackle at some point.

985 Commissioner Wampler: Yeah, I think most people when they are talking about a building on  
986 Main Street having a setback, I think of it as being setback from the sidewalk or from the curb or  
987 from the middle of the street or something and if its setback from the property line which varies  
988 that seems to me to be a little more complicated.

989 Director Gray: This is Director Gray. Yeah, sometimes they can get a little complicated  
990 from the parcel line but that is our current definition of setback being measured from the parcel  
991 lines.

992 Commissioner Wampler: Ok, thank you.

993 Director Gray: You are welcome.

994 Chair Hurd: And I will just add I think that is because of Main Street and such that is why we  
995 have also the average setback provision in there because if we didn't say basically, you can't go  
996 pass the average setback even if because your property line could be on the other side of Main  
997 Street or the other side of Haines 20 feet from that is in the street you know it is like be realistic  
998 there. Alright, that was Commissioner Wampler. Commissioner Kadar?

999 Commissioner Kadar: Yeah, as I read the proposed guidelines here, I don't have any issues with  
1000 them. I think it allows for a lot more flexibility for some more interesting designs downtown  
1001 assuming they are consistent with the rest of the downtown core, so I have no issues with what  
1002 is being proposed here.

1003 Chair Hurd: Alright, thank you. Commissioner McNatt?

1004 Commissioner McNatt: Hi, I want to know I am going to (audible) shall have a 20 foot  
1005 setback I just want to clarify the interpretation that was being done which is I believe what we  
1006 are trying to achieve here is that there is a 20 foot setback for the areas of the building that are  
1007 exceeding the 35 feet height requirement because I don't read it specifically to say as it was  
1008 previously interpreted was which was 20 foot setback for the areas of the building that are  
1009 exceeding that 35 feet height. It doesn't really say it like that. Is that what we are trying to  
1010 achieve?

1011 Chair Hurd: Director Gray do you want to take that?

1012 Commissioner McNatt: And if it, is I just think it should be specifically written that says as you  
1013 want it is all I am trying to say.

1014 Director Gray: So, the intent of this proposed amendment is that portions of the building  
1015 right now the interpretation is that if a building is over 3 stories the entire building needs to be  
1016 setback 20 feet. This provision is allowing the option that if a portion of the building when it  
1017 starts at 3 stories can be setback at 20 feet and the portion that is under 3 stories doesn't have  
1018 to be setback at 20 feet it can be the wedding cake effect so to speak. It provides an option for  
1019 that and that is why the term portions of the building is in there. Does that answer your question?

1020 Commissioner McNatt: It does, I just do not think as I read it this revision is clear enough to say  
1021 what you just described, that's all.

1022 Chair Hurd: Right, I guess I will turn to our Solicitor. I am hopeful that you had run this past  
1023 City Solicitor Bilodeau so that he would interpret it in the way that we wanted it to and hopefully  
1024 eliminated the uncertainty that was in the original wording.

1025 Solicitor Bilodeau: Yes, this is Solicitor Bilodeau. I thought that what Mary Ellen put together  
1026 was sufficiently clear. I understood it. Obviously if you get some other attorneys in the room,  
1027 they could maybe poke holes in it as they tend to do but it seems especially with the words  
1028 portions of buildings portions below 35 feet or 3 stories will have a zero setback or the average  
1029 setback and the portions above 35 feet shall have a 20 ft setback and I think that is sufficiently  
1030 clear for our purposes.

1031 Chair Hurd: Ok. Does that help Commissioner McNatt?

1032 Commissioner McNatt: Thank you. No more comments.

1033 Chair Hurd: Alright, thank you. Commissioner Silverman?

1034 Commissioner Silverman: I agree with Commissioner McNatt I don't think this says what they  
1035 intent to have it say I think it should be very clear English there should be no interpretation that

1036 if it is under 35 feet it should have the average setback in the block portions of the building over  
1037 35 feet will have a minimum of 20-foot setback. I still can't figure out under what circumstances  
1038 would a three-story building on Main Street have a zero-foot setback why is zero feet even in  
1039 there? And furthermore, I think the discussion illustrates why we need the Site Plan Approval  
1040 process to sort out these variances or these differences when some of the original colonial lots  
1041 extend all the way across what a street is now and to the center of the street and irregularly  
1042 shaped lots with respect to frontage, so I don't think this wording accomplishes what the intent  
1043 is. It should be one foot in front of the other if it is under three stories it has this setback any  
1044 portion of the building over three stories has another setback and we are going to throw an  
1045 option in again we have struggled all evening with options. I don't think it should be optional I  
1046 think it should be a requirement and that is the end of my comment.

1047 Chair Hurd: Ok. Commissioner Stine?

1048 Commissioner Stine: I think Commissioner Silverman is seizing on something I also heard that it  
1049 would be optional though I think in the language it says it shall be required so I do think somebody  
1050 misspoke by saying it would be a 20-foot setback would be optional. I guess I have a problem  
1051 with the zero-foot setback because maybe I don't understand the sidewalks. Like there was a  
1052 little incident on the sidewalks during the most recent snowstorm and my understanding in  
1053 talking with Councilman Horning was that maybe the sidewalks are owned by the property  
1054 owners, correct? And do we have an easement or a right-away or how do the sidewalks work on  
1055 Main Street?

1056 Chair Hurd: I am not sure I am looking to staff to see if anyone has got a good answer.

1057 Director Gray: This is Director Gray. I do not. Here is a shout out to the Planner Fortner or  
1058 Fruehstorfer who have been here longer than I for any historical knowledge on that. Cause that  
1059 is more of a Public Works question? Shoveling and all that stuff?

1060 Commissioner Stine: Ok, I guess my concern is could we if we say a zero-foot setback is from  
1061 the front property line could we lose the sidewalk? Right? So that would be my question. So, I  
1062 think that we offer the Site Plan Approval process to provide relief as needed to setbacks and  
1063 even in the project that we reviewed this evening I don't think anybody had any heartburn over  
1064 providing relief to those setbacks so I would just prefer that we not make this change I don't like  
1065 this zero-foot setback from the property line I think that calls into question what happens to our  
1066 sidewalks.

1067 Director Gray: My apologies Commissioner Stine for interrupting you. This is Director Gray.  
1068 That is currently what is in the Code.

1069 Chair Hurd: Oh, good point, so the zero-foot setback is so currently the Code reads no setback  
1070 is required for all structures three stories or 35 feet in height or less so that is a zero-foot setback.  
1071 So, I would say that this is actually adding the average setback and saying if that is greater than  
1072 zero that is what you have to use for that front yard setback you have to use the greater of the  
1073 two either zero or the average setback of the adjacent buildings.

1074 Commissioner Stine: Of the adjacent buildings within 200 feet of (audible) so zero or – I am  
1075 thinking of there was an old Ginos I don't know which building it is today but isn't that pretty far  
1076 set back?

1077 Chair Hurd: I missed that which building are you talking?

1078 Commissioner Stine: It's the old Ginos I am dating myself cause I don't know what is in the  
1079 building currently it used to be Ginos when I was a kid, right, there is a building on Main Street  
1080 that sits way back so if that were to be redeveloped that would be brought up to in line with the  
1081 adjacent buildings or could it extend further extend further out to whatever zero is from its  
1082 property line?

1083 Chair Hurd: My reading of this language is it could go up to the adjacent buildings, but it  
1084 couldn't go further because it is the greater

1085 Commissioner Stine: So, what is (audible) owned all of the buildings and what if all the buildings  
1086 burned to the ground what would be the average?

1087 Chair Hurd: Yeah, that I don't know.

1088 Commissioner Stine: I think that is all I have. I am still confused but seems to be common.

1089 Chair Hurd: Gotcha. Thank you.

1090 Solicitor Bilodeau: This is Solicitor Bilodeau. Just for a quick second so it seems like we are  
1091 getting tied up with the setback on the first 35 feet of the property which is pretty much in Code  
1092 and has not really been a problem up to now I think what we are really just trying to fix is a  
1093 setback for the parts of the building above 35 feet or three stories. Maybe we should just focus  
1094 on if we are going to make an amendment not change anything for the first 35 feet or 3 stories  
1095 but just amend or at least focus on the amendment for above 35 feet and 3 stories.

1096 Director Gray: This is Director Gray, thank you Solicitor Bilodeau. Yes It might be helpful  
1097 to look at the crossed out language that is what is currently if you look up in the little legend  
1098 there the strike outs is deleted text so that is what is the existing text and the struck out text so  
1099 that is what is existing and the proposed text is what is underlined so if you look to see what is  
1100 the current text and what is the struck out text that is the current ordinance and what is  
1101 underlined is what we are proposing. I don't know if that helps.

1102 Commissioner Stine: No, I understood that to be the case I think what threw me off was that  
1103 when you clarified that it is from the parcel line and that the parcel line could be in the street it  
1104 was that clarification that causes me to have these questions or these concerns.

1105 Planner Fortner: Chairman, this is Mike Fortner. Tom Fruehstorfer, I guess he is trying to  
1106 talk but he can't get online but just for a clarification it has to be a sidewalk there and at a  
1107 minimum it would have to be a 5-foot sidewalk so it couldn't be setback any closer than that.

1108 Chair Hurd: Right, and I think there is also DelDOT maintains an easement down the street  
1109 which also is limited so while this being BB district specific is like yes, while it is from the parcel  
1110 line I think we are saying that there are other things that go on that push anything that you try  
1111 to do further back and so realistically well there is the curb edge and then there is the sidewalks  
1112 and then you are finally back to where the other buildings are, it is complicated. Does that help  
1113 you Commissioner Stine?

1114 Commissioner Stine: Yes, there is some protection for the sidewalk. Yeah, I get they are not  
1115 going to build into – well we wouldn't let them build into the street – but my concern is the  
1116 sidewalk.

1117 Director Gray: This is Director Gray. Well this Code with a zero setback has been in place  
1118 in the BB zoning district for a very long time and there has been a lot of development in the  
1119 downtown district and there aren't any buildings that are right up on the curb so I think that what  
1120 is being discussed has been proven out that with these other provisions that are in place that is  
1121 we are not going to be getting buildings that are right up or taking over the sidewalk because are  
1122 other provisions in place that ensure that there is enough of sidewalk and other setbacks in place.

1123 Chair Hurd: Ok, I am just going to quickly take the chairs prerogative to extend the meeting to  
1124 9:30 and then go to Commissioner Wallace.

1125 Commissioner Wallace: Thank you, I have been dying to get in here. So, I do agree hold on for  
1126 one second sorry about that I am on vacation with family nieces and nephews, and I'll just leave  
1127 it there. So, I thank Michael Fortner for chiming in I do think that it is (audible) other provisions  
1128 but I think this could be an opportunity to maybe clarify that the setback includes these other

1129 requirements. I have a different perspective I think than most of the other Commissioners in that  
1130 I think that, and I don't know what the original intent was of this, but it seems to me that if we  
1131 are having a building that is above 3 stories that adding a 20-foot setback beyond the sidewalk  
1132 provides some open space and to me that seems a welcome tradeoff for having a building above  
1133 three stories. You know that would provide maybe for some more room for maybe some more  
1134 green space, some plantings, maybe space for visitors to congregate some benches things like  
1135 that and there is mention in the Comprehensive Development Plan of place making and you know  
1136 that being something that we desire as a community and I think that although a 20-foot setback  
1137 isn't that much you know it does provide that opportunity. So I am not necessarily in favor of  
1138 this change I do appreciate staff's comments regarding the wedding cake design and I see the  
1139 benefit to that I certainly do think there is something to if we are going to have taller than 3 story  
1140 buildings there is something to having a staggered front face to the street but I would like to  
1141 come up with some and I don't have a suggestion here but I would like to come up with another  
1142 alternative to encourage that because I think that adding that additional setback is a value add  
1143 for going above a certain height and that is the end of my comments.

1144 Chair Hurd: Ok thank you. Yeah, I guess from my experience I have seen communities come at  
1145 this two different ways and there is basically the stepped approach which I think New York City  
1146 was famous for and that was often for sunlight as well, but it additionally helps sort of minimize  
1147 the impact of the taller buildings by moving the tallness back. I guess in some ways I am not sure  
1148 that the 20 feet because I think we have seen some projects where the initial front setback is like  
1149 twelve feet is the average and so the 20 foot is only 8 more feet for the taller portions but as we  
1150 are seeing with these 6 and 7 story buildings that is four more stories at that setback instead of  
1151 maybe stepping it further. So that is one way to say is okay we step it you go this height it is  
1152 setback and then you go above that and it is setback more and it is tiered all the up and then  
1153 there is other communities that do what Commissioner Wallace was just doing which is to say if  
1154 you are building is this tall you are this far back from the curb of the street and the shorter you  
1155 are the closer you can get basically to the curb and that helps keep your streetscape from being  
1156 too overwhelming as well. I think at times and don't think that this is really going to happen here,  
1157 but I think that there is the danger that you start getting a very saw-toothed streetscape with  
1158 dark pockets which can be possibly an issue. Alright, so I think to me the language seems clear  
1159 enough for what we are discussing for what was being proposed so I am going to move us to  
1160 public comment and then when we come back, we will see I guess where the Commission is  
1161 heading. So, I do not have any messages from anyone seeking public comment. Oh, Director Gray  
1162 didn't Mrs. White have comment on this?

1163 Director Gray: This is Director Gray, yes.

1164 Chair Hurd: Ok, so why don't we read that into the record and then we will get to

1165 Director Gray: I'd be happy to. This is comment from Mrs. Jean White, Newark resident  
1166 and this is regarding item – oh wait she has comment on general public comment she does not  
1167 have comment on this.

1168 Chair Hurd: Ok, my mistake. Alright, is there anyone from the public who wishes to comment?  
1169 You are welcome to unmute yourself. Going once, going twice. Alright, public comment is closed,  
1170 and we will bring it back to the table.

1171 Commissioner Silverman: Mr. Chairman

1172 Chair Hurd: Yes, Commissioner Silverman? You have muted yourself.

1173 Commissioner Silverman: I've used several of these systems and I can't this one to work, am I  
1174 back on?

1175 Chair Hurd: Yes.

1176 Commissioner Silverman: OK. I appreciate the comment on the sidewalk, I think it is very  
1177 significant here. I do not like having to search through a Code to find out if there are special

1178 circumstances. At minimum, if we are going to keep this language, after the words three stories  
1179 shall have a zero-foot setback from the required sidewalk width the sidewalk needs to be  
1180 mentioned there. It clarifies in my mind where the front edge of the building would be with  
1181 respect to buildings under three stories. With respect to the zero reference for the building  
1182 setback for buildings under 35 feet I think the zero should be linked to the setback at zero feet  
1183 from the required sidewalk width to ensure that there is always a sidewalk in front of the building,  
1184 and it is very clear in everyone's mind where the front of the building will be in relationship to  
1185 the street and property lines.

1186 Chair Hurd: Ok. Alright, I was just quickly looking up Article 25 has to do with landscape  
1187 screening and treatment I was hopeful it might have something to do with sidewalks locations  
1188 and sizes, but it does not. Alright, I guess I see before us a couple of directions and this is what I  
1189 think we can talk about. We can edit if needed the language here in front of us, we can come to  
1190 an agreement that perhaps we are looking for something a little or different and so therefore we  
1191 would have to give some direction to the staff for them to be able to come up with something  
1192 without having to flounder around. Maybe that is just the two choices. Alright so with that in  
1193 mind, Commissioner Kadar?

1194 Commissioner Kadar: Well, the comment I have let's assume we have all been tossing around  
1195 this idea of colonial property lines which may extend into the right-of-way into the street. I think  
1196 this proposed wording takes care of that because it says either zero or the average of 200 feet  
1197 on the same lot which the last time, I checked there weren't any buildings in the middle of Main  
1198 Street so I guess we are ok with that one and that would cover any of the old property lines. Now  
1199 in Alan's case and you put the sidewalk in there what if the property line is further in than the  
1200 sidewalk? The sidewalk is 57 and let's say the property line doesn't begin until 7 feet from the  
1201 curb and leaves an extra one or two feet in sidewalk there. I think the average over 200 feet more  
1202 than adequately covers what we are trying to do and other than that I think we are overanalyzing  
1203 the wording and I think if Paul would agree that in fact it is pretty clear and covers most of the  
1204 cases and those that aren't covered will be addressed by modifications requested during the  
1205 construction period. So, I'm set.

1206 Chair Hurd: So, you are set, ok. Commissioner McNatt?

1207 Commissioner McNatt: I don't have any other comments or questions at this point I just think  
1208 there is some ambiguity that could be clarified I am not against the language or the idea of what  
1209 is being proposed in these changes. That's all. I read a lot of Code and I think that there could be  
1210 a little more clarification as Commissioner Silverman mentioned just to make it clearer, but I am  
1211 not against the intent of what they are trying to accomplish here.

1212 Chair Hurd: Ok. Did you have any specific language changes in mind?

1213 Commissioner McNatt: No, I do not. That is the problem. I did like the recommendation of the  
1214 word a minimum of something or a maximum of something that defines in more definitive but  
1215 in general I wouldn't if it goes as, it is written now, I am not opposed to it.

1216 Chair Hurd: Ok, alright, thank you. Commissioner Silverman, I know you led us off, but you did  
1217 have some issues do you have any proposed language that we would want to discuss?

1218 Commissioner Silverman: I didn't think of it from the point of view that Mr. Kadar brought up.  
1219 Let's just leave it as it is. I think if we use the or and the average setback that takes care of all my  
1220 concerns.

1221 Chair Hurd: Alright, thank you. Commissioner Stine?

1222 Commissioner Stine: Just to specify something about the sidewalk maybe from the existing  
1223 sidewalk? My point about the old Ginos drive thru is that would bring the average that would not  
1224 be helpful to somebody trying to develop a property if that setback was included in the average  
1225 if it is within 200 feet of an Applicant because it is rather setback, so I like the idea of saying  
1226 maybe from the existing sidewalk.

1227 Chair Hurd: Ok. Alright, Commissioner Wallace?

1228 Commissioner Wallace: While I tend to, I support the suggestions that have been made to clarify  
1229 this the changes I don't support the overall reason and I may be in the minority here, but I would  
1230 like to see us go in a different direction, but I do think that if the Planning Commission is giving  
1231 direction, I think that the clarifications that have been shared I am in support of those.

1232 Chair Hurd: OK. So, you are not looking to propose perhaps an alternate wording here?

1233 Commissioner Wallace: Well, I will say I don't have a specific motion or direction, but my  
1234 approach would be that I would like to see this turn into a larger discussion about are we  
1235 interested in having more of a setback for taller buildings and having a stepped approach that  
1236 you went into a little detail about, and it would be that's what I would like to see and have staff  
1237 come back with some language that would reflect that. I don't see that I am in the majority for  
1238 that but if other Commissioners are interested in that please speak up, but I do think there is  
1239 value in having some additional setback for a tradeoff for adding additional stories to a building.

1240 Chair Hurd: What I was thinking as you were talking about that this could be something that  
1241 assuming that the design committee gets restarted this could be something that they could  
1242 maybe take on as an initial project because I know that the design guidelines for instance do talk  
1243 about public space and that circulation in the sidewalk and that space in front of the building and  
1244 they might be the right vehicle for at least an initial sort of analysis of what could be appropriate  
1245 assuming that they get created in a way that is something we could have them be doing. Thank  
1246 you I do appreciate your comments.

1247 Commissioner Wallace: I agree I think that's an approach, but I don't have any other comments.  
1248 Thank you.

1249 Chair Hurd: Commissioner Wampler?

1250 Commissioner Wampler: I don't have any additional comments.

1251 Chair Hurd: Ok. I guess for me I understand essentially the need to get this into the Code  
1252 quickly because we would like to get back to the interpretation that we had been using because  
1253 I think that we recognize that it has value and so we want to try to make sure that we don't get  
1254 cause even a 7-story building that is 20 feet back from the line is going to be 7 stories it is going  
1255 to be big. So, I recognize that what we are trying to do here I think I am also hearing there are  
1256 some points on is this still the way that we want to be doing the City I guess is the longer term  
1257 look at that but that is perhaps beyond basically I don't want to delay this for that effort. Ok. So  
1258 that I guess is my thought. I had one comment and I guess I will put it in when we do the motion  
1259 maybe but the one thing, I would strike from there is the words and zoning district when we are  
1260 doing the average setback cause I know there is areas of the BB zone that had BC zoning stuck in  
1261 there and I would really like the average setback to really be for the block regardless of the zoning  
1262 district that a building might be in. Unless Director Gray you feel that there is a reason that we  
1263 needed to exempt properties from a different zoning district?

1264 Commissioner Silverman: Good catch.

1265 Director Gray: This is Director Gray. This is language from hold on let me pull the screen  
1266 back up.

1267 Chair Hurd: Is that the language from the average setback portion?

1268 Director Gray: Yes. So, I don't have a history of that so I am thinking there must have been  
1269 a reason as to why that was in there.

1270 Chair Hurd: That is the charitable assumption. Ok, if that is the case, if we are simply picking  
1271 up language and bringing it together so that we are in one spot then I will not move to strike it  
1272 out so that we don't run into cause I don't want to have someone say well the average setback

1273 says this here and you are saying this here and now there is more issues. OK. Alright, any further  
1274 discussion before we move to the motion? Not seeing any, alright. Secretary Wampler?

1275 Secretary Wampler: I move that the Planning Commission recommend that City Council  
1276 approve the revision to Chapter 32 Section 32-18(d)(5) to revise building setback lines in BB  
1277 central business district planning district as described as Exhibit A in the March 30, 2021 memo  
1278 to the Planning Commission.

1279 Chair Hurd: Thank you do I have a second.

1280 Commissioner Kadar: I'll second.

1281 Chairman Hurd: Ok, we have a motion and a second any discussion of the motion? Alright  
1282 seeing none we will move to the vote. Commissioner McNatt?

1283 Commissioner McNatt: Alright here I am. I am in favor.

1284 Chair Hurd: Ok, Commissioner Silverman.

1285 Commissioner Silverman: I vote Aye.

1286 Chair Hurd: Thank you. Commissioner Stine.

1287 Commissioner Stine: I vote no.

1288 Chair Hurd: Ok. Commissioner Wallace?

1289 Commissioner Wallace: I am going to vote Nay.

1290 Chair Hurd: Ok. Commissioner Wampler?

1291 Commissioner Wampler: I vote yes.

1292 Chair Hurd: Thank you. Commissioner Kadar?

1293 Commissioner Kadar: I vote yes since it clarifies and codifies what we are currently applying to  
1294 buildings over 35 feet.

1295 Chair Hurd: Alright and I vote yes as well. Motion carries 5-2. Alright. Do I have approval from  
1296 the Commission to extend the meeting to 10 o'clock any objection so that we can complete the  
1297 remainder of the agenda? Alright, seeing no objection we will move on back.

1298 Commissioner McNatt: I have to leave the meeting I am sorry so I cannot continue, I apologize.

1299 Chair Hurd: That's ok we have handled all the things that we need to do voting for the rest of  
1300 the stuff is informational, but I do like to get through it so that we are not backlogged. Thank you  
1301 for joining us. Alright, that moves us to Item 6, Informational Items. I guess we will begin with the  
1302 Comprehensive Plan V Steering Committee review update from Planner Fortner.

1303 **6. Informational Items**

1304 **a) Comprehensive Plan V Steering Committee Review update from Planner Fortner**

1305 Planner Fortner: Hi Chairman and Commissioners. Let's see we completed the five  
1306 Coffeekbreaks in March the videos are on the City's website, if you go to the Comprehensive  
1307 Development Plan portion, it is in the City's YouTube page all five of them. Also, the last meeting  
1308 the Committee discussed the chapters on Housing and Community Development and also the  
1309 chapter on Economic Development. The next meeting is on April 29<sup>th</sup>, that is a Thursday, and we

1310 will be catching up reviewing some of the chapters we have reviewed already and the changes  
1311 that we are proposing making before we move on. That is my presentation.

1312 Chair Hurd: Alright, thank you. I will just echo I think the Coffeebreaks were really successful.  
1313 I know that the couple I went to didn't have a lot of people, but it sounds like the one I missed  
1314 had a lot of people, I missed a good one. But I think that was a really good way to reach out to  
1315 people, people did show up. Commissioner Stine did you have your hand up for something?

1316 Commissioner Stine: No, I was just putting my watch on. Sorry about that.

1317 Chair Hurd: Ok, I see motion and I just think something is happening. Alright, that moves us  
1318 to the Planning Director's Report.

1319 **b. Planning Director's Report**

1320 Director Gray: Thank you Chairman this is Director Gray, and I just lost my screen, okay  
1321 so this is combined from last month because I did not have an opportunity to present last month.  
1322 So, projects that went to Council the 132, 136 East Main Street project went to Council on  
1323 February 8 and that project got a hearing, but the hearing started with the Parking Waiver and  
1324 we will be based on discussions at the last meeting are aware that project the Parking Waiver  
1325 component got denied by Council. 94 East Main Street otherwise known as the Green Mansion  
1326 project that went to Council on March 8 and that project was approved. On March 22 the Walton  
1327 Farm and a related farm ordinance that was approved by Council. Council is currently on a break  
1328 and not meeting do to the elections which are since there aren't candidates running against the  
1329 current incumbent has been canceled but there are no current Council meetings until the next  
1330 Council meeting is April 22 and on April 22 is the second reading for the notification ordinance  
1331 that Planning Commission had recommended approval for at the last Planning Commission  
1332 meeting. Other meetings Planning Commission related that I think you all might be interested in  
1333 Mike Fortner just mentioned the Steering Committee meeting also Mike I don't know whether  
1334 you mentioned that we are building on our Comprehensive Plan website we are starting to  
1335 populate that with the meeting materials for the Steering Committee of the Agendas and  
1336 Meeting Minutes and also Mike posted the recording of the virtual CoffeeBreaks, so I thought  
1337 that was very helpful. I think we mentioned during our discussion of the first agenda item was  
1338 internally reviewing a plan review process internally we had a few resource issues that last  
1339 meeting had to be canceled but we are currently looking into that. Had a meeting and we are  
1340 starting to meet monthly now with some representatives of DART. They are helping us analyze  
1341 the routes and we are looking into getting the DART App for our UNICITY supervisors and related  
1342 issues to make UNICITY more efficient. That continues to be a project of ours something we want  
1343 to pay attention to and try to bring resources to (audible) as we can. We had our TID meeting on  
1344 March 24, 2021 and our next TID meeting is April 14. The Land Use projects, they still continue  
1345 to come in and we still have a lot of plans in house that we are reviewing we received our revised  
1346 plans for the 268 East Main Street project, and they are currently under review and they will soon  
1347 be put on a Council agenda after we have had a chance to review them. Projects tentatively  
1348 scheduled for May is the 1501 Casho Mill they have the Applicants for the past two meetings  
1349 have asked to be continued so that is on their side they are not ready to present from our side  
1350 we are ready to go on the City side. We will be looking at an amendment to the Parking Waiver  
1351 provisions and this is related to the Danneman project and this will be a provision in the regarding  
1352 the provision that prohibits a plan from being brought back to either the Planning Commission  
1353 or Council for 2 years if a Parking Waiver has been denied and we are looking to make that similar  
1354 to language in other parts of the Code that if a plan for a rezoning or a annexation is denied it  
1355 can't be brought back for two years but if 3/4<sup>th</sup> of either the Planning Commission or the Council  
1356 vote in favor to bring it back then it can be brought back so we are looking to bring back to amend  
1357 that part of the Code to be in agreement with that other rezoning part of the Code so that is  
1358 tentatively scheduled for May. We also might be looking at having a TID discussion depending  
1359 upon the meeting in April how the TID meeting in April goes we might be at a decision point at  
1360 that meeting to bring a TID list of some projects the project list to the Planning Commission for  
1361 your review. So those are some of the tentative agenda that will be firmed up here in the next  
1362 couple of weeks. We sent out SAC comment letters for the 25 North Chapel Street and the  
1363 (audible) Mill White Creek project in the past couple of weeks we have projects in house and are

1364 awaiting SAC comments on the annexation project at Otts Chapel and Elkton Road. Special Use  
1365 Permit of the cell tower off of Coochs Bridge Road the 1016 Benny Street project we are sketch  
1366 planning for University Commons I am not sure whether I mentioned that last meeting we got in  
1367 a sketch plan for Chick-fil-A on Ogletown Road that is the parcel just north of the Spring Hill Suite  
1368 parcel and we continue to have a number of inquiries regarding other potential projects. Also  
1369 busy with Plan Review and we have hired an Administrative Professional for Planning, so Katelyn  
1370 Densmore is her name, and she comes to us and she has been working part-time for the Parks  
1371 and Recreation Department while working full-time elsewhere in an office setting doing  
1372 administrative work there and she has been a long time doing working seasonal work over the  
1373 summer while she was finishing her college degree, so we are very excited to have Katelyn start  
1374 working for us on April 12. So that pretty much concludes my comments for now Chairman Hurd.  
1375 Thank you.

1376 Chair Hurd: Alright, thank you very much, that moves us to Item 7. New Business.

1377 **7. New Business**

1378 Chairman Hurd: If anyone staff or Commissioners has any concerns issues items things to  
1379 consider that they want to put forward that could be then referred to staff or for consideration  
1380 later? Anything, no, ok. Closing New Business. Moving to general public comment and this is  
1381 where we have the other half of Mrs. White's letter and then we will see if there is anyone else  
1382 who wishes.

1383 **8. General Public Comment**

1384 Director Gray: Yes, Chairman Hurd, this is Director Gray again and this is from Mrs. Jean  
1385 White, Newark resident. I request that the Planning Department do a serious study considering  
1386 changing the City of Newark Code to allow a developer at most only one extra story of a proposed  
1387 building above three floors for only one level of parking as part of the building or only one extra  
1388 story if more than one half of the apartment units have only two bedrooms. Also, the suitability  
1389 of a building having more than three floors should be addressed specifically for the central core  
1390 of downtown Newark. In addition, it is recommended that a moratorium be declared regarding  
1391 extra floors beyond three being proposed by a developer until the study is completed. The City  
1392 of Newark has declared a moratorium once before for a different reason. How can a town protect  
1393 the character of its downtown core? I ask the Planning Department to learn how other towns  
1394 have dealt with this issue in particular where there is large development pressure to distort a  
1395 town's historic downtown core. One comes to mind. The City of Newark has more than 17  
1396 buildings on the National Register of Historic Places in its downtown core as well as other  
1397 important buildings existing in its downtown core not so designated. The larger question is how  
1398 to protect and maintain Newark's central core, so the buildings exist together in scale and  
1399 pleasing harmony. But in light of the developer's proposal for 141, 143, 145 E. Main Street and  
1400 19 Haines Street and what has happened to the Green Mansion on Main Street sliced part off in  
1401 addition with 7 stories to be added such a possible future ordinance to protect Newark's  
1402 downtown core would be like shutting the barn door after the horse has escaped. This completes  
1403 Mrs. White's comments. Thank you.

1404 Chair Hurd: Alright, thank you. If you are ever in communication with Mrs. White, you could  
1405 let her know that Council has started to have a discussion about the BB zoning and such and so  
1406 she should probably direct her comments also towards them since they seem to be having that  
1407 discussion as well. I will open the floor to any other general public comment for items not on the  
1408 agenda tonight. Seeing nothing, going, going, okay, that closes General Public Comment and with  
1409 that we have completed the agenda and so we are dismissed or adjournment that is the word I  
1410 am looking for.

1411