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CITY OF NEWARK
DELAWARE

PLANNING COMMISSION
MEETING MINUTES

MEETING CONDUCTED REMOTELY
VIA GO-TO MEETING

FEBRUARY 1ST, 2022
7:00 P.M.

Present at the 7:00 P.M. Meeting:

Commissioners Present:

Chairman: Willard Hurd, AIA

Vice-Chair: Alan Silverman

Secretary: Karl Kadar

Allison Stine

Mark Serva

Commissioners Absent:

Stacy McNatt

Staff Present:

Paul Bilodeau, City Solicitor

Mary Ellen Gray, Planning and Development Director

Katie Dinsmore, Administrative Professional

Thomas Fruehstorfer, Planner

John Kennell, Planner

Joshua Solge, Planner

Chairman Hurd called the Planning Commission Meeting to order at 7:03 PM

Ms. Dinsmore: We’re recording.

Chair Hurd: Alright, I didn’t hear the announcement in my ear I was confused there for a moment.

Ms. Dinsmore: Yeah, not sure why it didn’t announce it.

Chair Hurd: Yeah, I see we’re recording, let me...alright everyone welcome to the February 1st, 2022, city of Newark Planning Commission meeting. This is Will Hurd, chair of the Planning Commission. Pursuant to the governor’s declaration of the health emergency and with the decision of Council, we are holding this meeting remotely through the GoTo Meeting platform. Our goal is to support the participation of everyone in this meeting. Katie Dinsmore, the department’s Administrative Professional will be

managing the chat and general meeting logistics. In accordance with the governor's declaration on remote meetings, everyone needs to identify themselves prior to speaking. At the beginning of each agenda item, I will call on the related staff member to present first followed by the applicant. Once the presentation is complete, I will call on each Commissioner in rotating alphabetical order, for questions of the presenters. 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 prevent 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 then 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 Ms. Dinsmore 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. We follow public comment with further questions and discussions from the Commissioners and then the motions and voting by role call. Commissioners will need to articulate the reasons for their vote in most cases. If there are any issues during the meeting, we may adjust these guidelines if necessary and I forgot to gavel us in...so there we are.

1. Chair's remarks

Chair Hurd: Alright, item 1, chair's remarks I have nothing.

2. The minutes of the October 19th, 2021, CIP and December 7th, 2021, Planning Commission meeting

Chair Hurd: That takes us to item 2, the minutes. We have before us the minutes from the October 19th CIP meeting and the minutes from the December 7th Planning Commission meeting. I've sent to Ms. Dinsmore my typographical corrections, are there any other comments or corrections from the commissioners? Alright seeing none, the minutes are approved by acclamation.

3. Review and consideration of major subdivision by site plan approval, special use permit, and parking waiver for the properties located at 132-138 East Main Street.

Chair Hurd: And that takes us to item 3, review and consideration of major subdivision by site plan approval, special use permit, and parking waiver for the properties located at 132-138 East Main Street. I want to just note that, in case people get confused, although it is in the title of the agenda item, we are not considering the special use permit for the apartments on the property because the property is less than an acre. Please also note that this project has been in process with the department and us for several years and is being considered under the current BB zoning, especially the floor bonuses, the height bonuses. We are seeing this project again because Council reviewed the parking waiver from the previous version of this project and had rejected it. And after some changes to the code pertaining to exclusions for resubmission, they are back to us with a revised project, which requires them to come before us for a review and consideration of the project as a whole. With that, Director Gray are you beginning?

Director Gray: Yes, I am.

Chair Hurd: Ok, take it away.

Director Gray: Thank you Chairman Hurd. This application proposes to demolish the structure at 134 East Main Street which currently or recently housed Tasty Wok, Playa Bowls, and Margarita's Pizza. The structure at 136 East Main Street that currently contains Chipotle, a Mexican grill will not be changed. The structure at 134 East Main will be replaced by a 11,750 square foot structure. Also, that translates to 59,900 square feet, square gross feet floor area that wraps around the back of the existing structure at 136 East Main Street. The new structure will include two 2,000 square foot restaurants in the front with apartment amenities and a 2000 square foot commercial tenant space in the rear with 1 three bedroom 26 two bedroom, and 4 one-bedroom apartments on the 2nd to 5th floors. The parcel is proposed to include 14 parking spaces of the current 30 spaces that are leased to the city in the rear of the building. And these 14 spaces will be leased to the city as part of the city parking lot. I'd like to note regarding the 14 parking spaces, there's a typo on lines 155 and 345 the staff report which indicates there are 13 instead of 14 parking spaces that are proposed to be leased to the city and that number should be 14. The existing zoning is BB also known as Central Business District. The existing uses are

approved in this district and there's no change in the zoning being proposed. The city of Newark zoning code section 32-18 D4-A allows structures in the BB zoning district to be erected to a height of 3 stories and 35 feet but includes provisions to add 4 additional floors provided they meet certain requirements. This project is utilizing a provision that allows the addition of 3 floors if more than one half of the apartment dwelling units have a maximum of two bedrooms, an occupancy of one family or up to 4 unrelated tenants in each of the units with the provision that the structure cannot exceed 15 feet per floor. The proposed structure includes 30 one- and two-bedroom apartments for a total of 31 units and doing the math there. As such the zoning codes allows the construction of the (inaudible) story structure up to a height of 75 feet. The proposed height of this building is 64 feet and therefore meets code requirements. It should be noted that the fifth floor of the structure is set back from the front of the building by 20 feet. So, the apparent height of the structure from Main Street will be about 49 feet. For comparison purposes the height of some of the existing structures and proposed structures include the 58 East Main which is 4 stories and that's 53.2 feet, the Washington House which is at 113 East Main and that's 6 stories and 65 feet, One Easton down the street at 230 East Main Street and that's 6 stories and 75 feet, the Main Towers which is approximate to One Easton at 330 East Main and that's at 7 stories. And the Green Mansion which was proposed and is currently being build at 94 East Main Street is 7 stories and 75.25 feet. The code section 32-97 for site plan approval provides alternatives for new development and redevelopment proposals to encourage a variety and flexibility and to provide the opportunity for energy efficient land use by providing reasonable variations 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 the natural environment including landscaping, relationship to the neighborhood and community, and or energy conservation. In this case, the applicant is requesting site plan approval for relief from two area requirements. One is the front setback where the code requires 20 feet and the plan is 14 feet, so the difference of requested relief is 6 feet. And the side yard setback, which for buildings over 3 stories requires 8 feet, and the plan shows 0 feet, so the requested relief is 8 feet. As noted above, the plan is therefore not compliant with terms of building setback and side yard. The Commission will need to consider the requested area regulation exceptions against the standards of distinctiveness and excellence of site design as I just outlined above. And also, the developer's site plan approval submission. Site plan approval support documents provided by the applicant are included in the staff report and attached as Exhibit G. Moving on, the Comprehensive Development Plan, the proposed plan does conform to the Comprehensive Development Plan V and therefore will not require any amendment for this designation. As Chairman Hurd mentioned, a special use permit is required for this project, but since this proposal is less than one acre it's actually .6518 acres and will not be considered as part of the Planning Commission review but will be part of the City Council review process. The project proposes an access isle from the west side of lot 4 to the rear of the subject site, that will require the removal of five existing trash dumpsters. The applicant has indicated that they intend to consolidate refuse collection in lot 4 to one trash compactor which may be collected by the City of Newark Public Works and Water Resources department. This department supports the consolidation of trash in this area and it's collection by the city. However Public Works and Water resources needs to be assured that all of the relevant property owners are in favor of the consolidation of the dumpsters in the lot and have requested that the applicant provide correspondence from all of the relevant property owners that currently have a dumpster located in this parking lot therefore confirming they're in favor of consolidating all of the dumpsters in the lot. As Chairman Hurd indicated this application does include a parking waiver request since this project does not provide the code required number of parking spaces. The number of spaces required for the proposed uses and these existing legally non-conforming spaces, and the number of spaces provided resulted in a shortage of 29 parking spaces. As a result, the applicant is requesting a waiver for 29 spaces. The applicant's parking request letter which was justification and rationale is included in the staff report as Exhibit J. In this letter, in exhibit J the applicant has indicated in the parking waiver letter dated December 13th, 2021, that this project is decoupling parking for the residential units to discourage onsite parking of vehicles for those residing in the building, a practice consistent with the city's evolving desire to discourage the use of vehicles instead encouraging walking, biking, and the use of ride sharing within the downtown area. The Planning and Development concurs with this approach of decoupling parking, discouraging the onset parking of vehicles and discouraging the use of vehicles in favor of alternate means of transit within the downtown area. For section 32-45 B9 the applicant is required to pay the city a fee in lieu of the required parking spaces. This fee may include applicant in kind services, land donation, granting of easements or rights of way, or similar parking improvement activities. As such, the applicant has indicated that they will provide the city with a perpetual mutual cost access

easement to allow traffic in lot 4 to continue to cross the property of the developer even if the parking spaces of this lot are no longer part of the city parking lot. In addition, the applicant will pay the required Parking waiver fee of \$135,897.75. While the applicants of downtown commercial properties are encouraged to present their designs to the Newark Design Committee, it's not required. The applicant presented their design for the design committee review when it was the hotel project back on February 21st, 2019. The Newark Design Committee did recommend this project the Newark Design Committee Review report is attached in exhibit L. The Newark Design Committee is currently not meeting so they were not available to review the plan when it was revised. This design is also subject to the requirements of Chapter 27 Appendix 13, Design Review of Properties. This proposed development meets all other requirements detailed in the Municipal Code of the City of Newark, Chapter 27 subdivisions with the site plan approval process along with the Subdivision Advisory Committee comments as described in the staff report. It should be noted that there are several Subdivision Advisory Committee conditions that need to be addressed prior to this plan being placed on the City Council agenda and are noted as such in the City Staff report. In addition, staff would like to call attention to the Subdivision Advisory Committee comments from the Code Enforcement division regarding window openings on the East and West side needing to be in compliance with 2018 International Building Code Section 705.8. Should this application be ultimately approved by Council, any changes to the window openings as presented with this application to Council would require going back to Council for review and approval. I'm scrolling down here and will conclude my presentation... Because the special permit and major subdivision plan with site plan approval with the Subdivision Advisory Committee recommended conditions should not have a negative impact on adjacent or nearby properties, and because the proposed use does not conflict with the Comprehensive Plan V the Planning and Development department recommend that the Planning Commission take the following actions. That the Planning Commission recommends approval of the 132-138 East Main Street Major subdivision and site plan approval plan as shown on the Pelsa Company site plan approval, special use permit, and major subdivision plan dated August 5th, 2019 and revised November 19th, 2021 with the Subdivision Advisory Committee conditions as described in the January 25th, 2022 Planning and Development report and that the Planning Commission approve the 29 space parking waiver of 132-138 East Main Street with the following conditions; that the applicant will provide the city with a perpetual mutual cross access easement to allow traffic in lot 4 to continue to cross the property. And that the applicant will pay the parking waiver fee of \$135,897.75. Regarding the parking waiver I would like to note that the approval of the parking waiver is the purview of the Planning Commission and that the code requires per Section 32-45 B9 as I've previously mentioned that the applicant is required to pay the city a fee in lieu of the required parking spaces so as a result the approval needs to include the fee in lieu of the parking waiver I would also like to note that the staff recommendation for the parking waiver should read that the Planning Commission approve not recommend approval. Chairman Hurd this concludes my remarks, thank you.

Chair Hurd: Alright thank you so much. Who is presenting for the applicant?

Mr. Danneman: Hi, my name is George Danneman I was just going to briefly thank you for your time and pass it over to John Tracey who will be giving our formal presentation.

Chair Hurd: Alright thank you so much.

Mr. Tracey: Please note that that is not a halo above my head, I've never been able to quite get the iPad in my office to line up appropriately. But I want to thank everybody for their time this evening and Ms. Gray for her thorough report which I'm sure will save me a few sentences as we go through this this evening. You've already met George Danneman who is the property owner as well as the developer; also, on the line in case there are questions for them are Julian Pellegrini from the Pelsa Company who's the project engineer, Kevin Wilson from Architectural Alliance who the project architect and Craig Johnson from North Star Construction management is. I also wanted to do a little bit of a preview because I think for most on the Commission, I believe they will be very familiar with this project as was illuded to previously we were almost in front of you almost a year to the day for final consideration of our original plan we had entered into that process, we had actually attended two Planning Commission meetings as the Commission may recall there was a need for Mr. Bilodeau to weigh in on some legal interpretations having to do with what we had proposed at the time which were 1st floor apartments and whether they could be obtained through site plan as well as if you could get a density bonus through site plan. Once those interpretations were offered and we modified our plans in accordance with those interpretations including electing not to proceed with the first-floor apartments because they were a source of some concern as well as adjusting the density bonus of what we were seeking to match

what Paul's interpretation of the code had been this Commission in considering the project unanimously recommended approval of site plan and the subdivision plan. To Council, as well as unanimously approved at that time a 67-spot parking waiver, that parking waiver at the time included no fee in lieu instead was including not only the cross-access easement that you heard but also a full conveyance of property to the city. As I think most Commissioners are aware it then advanced to City Council, which on a substantial debate following an appeal from a member of Council elected to reverse the approval of the parking waiver by a 4-3 vote. So, Council never actually passed on the Commission's approval of the site plan and subdivision plan. Prior to a Code Amendment that would've signaled the end of a project for at least a couple of years, however I think many were troubled by the abrupt ending of this project without having the opportunity to make revisions to address concerns and so there was a Code Amendment that was ultimately proposed and approved allowing for the opportunity of these projects to come back sooner than the 2 years that was previously in the code where a parking waiver had been denied and I believe the Commission reviewed and approved that ordinance before it ultimately went up to Council. We then took the steps to revise our plans returned to Council as required by the Code Amendment to get their initial blessing to allow us to continue which we did receive several months ago. Candidly I think that the reason that we're ultimately in front of you this evening because you'll see in a moment that the parking waiver's been substantially reduced is because we even though we eliminated the density request that had previously been approved the number of apartments increased because they're smaller apartments which technically requires us to go back through this process with you. I think that's the principal reason that we're here because again, you had approved a larger parking waiver. But as you'll see the project that we're going to go through with you is essentially the same that you considered and approved in 2021 with the two differences being reduction in the impact of the project the first being the elimination of any density bonus, which again was approved previously, and the other is the decrease over by 50% in the amount of parking waiver that the Commission had previously approved. So, with that we'll move on to the proposal itself. Again, this is going to seem very familiar I think many of the slides are going to seem very familiar because externally there really hasn't been a change in the project you approved last year but again, we've got to throw a report in front of you I'm not going to read verbatim through that in fact I may cut some stuff out. But I will note that this is as I said previously is a much larger project that Mary Ellen had illuded to that included a hotel it was going to be up to 10 stories in size it was going to incorporate large portions of lot 4 that was ultimately after going through the Downtown Partnership for review, it was determined that it was not going to be feasible and we scaled back to the smaller project you have in front of you, but we kept many of the architectural elements that were in place and approved by the design committee back in 2019 including adding a ministered roof to the building to step back the façade as you've heard, adding brick façades to the sides and the rear as well as just along the front, reducing the building scale to allow for efficient vehicle access around the building throughout lot 4 and adjusting a stair tower to add a fire rated corridor accessed from Main Street instead of accessing purely from the side of the building. Which also then created areas for remote fire alarm panels that the personnel could access directly from Main Street. Again, all of these were incorporated in the prior projects so with that I'll move to the PowerPoint that you have in front of you, and you can slide to the next slide. Again these are going to be very familiar to you we'll go one more this is aerial photograph, we've noted the property which I think is familiar to anyone who's spent time in Newark is the former home of Margarita's Pizza as well as the current homes of Playa Bowl and Tasty Wok. We've also noted in this exhibit some of the larger and taller buildings that Mary Ellen has referenced in her report, now she had indicated because again of the BB zoning, there's no need for rezoning of this nor is there a need for a Comp Plan amendment. This shows the current picture of the existing two-story structure, which as you know has three restaurant spaces along the front, one of which is now vacant, but you do see the Playa Bowl and the Tasty Wok there you can see Kates Place there on the right. Moving onto the next slide, this is again a dated photograph but it's the same photograph you saw last year because it still shows the parking kiosk in the middle of the parking lot which is no longer there. As you can see a majority of the site is largely paved with again the condos in the rear view as we move to the next slide these are the existing site plan conditions again, they have not changed from what you've seen before as was noted by Mary Ellen the city currently leases the spaces that are behind our building within lot 4 and vehicles can currently traverse the lot to get from one end to the other from Center Street. As I mentioned there are three restaurant spaces within this building, in addition it also contains as it currently stands a small office and 4 two-bedroom apartments. The next slide if we skip 2 ahead I believe is the overall development slide for the project as you can see we are replacing the two story mixed use building with the five story building that has been previously represented it wraps around the Chipotle building but it does not make any actual changes to the Chipotle building itself as we committed to previously doing some work

beyond the boundaries of our parking lot in order to facilitate the creation of the new parking spaces and the flow of traffic behind the building. We are also incorporating new handicap spaces as well as an Electrical Vehicle charging space as well. As you can probably guess from what you've heard the retail store fronts along Main Street are being reduced from 3 to 2. All those as you heard there's going to be a small commercial space behind the building for lease as well. The next slide reflects this as well in a color-coded format showing the commercial spaces in tan with access to the stair tower that I mentioned in yellow in the front end of the building. And then the 1st floor amenities and then access for the rest of the residential portion for the building. The 2nd to 5th floors as mentioned will be again a mixture of largely one- and two-bedroom units with 1 three-bedroom unit that is again largely dictated by the amount of floor space and amount of setback that we have. That's the only three-bedroom apartment and the rest are one and two bedrooms. There'll be plenty of bike parking both outside and inside the building you can see the bike racks in grey above the building and then there are going to be storage units on each of the floors where additional bikes can be stored for those living in the building. Moving to the next slides these are reflecting the architectural concepts and again these are the same slides that we showed you that you approved in 2021 because there was no need to change any of that the changes were largely internal. We showed this previously as where our ideas for the design concepts came from the Newark Opera house building across the street the next slide shows the materials that we're going to be incorporating into the building which again are the same that we showed you in 2021 the diagram to the right reflects the setback that I told you about previously. As we move onto the next slide these are a couple of perspective views again these are the same perspective views that we showed you at the last meeting this is looking diagonally, this is looking straight on the property and the one after that is looking at the property from the side this is again looking straight across the street that's looking at it diagonally the other way on Main Street, and then the last if you're looking in from Center Street onto the property and again these are the same views that were shown in 2021. As was noted in the applicant like Mary Ellen mentioned, and consistent with a lot of projects in the City of Newark, this project is seeking site plan approval Mary Ellen mentioned that this is for general site approval on the architectural features and other things will be worked out as we move through the process. What I wanted to note is that originally when we were in front of the Commission, we were seeking 4 deviations including the 1st floor apartments as well as a density bonus. When the Commission had voted on the project, we had eliminated the 1st floor apartments and we had the density bonus and the two aerial deviations from the front and side setback. We are before you today with just the front and the side setback deviations and again those deviations are the same as what was approved by the Commission in 2021; we haven't changed any of those. I will note however that even with the front setback that deviation is actually an improvement over the present condition. The present condition of the building actually had it extend out just beyond the Chipotle which was next to it. The revised provision even though we're seeking about a 6-foot variance is actually now stepped it back so it's actually not as far out as the Chipotle building if that makes sense. But again, they are the same deviations that we had previously discussed with us and that you had approved. Here they are in table format because we all like grids. With regards to the standards for site plan approval. As the Commission is aware it is common open space, unique treatment of parking facilities, outstanding architectural design, associate with the natural environment, relationship to the neighborhood and community, and state compliance. Now I was going to read through my notes, but my notes are almost verbatim in the report that you all have, so I don't necessarily run through all of those specifically, again what you see in front of you is again what you had seen and approved in 2021. We've maintained the architecture, we are still including a Stormwater management facility, subsurface even though that's not something that's required under state codes for this project, we continue to work with the Parks Department and others for the appropriate plantings and landscaping that we can add into the site. And again, the benefits of having this type of building, this type of facility on Main Street which I included in my submission letter and are also in my notes which are verbatim in the report that you received but I'm happy to address any of those should they come up. If we slide onto the next slide, these are again some of the benefits that we showed you in 2021 for this project and they are the same benefits that are in this project we didn't remove any of these things when we're coming back to you now. They were as approved in 2021 and then we are again as I mentioned coming back to you with the same design and the same benefits but with less of an impact. If we slide onto the next slide, discussing the parking waiver. These are some of the things that Mary Ellen discussed in her report, what I wanted to note with regard to the parking waiver is that again the Commission unanimously approved a 67-spot waiver in 2021 following City Council's reversal of that we went back and looked at ways we could reduce parking demand on the project, and we really did it in two fashions. One is reducing the scope of the type of restaurants that are in the building. Now candidly we probably overestimated parking in our

329 original waiver, because I think one of these restaurants would qualify as what's considered take away
330 or what have you it basically just reduces the number of tables or seats that you can have in the
331 restaurant and when you fall below the number you are not required to account for it in parking
332 although we have taken a conservative approach and included the additional employees in our count
333 which is the waiver of 29. The other part of it is reducing the number of bedrooms in the building, we
334 have many larger three- and four-bedroom units we've eliminated all but one of those with one three
335 bedroom unit and we're now at primarily one and two bedroom units which has a net decrease in the
336 parking demand and in the end reduces the waiver from what the Commission approved previously the
337 67 spaces to the 29 spaces and you can see on this slide again as I mentioned the benefits of what this
338 parking waiver in terms of what we're doing. If we slide on to the next slide, and the slide after that and
339 again this was what you were provided, they encompass some of the discussions from the Parking
340 Subcommittee about the desire to reduce the need for parking downtown at least coupled parking with
341 these types of facilities. And it's kind of interesting I'll note that the town of Dewey which we don't want
342 to compare Newark to Dewey Beach but in some respects, they have some of the same issues with
343 parking in restaurants; they actually went forward and reduced the requirement to provide onsite
344 parking for restaurants that are 4,000 square feet and smaller I believe is the number so those no longer
345 need to provide under this new ordinance parking spaces. Again, both of our restaurants are under
346 2000 square feet, but we have accounted for one in the parking calculations, and we've reduced the
347 seating and impact in the other to take it below. Last slide I believe this was the slide that I had shown
348 originally that not only shows the various parking lots that the city has but also the various University
349 Parking lots that are available for folks, particularly students to go and park their car in their facilities if
350 they decide they ultimately want to bring a car to campus but the next slide again I think is just
351 highlighting the changes that I went through but you can see it in graphical form both the parking space
352 waiver as well as the unit mix that we had talked about previously and again that unit mix does not
353 require a density bonus which had previously been awarded. With that I think I have covered the
354 application I believe the next slide is my slide to walk off which is again a comparison of the before and
355 after. So, in summary this is from a physical standpoint the same thing that this Commission reviewed
356 and approved from an impact standpoint it's actually less because we have eliminated the density bonus
357 that was previously awarded by using smaller units and we've reduced by over 50% the parking waiver
358 that had previously been granted in order to move this project forward. Then again as Mary Ellen
359 mentioned it's part of that parking waiver that will be the permanent mutual cross access to allow free
360 flow of traffic across lot 4 as well as paying the parking waiver fee which we were not paying previously
361 when approved but now we are paying the 135,897.75. So that is the overview, and we obviously hope
362 that the Commission will look in favor on this as it did previously. Thank you very much.

363 Chair Hurd: Alright thank you Mr. Tracey. I will note for the record that Commissioner Serva arrived,
364 welcome Mark. Alright, so we will go to Commissioner's questions, and I will start with Commissioner
365 Kadar.

366 Commissioner Kadar: Good Evening. Question on line 256 of the Planning Department's report. It
367 states under energy conservation that "while the project does meet the LEED requirements, the
368 applicant will strive to meet (inaudible) these provisions through Newark's new energy code. Chairman
369 Hurd, when was the energy code adopted for the city, was it before this project was submitted or after?

370 Chair Hurd: So, I also noted this and I was thinking on it and I think that Planner Fruehstorfer might have
371 a stronger answer too, my recollection of how things work is because this project was under
372 consideration, back when it was first submitted, it is being considered under the site plan approval code
373 as it existed at that time, which was prior to when we had updated that code to require the additional
374 points under the new amendments to the energy code.

375 Commissioner Kadar: Ok.

376 Chair Hurd: But the caveat is that the code enforcement is right that when you submit for the building
377 permit, that is going to have to comply with the current amendments to the energy code in the building
378 code section.

379 Mr. Tracey: And I think that's in the department's report as well.

380 Commissioner Kadar: Yeah, so it's more than striving to meet the code, they will have to meet the code.

381 Chair Hurd: Right, but the (inaudible) the thing that happened was when we enacted those amendments
382 to the energy code, we also enacted changes to the site plan approval code that instead of using the
383 LEED certified level we said it's an additional 10 points on the existing point system. So, my guess is that

384 if they meet the city's energy code requirements of 30 points, they're going to meet LEED certified
385 effectively.

386 Commissioner Kadar: Ok.

387 Chair Hurd: And that's just my gut feeling but I feel like they would hit that. But because of the timing of
388 the project, site plan approval says if you want to be considered for the energy code portion of
389 consideration LEED certified is what we're asking you to meet.

390 Commissioner Kadar: Alright, I'm comfortable with that. Thank you. That being said I mean we've
391 reviewed the original project this is a modification of that original project and I tell you I like it a whole
392 lot more than the original one it seems to be a much cleaner design and a much better fit into that area
393 and structurally the building totally blends in with the rest of the community and I'm happy with it so I
394 have no other issues and I will just turn it over to Chairman Hurd.

395 Chair Hurd: Alright thank you. Commissioner Serva?

396 Commissioner Serva: Yeah, I want to apologize for being late and I also wanted to apologize to Mr.
397 Tracey I'm sorry I missed the beginning of the presentation. I and I also apologize if any of my questions
398 are redundant given the earlier presentation but when I went through the proposal in terms of the site
399 planning section, more specifically starting on line 155, which outlines the requirements for the approval
400 of the site plan, I will agree with you that I think it's an outstanding architectural design and I would
401 agree with what Commissioner Kadar just said about it fitting into the community. But it didn't seem like
402 you gave us a lot more to go on there. We had; I'll grant you that the architectural design but the open
403 space you kind of hand waved it. As far as the parking facilities, we're getting smaller the natural
404 landscaping there wasn't much there. I went through each of these, and it seemed like you were relying
405 a lot on the outstanding design. So, I'd kind of like to hear a little more about that and of course
406 anything else that you might propose to add to be considered under the site plan approval process.

407 Mr. Tracey: Yeah Mr. Serva thank you and you're probably a better person for missing some of my
408 original presentation because everybody's better off if they don't hear me talk the whole time. When
409 we had been through this process and I think Tom and Mary Ellen will indicate and correct me if I'm
410 wrong but certainly but for these things for site plan it's kind of a mixture, you try to hit them all, you
411 don't have to hit them all, you try to bump them up in certain areas where you can't bump them up in
412 others, so you're right with regard to architecture and blending into the environment and meeting the
413 LEED requirements. Those are the things we're really relying on this instance. In the BB district for
414 instance, open space is not required and what the city's often indicated there's often a number of park
415 facilities or other facilities that are in close proximity and walking distance to the site that you don't
416 necessarily need to do additional open space things but on the flipside what we try to do and what
417 we're obligated to do and what we are doing in part of this is working on landscape plans to add
418 additional landscaping to the site both in the back and front but more particularly in the back where we
419 have more space to do that. With regard to the parking, yes, we're seeking a parking waiver in this
420 instance which is a code provided way to do this but as part of that we're obligated to do certain other
421 things such as making a payment to the city to compensate for the loss of those parking spaces as well
422 as in this instance where previously it was going to be land being given to the city, in this instance now
423 it's a permanent easement across the lot. So that everything can be in and those can be access points for
424 everyone going through the parking lot. But the rest of the stuff and some of the other things that
425 we're doing that I mentioned earlier which kind of tie into LEED and the relationship to the community
426 even an actual environment is that we're adding a subsurface stormwater management facility to this
427 site which is something we're not otherwise obligated to do by the State's stormwater management
428 (inaudible)

429 Chair Hurd: Thank you Mr. Tracey. Commissioner Serva, I'll just mention that this an, you're coming in
430 on a long conversation that we've been having on the Commission in that the site plan approval as
431 written don't work well for redevelopment projects because they are asking for things that don't exist as
432 you noted. So, there are a couple of things in my mind to be considering one is it's not that they have to
433 comply or hit every single one of them, it's that those are the things we can use to evaluate the project.
434 And then the other thing and it's much more personal is it's a matter of saying is the benefits that we
435 are receiving whatever they are, do they balance in our mind the request for relief? So, it's a
436 combination of those kind of things to kind of say that site plan approval requires us to consider it, and
437 these are the criteria that have been laid out but that's some of them, some or all of those. But as Mr.

438 Tracey pointed out, we can sit here and say “oh they’re improving stormwater” which is not on the list
439 but it is a thing so you know we can look at the other benefits of the projects in the consideration.

440 Mr. Tracey: Yes, and if I could just chime in here on the back of Mr. Hurd the other part of this which is
441 kind of interesting and I detailed the presentation and I wanted to come back to it. With each iteration
442 of the project the deviations that we were seeking from the site plan approval process actually got less.
443 So, when we were initially there, we sought 4 approvals one of which was two 1st floor apartments
444 which the something we could seek through site plan approval but because it was something that was
445 causing consternation with a few folks, not necessarily not on the Commission but others who were
446 speaking, we removed that request and redesigned the first floor. And the second part of it is I had
447 mentioned previously, and the Commission did approve, I recognize that you were not on the
448 Commission at the time, was a density bonus actually increasing the number of apartments and the
449 number of larger apartments that we’ve had. And as we’ve come back through it this time that’s been
450 eliminated as well so we’ve actually reduced the site plan impact down to 2 what I would call fairly
451 typical deviation requests, mundane if you will because they’re setbacks, one of which again is actually
452 an improvement over the existing condition.

453 Chair Hurd: Alright. Thank you, Commissioner Serva? Commissioner Serva are you done with your
454 questions?

455 Commissioner Serva: Yeah, I’m done thanks.

456 Chair Hurd: Thank you, Commissioner Silverman?

457 Commissioner Silverman: Thank you very much Chairman Hurd. I applaud the applicant for reducing the
458 number of bedrooms. I think by going with the one-bedroom units they’re meeting some of the goals
459 and needs of the Rental Housing Needs Studies so you’re contributing to the housing opportunity within
460 the city of Newark. Something that the applicant unfortunately cannot take advantage, but we can
461 consider with respect to the parking waiver, is the amount of public parking that’s available in very close
462 proximity to this site both existing and a significant number of public parking spaces are going to be
463 constructed at a recently approved project literally across the street. So, I don’t see a parking waiver as
464 even an issue where with respect to the availability of parking. Something that did not come up in
465 discussion that by demolishing two rather older properties, the land use intensity will bring additional
466 tax revenue to the city. I didn’t see on I believe the city’s report or the applicant’s report an estimate of
467 what typical square footage of this kind brings in property tax revenue. I commend the police in they’re
468 review in using the concepts of crime prevention from environmental design with their comments with
469 respect to the lighting, security cameras, and additional things on the site that have been included by
470 the applicant. And the architectural drawings that have been produced by the architectural alliance int
471 their exhibits were very well done and using a very overworked phrase “one picture is worth a thousand
472 words” I think it painted quite a picture of what this project will look like on Main Street and the visual
473 impacts that it’ll have on Main Street. That concludes my comments.

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

475 Commissioner Stine: Thank you and good evening, everybody. I really just want to echo a few things
476 that Commissioner Silverman stated. I also like the addition of the one bedroom and two-bedroom
477 apartments I think that’s a great modification to the second iteration which is the version I came in on, I
478 was not around for the first version, the hotel, but I like the one and two bedrooms, I like the decoupling
479 of the parking, I appreciate that. I liked this project the first time around, I like it the second time
480 around, I think it’s beautiful, I’ve always loved the opera house and think this is a great addition to Main
481 Street so thank you, I have nothing further.

482 Chair Hurd: Thank you. So, I’m going to bring up the question that was kind of illuded to but was the
483 subject of a lot of comments, about the openings in the exterior walls along the property lines. So as an
484 architect this is something you become very familiar with. And so not knowing how you intend to do it,
485 that is a lot of windows for a wall that is essentially on the lot line which by code means you can’t have
486 openings. So, can we talk a little bit about what your plan or what your process is going to be to deal
487 with that? Because if those windows can’t exist then that’s a very different project.

488 Mr. Tracey: I guess what I’m going to do is defer to either Kevin Wilson or Craig Johnson if they would
489 like to address that. I think they’re both on the call, but it’s a conversation that we’ve been having with
490 the public works folks for a while.

491 Chair Hurd: Ok

492 Mr. Tracey: This was not new to us as it came in it's something we've been talking about; George's got
 493 his hand up.

494 Chair Hurd: Commissioner Silverman?

495 Commissioner Silverman: Will is there a visual or drawing that we can refer to see what you're talking
 496 about?

497 Mr. Tracey: The slide that shows the view in from Center Street I'm assuming Mr. Hurd would show?

498 Chair Hurd: Actually, do the one over Main Street, the one over Panera Bread. That's the wall that is on
 499 the lot

500 Mr. Tracey: Keep going, there that one is what he's talking about, I think.

501 Chair Hurd: Yep. Alright, Mr. Wilson?

502 Mr. Danneman: This is George Danneman I'm just going to briefly start. So, we've been in discussions
 503 with city staff and the city solicitor about this specific issue for a while now. And the city staff had us
 504 add to the site plan a hash marking where there will be an easement on the 140 East Main Street
 505 property building with openings that would be to close to the back of our building. Which the city
 506 solicitor and city staff have agreed to in concept for the most part, we're just then I'm going to punt to
 507 Kevin Wilson, but I believed we've basically resolved this issue. Kevin?

508 Mr. Wilson: Good evening, Chairman Hurd I'd like to just make you aware that the elevation on the East
 509 side that you're looking at that borders the Chipotle roof that property line no longer exists, so we no
 510 longer have an issue on proximity to property line until we get on the short leg, on the dog leg portion to
 511 the rear fronting the parking lot. And that's where Mr. Danneman talked about the easement to allow
 512 importunity, nothing would be built on the adjacent parcel, we're also working closely and have studied
 513 each elevation closely with regard to the number of percentage of openings windows and doors and on
 514 the west side, the side that is not in view, that is 5 feet from the property line, and we are within the
 515 maximum number percentage of openings for that elevation. So, we believe we can resolve this and
 516 we're also obviously going to be looking at the roofing and the fire ratings that may be needed with the
 517 Chipotle roof, and again that's not near the property line so we don't think that's an issue.

518 Chair Hurd: Ok. I'll just note that none of the site plans indicated that that property line was removed
 519 and therefore this was not an issue. That line still extends in the project so, that's probably why I
 520 brought up the question because it was not clear that the parcels were being reconstructed. Usually, we
 521 get a drawing that shows the lot lines being removed and new parcels being created as part of the
 522 subdivision approval. Well, that addresses my concern so thank you for that, alright that moves us to
 523 public comment...

524 Solicitor Bilodeau: Excuse me Mr. Hurd, this is the Solicitor if I could just for one moment. Mr. Tracey, I
 525 know the last go around, you also part of your presentation went over the code requirements or criteria
 526 for parking waivers, and I know that in Exhibit J, second page of exhibit J you have a paragraph in your
 527 letter from December 13th, that goes over that criteria. So, if you could just go over that again I want to
 528 make sure we get it right.

529 Mr. Tracey: Absolutely, I appreciate that, Paul. Again, with regard to the parking waiver reduced and
 530 even with the parking waiver request, even in it's reduced capacity, it remains consistent with the goals
 531 of the city for development in the Main Street corridor. The restaurant uses that presently occupy and
 532 are planning to occupy are those that primarily target the University population, does not attract
 533 vehicular traffic and instead gets pedestrian and bike facilities. Moreover, the residential uses of the
 534 project are Main Street and University focused which again tend to rely less on vehicle traffic. This is
 535 particularly evident from what we've seen in the current environment that still envelops Newark, I was
 536 hoping in a year that I wouldn't be saying that along with the rest of the state with regard to the
 537 pandemic, although what we're starting to see is some of the things, we've had to deal with over the
 538 last two years are going to be permanent in the sense of how people are dealing with things and
 539 addressing things. So, I think some of the changes we've seen are going to continue. And as was
 540 mentioned we are decoupling the parking, from the residential units to discourage onsite parking which
 541 is again is something consistent with the city's evolving desire. With regard to the standards in the
 542 code, we certainly believe that this will not conflict with the purposes of the Comprehensive Plan as the
 543 plan itself encourages this type of development with the regard to the plethora of mixed-use
 544 developments surrounding the parcel along the Main Street corridor, the proposed use will certainly not

545 be out of character and in harmony with the development patterns of the central business district. As a
546 student housing project coupled with university and pedestrian focused business it's not a highway-
547 oriented building and not dependent of vehicular traffic or detrimental to the uses that current it. And
548 finally with the availability of vehicular or excuse me with the availability of municipal and university
549 parking spaces within the central business district including those mentioned by Mr. Silverman there will
550 be ample parking opportunities for those who decide they want to visit the site and visit downtown
551 Newark. And I will note that with this kind of carries through and we mentioned this last time, we
552 actually did have some other parking lot designs that would have resulted in a few additional parking
553 spaces available however the city's ultimate preference was the design we came up with which
554 encouraged flow but lost a couple of parking spaces. But I think overall it's very comfortably within the
555 standards of the parking area.

556 Chair Hurd: Alright.

557 Solicitor Bilodeau: Thank you.

558 Chair Hurd: Thank you Solicitor Bilodeau for bringing that back to mind. Alright this takes us to public
559 comment. Ms. Dinsmore or Director Gray have we received any public comment on this item?

560 Ms. Dinsmore: No Chairman we've not.

561 Chair Hurd: Ok, I open the floor to public comment, I've seen no one in the chat indicating that they
562 want to comment, but if you wish to unmute yourself, we just ask that you identify yourself and your
563 location within the city which can be by Council district and then limit your remarks to 5 minutes. Alright
564 seeing none, I'm closing public comment which brings us back to the dais and back to the
565 Commissioners. And we can do one last round of any final comments or thoughts if needed. And we will
566 begin with Commissioner Serva.

567 Commissioner Serva: I have no additional comments at this time thanks.

568 Chair Hurd: Alright, Commissioner Silverman?

569 Commissioner Silverman: No additional comments.

570 Chair Hurd: Alright thank you. Commissioner Stine?

571 Commissioner Stine: I have nothing at this time. Thank you.

572 Chair Hurd: Thank you. Commissioner Kadar?

573 Commissioner Kadar: Just one point for Commissioner Silverman, you indicated that there was no
574 indication of what the potential revenue to the city would be. And I want to point you to line where was
575 it now...bear with me...

576 Chair Hurd: I know what you mean.

577 Commissioner Stine: Line 317

578 Chair Hurd: Fiscal Impact, yes, it's in there.

579 Commissioner Kadar: Line 317 all the way through line 332 it talks about the increased revenue versus
580 the current revenue and also makes an estimate on the loss of revenue as a result of the 16 parking
581 spaces. Other than that, ...

582 Commissioner Silverman: That's a standard boiler plate I was more interested in the property tax
583 revenue.

584 Chair Hurd: Ok. Anything further Commissioner Kadar?

585 Commissioner Kadar: No, nothing further.

586 Chair Hurd: Alright that takes us to-

587 Mr. Tracey: Actually, Chairman Hurd can I just for one clarification going back to the elimination of the
588 property line I think it's faint to see on the plan but if you look at the purpose note on the plan, purpose
589 note number 2, is to eliminate the internal common parcel lines with regard to those parcels.

590 Chair Hurd: Ah, ok.

591 Mr. Tracey: But Jullian also indicated that the lines are not necessarily, they don't pop necessarily but I
592 wanted to just make sure you were aware that it was actually on the plan.

593 Chair Hurd: Alright thank you. Well, there's a large parcel line around it but there are still internal lines
594 the line between 132,134, and 136 so that was confusing to me. Mostly a note for the next time, we like
595 it clear and simple. Alright that takes us to the motions. I will remind Commissioners that for site plan
596 approval, we do need to articulate the reasons for our approval or disapproval which can be per, what's
597 the language, "per the department's report" I believe Solicitor Bilodeau is an acceptable response for
598 that.

599 Solicitor Bilodeau: You are correct sir.

600 Chair Hurd: And then for parking waivers is there any criteria that we need to articulate as well?

601 Solicitor Bilodeau: I would just reference the code section the proper code section that lists the criteria,
602 it's section 32-45b and the standards are there, and I don't think you need to go through them
603 individually, I think you just say the "standards of code section 34-45b" had been met.

604 Chair Hurd: Alright, thank you.

605 Director Gray: Hello, this is Director Gray, I need to emphasize that based on previous discussions of the
606 Planning Commission, the requirement is that a fee in lieu is required. So, staff had indicated what the
607 applicant is offering in the fee in lieu which is the cross-access easement and the payment of the parking
608 waiver fee. So that would need to be included in the motion we have a recommended motion in the
609 staff report for that thank you.

610 Chair Hurd: Alright, thank you Director Gray. Secretary Kadar are you ready?

611 Commissioner Kadar: Just one question. Paul, can you clarify the code on the parking waiver, it's section
612 32-45 is that b or d I'm having a little trouble?

613 Solicitor Bilodeau: It's b as in Bilodeau.

614 Commissioner Kadar: Got it, thank you very much. Ok one other question before we proceed and I'll
615 turn this to Mary Ellen Gray, if we could. The project is officially referred to as 132-138 East Main Street
616 or is it 132-136?

617 Director Gray: This is Director Gray, it is the first Karl, 132-138.

618 Commissioner Kadar: Ok, I'll make that correction before I enter the motion. Ok are we ready?

619 Chair Hurd: Ready.

620 Commissioner Kadar: **Because it should not have a negative impact on adjacent and nearby properties,**
621 **and because the proposed plan fully complies with the subdivision ordinances and zoning code and**
622 **based on the January 25th, 2022 Planning and Development report, we recommend that the**
623 **Commission approve the 132-138 East Main Street Major subdivision and site plan approval plan as**
624 **shown on the Pelsa Company's site plan approval, special use permit, and major subdivision plan**
625 **dated August 5th, 2019 and revised November 29th, 2021 with the Subdivision Advisory Committee**
626 **conditions as described in the January 25th, 2022 Planning and Development report.**

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

628 Commissioner Silverman: I'll second, Silverman.

629 Chair Hurd: Silverman's on the second, any discussion of the motion? Alright, seeing none we'll move to
630 the vote. Commissioner Silverman?

631 Commissioner Silverman: I vote aye, I concur with the recommendations of the Planning Department
632 report dated January 25th, 2022.

633 Chair Hurd: Thank you very much. Commissioner Stine?

634 Commissioner Stine: I vote aye as well based on information in the January 25th, 2022, Planning and
635 Development department report.

636 Chair Hurd: Thank you. Commissioner Kadar?

637 Commissioner Kadar: I vote aye as based on the conditions set forth in the January 25th, 2022, Planning
638 and Development report.

639 Chair Hurd: Thank you. Commissioner Serva?

640 Commissioner Serva: I vote aye based on the recommendations in the January 25th, 2022, Planning and
641 Development department report.

642 Chair Hurd: Thank you and I vote aye as well for reasons stated in the report and also for the applicant's
643 desire to improve the stormwater quality and quantity on the site. Alright, motion passes. That takes us
644 to motion C, parking waiver.

645 Commissioner Kadar: Ready? Ok. Because it should not have a negative impact on adjacent and nearby
646 properties and is consistent with code 32-45b and because the proposed plan does not conflict with the
647 development pattern in the nearby area, the Commission recommends approval of the 29-space parking
648 waiver for 132-138 East Main Street with the following conditions. The applicant will provide the city
649 with a perpetual mutual cross access easement to allow traffic within lot 4 to continue to cross the
650 property and the applicant will pay the required parking waiver fee of \$135,897.75

651 Chair Hurd: Thank you do I have a second?

652 Commissioner Stine: Second, Stine.

653 Chair Hurd: Thank you

654 Director Gray: I'm sorry to interrupt my apologies this is Director Gray if I could recommend a friendly
655 change to that motion is that the Planning Commission approves and doesn't recommend approval for
656 parking waivers.

657 Chair Hurd: Oh, right you had said that.

658 Director Gray: And that was our mistake that we had in the staff report, so I apologize.

659 Commissioner Kadar: Should I read it again?

660 Chair Hurd: Probably safest, let's just dump it and get a new one into the record.

661 Commissioner Kadar: Alright, let's go again. **Because it should not have a negative impact on adjacent
662 and nearby properties and is consistent with code 32-45b and because the proposed plan does not
663 conflict with the development pattern in the nearby area, the Commission approves of the 29-space
664 parking waiver for 132-138 East Main Street with the following conditions. The applicant will provide
665 the city with a perpetual mutual cross access easement to allow traffic within lot 4 to continue to
666 cross the property and the applicant will pay the required parking waiver fee of \$135,897.75**

667 Chair Hurd: Alright thank you do I have a second?

668 Commissioner Stine: I second that, Stine.

669 Chair Hurd: Alright thank you. Any discussion of the motion? Alright seeing none we will move to the
670 vote. Commissioner Stine?

671 Commissioner Stine: Aye.

672 Chair Hurd: Thank you. Commissioner Kadar?

673 Commissioner Kadar: Aye.

674 Chair Hurd: Thank you. Commissioner Serva?

675 Commissioner Serva: Aye.

676 Chair Hurd: Thank you, Commissioner Silverman?

677 Commissioner Silverman: Aye.

678 Chair Hurd: Thank you and I vote aye as well. Motion passes. Alright and that also ends this item, thank
679 you all.

680 Mr. Tracey: Thank you.

681 Mr. Danneman: Thank you folks have a good evening.

682 Chair Hurd: You as well. Alright let's take a minute to get rid of that stack. Alright, moving on.

683 **4. Review and consideration of a text amendment to Chapter 32 Section 32-18 to add**
684 **microbreweries as a special use to the BB (Central Business District) zoning district.**

685 Chair Hurd: Oh, my goodness we're right on track for the schedule, how'd we do that? Item 4 Review
686 and consideration of a text amendment to Chapter 32 Section 32-18 to add microbreweries as a special
687 use to the BB zoning district. Director Gray, who is taking this one?

688 Director Gray: Planner Josh Solge is taking this.

689 Chair Hurd: I've got to get used to the fact that you're on staff because I keep seeing your name list and
690 going who's that guy, he comes to all the meetings? Alright.

691 Planner Solge: Let me take myself off of mute. It's good to meet you all and to present this ordinance.
692 So good evening, everyone I'm presenting for the Planning Commission's consideration an amendment
693 to the Chapter 32 of the zoning code to allow for microbreweries and craft distilleries as a conditional
694 use in the BB central business district zone in the city of Newark. In 2017 Council approved an
695 amendment to the zoning code to allow microbreweries and craft distilleries in the BC, MI, and MOR
696 zoning districts as a conditional use with a special use permit approved by Council pictured here in dark
697 blue, orange, and red. That amendment included a volume limit on production in the BC general
698 business district but not in the MI or MOR districts. Currently no microbreweries or craft distilleries have
699 opened in these districts. We propose to extend the allowance of microbreweries and craft distilleries
700 into the BB central business district highlighted here in blue. Note that we proposed to carry over the
701 volume limitations on beer and spirits from the BC district. Planning and Development has recently
702 received an inquiry from a local business owner about operating a microbrewery with a tasting room in
703 a BB zoning. Brewing has historically be a big business in Delaware dating back to it's founding as a
704 colony in the 1600s, however prohibition and industry consolidation in the early and mid-20th century
705 led to the industry going all but extinct in the state. More recently Delaware has been a launch pad of
706 the resurging craft brewing industry including Newark's own Iron Hill Brewery and the Newark area's
707 Midnight Oil and Twisted Irons Breweries. Delaware ranks 21st in the nation in craft breweries per
708 capita, 7th in economic impact per capita with the craft brewing industry producing 430 million dollars in
709 economic impact in 2019 and Delaware ranks 2nd in craft beer produced per capita in the United States.
710 Craft brewing is a tourist attraction and an economic engine in the state of Delaware. As you can see the
711 craft brewing industry has been experiencing continuous growth with microbreweries accounting for
712 increasing share of that production and in 2016 the Planning and Development department issued 2
713 reports proposing amendments to the zoning code the Planning Commission revised and approved
714 those amendments to Council and Council passed them as Bill number 1702 to allow for and regulate
715 microbreweries and craft distilleries in Newark. Because of the groundwork laid in crafting that
716 ordinance, we need only to propose one amendment to the zoning code to add microbreweries and
717 craft distillery use to the list of conditional uses in the BB zoning district. That amendment is written
718 here to Article 4 section 32-18b 17 Microbrewery and craft distillery subject to the requirements of
719 subsections 32-56.4F and 32-56.4G Manufacturing and sales shall not exceed more than 20,000 barrels
720 per microbreweries and 250,000 proof gallons for a craft distillery in the calendar year. Sorry the
721 computer is slow here. Staff comments can be found on page 3 and 4 of the Planning department's
722 report however it is summarized then here in brief. Item 1, the brewing industry has an extensive
723 history in Delaware and the number of craft breweries currently operate throughout the state.
724 Microbreweries and craft distilleries in Newark have the potential for positive economic impact and job
725 growth in the city. Item 2, the BB district in addition to BC, MI and MOR is an area where a
726 microbrewery or craft distillery may be an appropriate use with Council review for a special use permit.
727 Item 3, as outlined in exhibit A outlining the criteria and procedure for Council granting special use
728 permit, the special use process will allow the city to closely evaluate the appropriateness of the uses of
729 this type on a case-by-case basis; in addition, section 32-56.4f 1B states that "special use permits as they
730 relate to the sale of alcoholic beverages may be revoked anytime by a majority vote from City Council".
731 Item 4, the department believes that the requirements set forth by state regulators combined with the
732 special use permit approval system and revocation option should adequately address concerns for
733 adverse impact. There were no other staff comments. And that was it, thank you.

734 Chair Hurd: Alright thank you so much Planner Solge. Alright I will begin with questions from
735 Commissioners, and I will begin with Commissioner Stine.

736 Commissioner Stine: I'm going to ask a really stupid question. Is the shops at Louviers a BB district?

737 Planner Solge: That is correct. It is not located in downtown, but it is located in a BB zone.

738 Commissioner Stine: Alright, cool. I have no other questions thank you.

739 Chair Hurd: Thank you. Commissioner Kadar?

740 Commissioner Kadar: (inaudible). Ok better. I have a little bit of a concern, no concern around
741 microbreweries, they're generally safe. My concern is around craft distillation. Craft distillation, the
742 distillation part of that is in fact a chemical process which handles flammable liquids and if we're going
743 to grant approval to a flammable liquid handling and manufacturing process, in the BB central business
744 district which is heavily populated with building on top of building. There're going to have to be some
745 very stringent requirements to allow that to happen. The change in the code not specify what those
746 requirements are. And I should also point out that the code for the state of Delaware allows for 750,000
747 gallons of proof distilled spirits per year and am I correct to understand that we in Newark are limiting
748 that to only 250,000?

749 Planner Solge: To your second question Commissioner since that's the shorter one, we would be limiting
750 it to that amount in the BB zoning district it is limited to that amount in the BC zoning district, MI
751 general industrial and MOR manufacturing and research uses do not have that limitation in the Newark
752 code and so the state limitation would apply.

753 Commissioner Kadar: And I think that's entirely appropriate because given the eventual use of a like
754 industry manufacturing type area which is fairly common for this. I worry about putting flammable
755 spirits into the Central Business District.

756 Planner Solge: I believe that's a reasonable concern as part of the special use permit process an
757 application for such a business would go through a full departmental review and so the building code
758 and fire safety specialist would review that and recommend if that would be a good use at the location
759 proposed.

760 Commissioner Kadar: Is it the intention to and assuming this is approved, is it the intention of the city to
761 go ahead and provide standards, regulations that consistently apply across all buildings through the
762 central business district? Or is that going to be left up to the Fire Marshall, or electrical or whatever to
763 apply on a case-by-case basis.

764 Chair Hurd: Actually, Commissioner Kadar? I'm going to step in on this one because this actually has
765 more to do with the building code and the fire safety code. So, the building code has a category for I
766 want to say high danger but that's not the right word. But uses that have a higher risk of fire or other
767 things and so the building code restricts the area that can be used for those uses. And it also specifies
768 sprinkler requirements, fire separation requirements, and other aspects of that. So, the building code
769 does already take this into account. So, if I'm doing a microbrewery that's a low-risk manufacturing
770 facility that lets me have a certain amount of space. If I'm doing basically higher proof liquids that's a
771 higher risk and therefore a smaller area can be dedicated to that use. And then it also needs to be
772 appropriately separated from other uses and protected by fire protection systems.

773 Commissioner Kadar: Ok, I understand, I'm still a little uncomfortable with that. I've seen for example
774 down in Smyrna where you have a craft distillery on the main street and a building that used to be an
775 old movie theatre. The only saving graces for that are the fact that the fire department is right across
776 the street so if anything goes wrong, they can respond almost instantaneously. That doesn't seem to be
777 the case here although Aetna is not far away it's volunteer. Anyway, alright that's my only concern.

778 Chair Hurd: Ok, Commissioner Serva?

779 Commissioner Serva: Yeah, I share Commissioner Kadar's concerns not just the fact that we'd be dealing
780 with alcohol but also the production process of distilled liquids can also be dangerous. Barring that, I
781 guess I'm just confused about what is or what's currently being done because obviously Iron Hill isn't a
782 microbrewery. And you know I'm not sure if Grain actually manufactures beer on their premises, but I
783 know Iron Hill does. Are they not under the BB zoning classification? What is the difference between
784 say what Iron Hill is currently doing and what you're proposing?

785 Planner Solge: Off the top of my head, I'm not sure about the Grain but Iron Hill is classified as a
786 Brewpub so it's a restaurant serving alcohol as accessory use.

787 Commissioner Serva: So, you're proposing to extend this to microbreweries not necessarily to Brew
788 Pubs so your extension would not include the serving of food then?

789 Planner Solge: Yes, so Brew Pubs are currently permitted in the BB district, this would be there would
790 not be a requirement for food service.

791 Commissioner Serva: Ok that helps thank you.

792 Chair Hurd: Alright Commissioner Silverman?

793 Commissioner Silverman: I'm going to continue Commissioner Kadar's thinking here. With respect to
794 the activity on the site how does the city intend to deal with the conversion of structures with respect to
795 hailing truck traffic, loading, offloading times indoor and outdoor storage, if I leave a tractor trailer unit
796 to be unloaded at another time or for auxiliary storage save raw spirits as they're produced. How will
797 that be handled? Loading docks, I can see from the architectural and the design point of view if you're
798 dealing with an industrial park, you can kind of take everything into consideration but here, we're
799 talking about inserting a use into an existing urban or BB environment. I just don't know how the site
800 would work for essentially a manufacturing use with a tasting component being retrofitted into a use
801 that was never devoted to truck traffic. Including hours of operation for loading and unloading that kind
802 of thing. And that's the end of my questions.

803 Planner Solge: So, with some of our volume limitations I think the expectation is that these would be
804 relatively small-scale operations and we've mentioned Iron Hill they currently operate downtown on
805 Main Street without creating significant disruption. And as far you know blocking access and rights of
806 way and that sort of thing, I think in general city code would apply. (inaudible)

807 Commissioner Silverman: (inaudible) I want to unload my tractor trailer or bring my tanker truck into
808 move raw spirits I have to have a place to park it I have to have a loading dock in a protected area to
809 back into. The unit might be stored overnight. Do we have conflicts in between four-wheel style
810 automobile parking and truck access to these sites? Raw material has to come in some way.

811 Director Gray: This is Director Gray Commissioner Silverman to add onto Planner Solge's comments the
812 requirement for this use is a special use permit so those types of issues so special use permit you can
813 add on additional conditions so in your scenario with the loading dock that would be addressed via the
814 special use permit. And each site is unique so you would be able to tailor each of those conditions for
815 each site through the special use permit process.

816 Commissioner Silverman: Would it not be better served if these items were listed out as things to be
817 taken into account with special conditions, we're talking about a group of people here who understand
818 what's gone on in the Council that's going to deal with this, what's going on five year, ten years, fifteen
819 years out. If there's no reference to the kinds of thinking that went into our approval there's not going
820 to be a point to measure the proposal again in criteria.

821 Director Gray: Well, those type of criteria are not always applied to each use when you mentioned the
822 spirits the loading and unloading where they're going to park. There's also and our code requires they
823 look at the loading scenario. There are requirements within our code regarding loading, loading zones
824 and where things have to occur. So, I would be reticent to include those specific things in this code
825 because they might not apply. So here again that's where the special use permit process comes in. In
826 addition to our regular ordinances that does manage those types of issues.

827 Commissioner Silverman: I was suggesting that rather than trying to run duplicate standards that simply
828 there's a reference back to when the special use permit is considered. The following shall be considered,
829 the current loading and unloading zone requirements that sort of thing.

830 Chair Hurd: So, Commissioner Silverman you're looking for additional criteria for consideration of the
831 special use permit or are you looking for language added to item 17 the amendment under 17 about
832 that use?

833 Commissioner Silverman: Additional language.

834 Chair Hurd: To the special use consideration?

835 Commissioner Silverman: Yes.

836 Chair Hurd: Ok. Well, something to consider. I will say for my brief experience I have worked for one
837 microbrewery and such most of what's coming in is bags basically of raw materials malt and such. And
838 then it's the brewery and the adding of water. And what goes out is either cases if they're bottling on
839 site or kegs for that. I think nothing working at this scale is going to remove bulk liquids for bottling

840 elsewhere I don't think that's not going to be suitable for this economic scale. So, I would assume that
841 what is leaving is going out in a small van or truck. And what's coming in might be on a larger truck
842 because of deliveries but the scale of what's coming in is fairly small because the biggest ingredient is
843 water in the process.

844 Commissioner Stine: I would also mention that Dogfish Head, I have a place in Rehoboth directly across
845 the street from their Brew Pub where they have been distilling spirits in pretty small batch distillery
846 since 2002. I don't know that people understand that, right there on Rehoboth Avenue. I don't think
847 those numbers are as big of an operation that we might be making it out to seem. It's a pretty small
848 operation.

849 Commissioner Serva: Chair Hurd one thing is that whatever grain is coming in has also got to go out. I
850 mean whatever they're having delivered is also going to have to be taken out and spent grain. That's
851 also a considerable load.

852 Chair Hurd: Thank you for that, you're right.

853 Planner Solge: Go ahead Mary Ellen.

854 Director Gray: I would just this is Director Gray; I would add that in the BB zone it is self-limiting in that if
855 a manufacturer would be looking to generate large quantities of spirits or beer, they would not be
856 looking to locate in the BB zone. They would be looking in the MOR zone where there would be more
857 space and you would be able to spread out. So, there's a self-limiting factor going on here in the BB
858 zone. Thank you.

859 Chair Hurd: Thank you Director, that is a good point.

860 Planner Solge: And also, in exhibit B there is a provision that all garbage and production waste must be
861 stored in covered containers and not visible from public waste.

862 Commissioner Kadar: Chair Hurd if I may?

863 Chair Hurd: Yes, Commissioner Kadar, yes.

864 Commissioner Kadar: Since being a chemical engineer I know a little bit about distillation. Let me just
865 give you an example. Assuming that we provide a permit for craft distillation and a special use permit
866 that allows for the production of 250,000 proof gallons. Now you should understand that a proof gallon
867 is a 100-proof product in other words it's 50% alcohol. 100 proofs, so it's a 50% alcohol production of
868 250,000 gallons. To produce that quantity of spirit assuming that you have a standard yield from a
869 batch, it's about 8%. So, if you make a beer that's about 8% alcohol, you distill it. That means that your
870 output is 1,562,500 gallons of liquid; that's got to go somewhere. Only 8% of it is alcohol the rest of it is
871 essentially water. And I find it difficult to believe that we're going to take that water and put it in closed
872 containers for destruction. It's going to go down in the sewer system somewhere and I think we're
873 asking way too much to be put into the central business district. And that doesn't include as was pointed
874 out the spent grains, they have to go somewhere as well. So, you have a solid waste problem and a
875 liquid waste problem.

876 Director Gray: This is Director Gray Chair Hurd, regarding any discharge into the sewer system there are
877 requirements pretreatment requirements for any manufactured use. I don't know what they are but
878 there are requirements. If it reaches a level the wastewater treatment plan which is where this
879 wastewater is going, cannot effectively be treated, that's called a pretreatment program.

880 Chair Hurd: Ok, and Commissioner Silverman to your point, exhibit B has the language for section 32-56-
881 A with is the "sale of alcoholic beverages for consumption on premises and on restaurant patios" Item 2
882 the review criteria talks about a police department evaluation, a building department evaluation,
883 information from the Delaware Alcoholic Beverage Control Commission, and other information as
884 appropriate. Do you feel that covers the concerns that the conditions are evaluated for
885 appropriateness?

886 Commissioner Silverman: Yes, it does.

887 Chair Hurd: Ok. Alright we've had a couple of rounds here with the Commissioners so I'm going to open
888 this to public comment, at the moment. Ms. Dinsmore or Director Gray have we received any public
889 comment on this item?

890 Ms. Dinsmore: No Chairman we have not.

891 Chair Hurd: Ok. Has anyone indicated that they wish to speak?

892 Ms. Dinsmore: No.

893 Chair Hurd: Ok, I will open the floor to public comment to anyone who wishes to give us five minutes of
894 their thoughts. I'm looking, I'm waiting, this is the one thing I miss about its person, is that you could
895 actually see people try to get up and stand. But alright, seeing no action closing public comment and
896 returning this to the dais virtual though that is. I guess do any Commissioners have final thoughts or
897 concerns or issues they want to air, some of these could be amendments to the motion. Yes,
898 Commissioner Serva?

899 Commissioner Serva: Does this proposal need to be voted on in total or in other words are they
900 proposing two different things that we're debating in two different ways? Microbreweries versus
901 distilleries; we seem to have more concerns about the distillery than we do the microbrewery. Will this
902 have to be considered as a whole?

903 Chair Hurd: I think the short answer is no. We can craft a motion that seems to suit the will of the
904 Commission for consideration. And so, one option would be to create item 17 and then item 18 ones for
905 microbreweries and one's for craft distilleries. Commissioner Stine, yes?

906 Commissioner Stine: And I just wonder when we grant a special use permit, they have to meet three
907 criteria right? Basically, is it safe, is it harmful to the neighbors and it goes on to say that by in granting
908 any special use permit that Council shall designate such conditions and connections there with as will in
909 its opinion assure that the use shall conform to the foregoing requirements which are adversely
910 affecting the health and safety of people, be detrimental to public welfare or injurious to property, or
911 being in conflict with the purposes of the Comprehensive Development Plan. So, it sounds like getting
912 this special use permit could be a challenge. Right because they'll have a hard time meeting at least in
913 our opinion some opinions they'd have a hard time meeting some of those conditions. And I'd imagine
914 that the Council would impose such conditions that might make it challenging to Director Gray's point in
915 finding an appropriate location in the BB zoning.

916 Chair Hurd: Correct.

917 Commissioner Stine: And my next comment is we taking this on because we have one person requesting
918 it?

919 Chair Hurd: Actually, generally how things do happen is that someone will come and say "I see that you
920 allow craft breweries but not in the BB zoning. And I've got this, I'm up at the shops at Louviers which is
921 kind of out of town I can't do what I want to because I'm in the wrong zoning. Is that something we can
922 do something about?" And basically, that ends up before us and we consider it.

923 Commissioner Stine: I'm just curious, we've just had the one request we haven't had multiple or any of
924 the other businesses looking for this type of relief from the zoning code.

925 Planner Solge: We currently have the one request, yes.

926 Commissioner Stine: That's it for me, thank you.

927 Chair Hurd: Planner Fruehstorfer?

928 Planner Fruehstorfer: If I could add there is a brewery that wanted to open up in Newark years ago but
929 could not find a suitable location, wanted to be in a more BB type location. Were not happy with the
930 spots they could find just BC and MOR they did not want to be in an industrial area. And they opened up
931 in Kennett Square instead of Newark.

932 Chair Hurd: Ok. Commissioner Serva not to put you on the spot or try to (inaudible) is your thought on
933 the whole thing are you looking for different limits perhaps on the two different types of operation or
934 was it something else?

935 Commissioner Serva: Well, I think the safety concerns raised by Commissioner Kadar concerns me. I
936 know this is not you mentioned that this is more of a building permit concern, but we do have to
937 consider the safety of the situation. Micro Brew Pubs you know I'm not concerned about you know I
938 think it would add a nice dimension to the downtown area and that type of thing. I think it would be
939 cleaner to consider them separately so that we can move forward maybe on the one proposal but
940 explore some of the details on the safety concerns. I'm also concerned with putting a distillery in
941 downtown with college students. I mean I know that's very paternalistic of me but at the same time I

942 have some concerns about that but at the same time it's the safety concerns raised by Commissioner
943 Kadar.

944 Chair Hurd: I will note that there are elements in the code for exhibit B that talks about you know, no
945 promotional activities, a number of things to keep it from being a bar in front of a distillery. And I think
946 and this is probably a broad statement, but the product being produced at a craft distillery is both priced
947 outside and both outside of the flavor profile of your average consumer. So, it's you know very niche.
948 Ok, trying to look around, do we feel like we can move forward on the motions. I think Commissioner
949 Silverman was first.

950 Commissioner Silverman: Mr. Chairman I do not know what Mr. Denney's reason for being in the
951 meeting, but he did have his hand up and you have not called on him.

952 Mr. Denney (Wooden Wheels): Hello I'm just one of the co-owners of Wooden Wheels bike shop so who
953 you're talking about right now, so we're just trying to do a very small microbrewery right at that corner
954 at the shops at Louviers. Just to kind of add on to the bike shop scene of things and just a nice
955 community space just being focused right up on that corner being with White Clay right there and
956 coming right out at the Redd Park Trail from the top of the reservoir. So that's just our main goal.

957 Chair Hurd: Ok

958 Mr. Denney (Wooden Wheels): So, if we could add that into the minutes tonight, I would appreciate it.

959 Chair Hurd: Alright thank you for your perspective. Commissioner Kadar?

960 Commissioner Kadar: So, Commissioner Hurd are we going to talk about them splitting this and doing
961 two motions? One for microbreweries and one for craft distilleries? Or do we want them together and
962 do them all in one.

963 Chair Hurd: What I'm hearing, and I agree this is only from one member, but it seems like it would solve
964 it. If we split it, I think that we can the general sense it seems like microbreweries are not a concern
965 really of anyone in terms of safety, volume, trucks, blah blah. It's the craft distillery that's more concern
966 in the denser areas. So, if the goal is to keep this moving forward what I'm hearing is if we split this up,
967 we can keep one piece of this moving forward and possibly have the craft distillery portion come back
968 around with some other staff ideas or maybe it just sort of goes away for a while and then comes back if
969 somebody decides that they want to open a craft distillery and we take this under consideration again.
970 I'm just presupposing but I think that if we split it, we have a better shot at keeping this whole process
971 going forward rather than tanking the whole thing and then having to come back to this again in a
972 month or so.

973 Commissioner Kadar: I agree fully with the comments of Commissioner Serva on microbreweries versus
974 craft distilleries. And I'm perfectly prepared to provide a motion for the microbreweries and then we
975 either hold off on the distillery or we go ahead, I'm afraid it might be rejected.

976 Chair Hurd: I understand, I think we need to put the motion forward because that's what we're here to
977 do, we put the motion forward and then we see where it lands.

978 Commissioner Kadar: Ok, this is a motion for microbreweries, correct?

979 Chair Hurd: Yes, so Solicitor Bilodeau does that make sense does it seem?

980 Solicitor Bilodeau: This is Solicitor Bilodeau yes it makes sense based on everyone's comments we
981 should do the first motion just for microbreweries and then after that, if that does pass then just see if
982 there's any taste, no pun intended for having a second motion on craft distilleries. And if there's not, we
983 could just move on.

984 Chair Hurd: Alright, and Commissioner Kadar I was just looking at appendix B, we do need to keep the
985 reference to both of those subsections in both motions.

986 Commissioner Kadar: You're talking about the one section 32-18B and 32-17B correct?

987 Chair Hurd: I'm talking about 32-56 4F and 32-56 4G.

988 Commissioner Kadar: The motion doesn't include any reference to that.

989 Chair Hurd: Where it says "microbreweries and craft distilleries subject to the requirements of
990 subsections..."

991 Commissioner Kadar: Oh, ok I've got you we're good.

992 Chair Hurd: Those subsections deal with both microbreweries and craft distilleries so.

993 Commissioner Kadar: I'll do my best to separate them appropriately.

994 Chair Hurd: Alright, moving forward.

995 Commissioner Kadar: Alright ready for the motion?

996 Chair Hurd: Yes.

997 Commissioner Kadar: **To enable the city to permit microbreweries in the BB zoning district with the**
 998 **Council approved special use permit the Planning Commission is considering recommending the**
 999 **following changes to chapter 32 zoning. Amend article 4 section 32-18B BB Central Business District**
 1000 **by adding the following text for section 32-18B 17 "microbreweries are subject to the requirements of**
 1001 **subsections 32-56.4F and 32-56.4G manufacturing and sales shall not exceed more than 20,000 barrels**
 1002 **during a calendar year".**

1003 Chair Hurd: Alright thank you, do I have a second?

1004 Commissioner Serva: I'll second.

1005 Chair Hurd: Thank you Commissioner Serva. Any discussion to the motion? Alright seeing none we'll
 1006 move to the vote. Commissioner Kadar?

1007 Commissioner Kadar: Aye I have no issues around microbreweries relatively safe operation.

1008 Chair Hurd: Ok. Commissioner Serva?

1009 Commissioner Serva: I vote aye based on the Planning and Development Department report dated
 1010 January 25th, 2022.

1011 Chair Hurd: Thank you, Commissioner Silverman?

1012 Commissioner Silverman: I vote aye based on the Planning department report of January 25th, 2022.

1013 Chair Hurd: Thank you, Commissioner Stine?

1014 Commissioner Stine: I vote aye based on the information provided by the Planning and Development
 1015 department report dated January 25th, 2022.

1016 Chair Hurd: Alright and I vote aye as well for the reasons stated in the report and by the Commissioners.
 1017 Alright, that one passes. Secretary Kadar?

1018 Commissioner Kadar: Ok, **to enable the city to permit craft distilleries in the BB zoning district with a**
 1019 **Council approved special use permit the planning commission recommends the following changes to**
 1020 **chapter 32 zoning. Amending Article 4 section 32-18B BB Central Business District by adding the**
 1021 **following text for section 32-18b 17 "craft distilleries are subject to the requirements of subsections**
 1022 **32-56.4F and 32-56.4G manufacturing and sales shall not exceed more than 250,000 proof gallons**
 1023 **during a calendar year"**

1024 Chair Hurd: Alright do I have a second?

1025 Commissioner Stine: I'll second, Stine.

1026 Chair Hurd: Thank you Commissioner Stine, any discussion to the motion?

1027 Commissioner Serva: Yes if I could ask Mr. Denney a question. Since you're specifically interesting in this
 1028 potential business down on Main Street could you give us any background in terms that you might have
 1029 in the distillery process?

1030 Chair Hurd: Commissioner Serva, he is considering this in the shops at Louviers which is off of Papermill
 1031 Road, no one has come to us to talk about Main Street specifically.

1032 Commissioner Serva: Ok, I thought he was talking about moving it down to Main Street.

1033 Chair Hurd: No. Wooden Wheels just moved to the shops at Louviers and is looking to expand their
 1034 offerings there.

1035 Commissioner Serva: I withdraw the question, sorry.

1036 Chair Hurd: Ok that's fine I just want to make sure that we're all you know talking about the same thing.
1037 Alright any other discussion to the motion or the amendments? Alright seeing none we'll move to the
1038 vote. Commissioner Serva?

1039 Commissioner Serva: I vote nay based on the discussion during our meeting and the comments of
1040 Commissioner Kadar.

1041 Chair Hurd: Alright Commissioner Silverman?

1042 Commissioner Silverman: I vote nay based on the discussion of the Commissioners.

1043 Chair Hurd: Thank you, Commissioner Stine?

1044 Commissioner Stine: I vote aye because I think we have a good granting of special use permits in place
1045 and because the Council has the ability to further set limitations on any such business through the use of
1046 the special use permit process, therefore, aye.

1047 Chair Hurd: Thank you. Commissioner Kadar? \

1048 Commissioner Kadar: I vote nay because of the serious concerns around safety and environmental
1049 impact of such a facility in the BB Business district.

1050 Chair Hurd: Ok, I vote aye for many of the same reasons as Commissioner Stine, as well as the fact that a
1051 facility similar to this is operating in Rehoboth which I think, and also, I think Director Gray's comments
1052 about appropriately sizing facilities to their location. Anyway, motion fails 2-3. Alright and that closes
1053 that item. Thank you all, thank you Planner Solge for your work.

1054 Planner Solge: Thank you.

1055 **5. Review and consideration of the Comprehensive Development Plan V amendment to add the**
1056 **George Reed Village Public Housing Redevelopment**

1057 Chair Hurd: Alright I'm going to preemptively extend use the Chair's prerogative to extend the meeting
1058 to 9:30 so I don't have to interrupt things in 5 minutes. This takes us to item 5, review and consideration
1059 of the Comprehensive Development Plan V amendment to add the George Reed Village Public Housing
1060 Redevelopment.

1061 Planner Fortner: Good Evening Mr. Chairman and Planning Commissioners I'm presenting the text
1062 amendment to the Comprehensive Development Plan V by adding a new section in Chapter 5, Housing
1063 Community Development. On the revitalization of the Newark Housing Authority's George Reed Village,
1064 public housing place. This is necessary to assist and support the Newark Housing Authority and their
1065 development department Leon Wiener and Associates to apply to the Delaware State Housing
1066 Authority's Federal Low Income Tax Housing Credit. There's a brief description of the process and the
1067 purpose of the low-income housing tax credit, the LIHTC program on page 2 of your report. Also, after
1068 my presentation I will turn the floor over to Sean Kelly of Leon Weiner and Associates and he will be
1069 giving a brief presentation on the importance of the amendment and the application process and
1070 answer your questions. The important thing to note is that this low-income housing tax credit is a
1071 primary federal tool of funding construction and rehabilitation of affordable housing projects in the
1072 United States. Another example of this in Newark is the Victoria Mews apartment complex on Elkton
1073 Road and O'Daniel Street and they used the low-income housing tax credits to rehabilitate that facility
1074 for low-income families. With this text amendment we are not approving of the development the
1075 project will got through the normal subdivision process and review through the Planning Commission
1076 and Council, rather this text amendment is in support of the concept of the Newark Housing Authority's
1077 application and their federal funding application. The proposed text is shown on page 2 of your report
1078 and on page 56 of the revised chapter, this text was developed for the Comprehensive Development
1079 Plan 5-year review. So similar text will be in the review that you'll review next month, however the
1080 review process for the Comprehensive 5-year review and the application process for the Delaware State
1081 Housing Authority on different kind of paths so we need to get this into the text quicker so that we can
1082 put in the endorsement, and this will significantly help their application if we recognize in one of our
1083 Comprehensive Development Plan. On page 3 of your report are the department comments as you
1084 know the Planning Commission and Council have focused a lot on efforts to address affordable housing
1085 in Newark in particular focus on rental housing what much of our analysis from the housing studies and
1086 works groups have identified is that the University of Delaware, we are being a University Community
1087 student housing places a lot of pressure on the local rental market. Resulting in increased rents and the
1088 price of many low- and modest-income families out of Newark. The NHA has to compete in this rental

1089 housing market and its impact of high demand for student housing it affects the rates that they have to
1090 pay. So, the Planning and Development considers this revitalization and expansion of the housing
1091 development at George Reed Village to be an important opportunity for Newark. The recommendation
1092 is on page starts on page 3 of your reports, I mean the motion “because the proposed text amendment
1093 for George Reed Village Housing redevelopment addresses the need to increase affordable rental
1094 housing identified in the Rental Housing Needs Assessment and the Rental Housing Workgroup and the
1095 addition of the text will aid the Newark Housing Authority in obtaining needed federal funding for the
1096 project the Planning Development department suggests that the Planning Commission recommend the
1097 text amendment to the Comprehensive Development Plan V as shown in the Planning and Development
1098 department report dated January 25th, 2022 as shown in exhibit a of the report. I’ll turn the floor over
1099 to Sean Kelly who has a short presentation.

1100 Mr. Kelly: Thank you Planner Fortner, I’m not sure I’m seeing my presentation, thank you, just need to
1101 be patient here. I certainly appreciate the opportunity to present to Planning Commission this evening.
1102 My name is Sean Kelly I am with Leon Wiener and Associates we are a Wilmington based developer who
1103 specializes in affordable housing, and I am here this evening as the development consultant
1104 representing the Newark Housing Authority as Planner Fortner mentioned. And I have had an
1105 opportunity to introduce this proposed project to City Council however this is my first time sitting her
1106 with a Planning Commission so, if possible, I would actually like to I don’t think I have control here if I
1107 could jump forward to the two slides. To the concept plan. I would just like to start by giving this body
1108 of summary, one more please. Thank you. So in summary we are embarking on a development initiative
1109 that we hope will see the Newark Housing Authority administrative building which is located at 313 East
1110 Main and several aging garden apartment buildings which wrap around adjoining independent circle
1111 redevelop into a multigenerational affordable housing community with a concept mid-rise component
1112 with the high profile frontage on East Main Street and redevelopment the garden apartments in the rear
1113 of the community and I just wanted to say I look forward to sitting with the Commission in the future as
1114 our development plans become more complete. We are working with a local team including Brexton
1115 Architecture and Karins Associates to see our design concepts through but we’re not quite ready yet to
1116 present them to you folks, but I thought I would just start with that primer and I’m happy to answer any
1117 questions that you might have. And now if we could jump back to slide two with that introduction, thank
1118 you for that. So, the reason I’m here as Planner Fortner spoke here, I’m here to request this body’s
1119 support on behalf of the Newark Housing Authority for an amendment to the existing Comprehensive
1120 Plan, Comp Plan V which specifically references George Reed Village the public housing development as
1121 we know it at 313 East Main. The Comp Plan V does as Planner Fortner mentioned does support
1122 affordable housing development in a variety of ways however the specific reference to this existing,
1123 that’s important to point out, this existing public housing community will enhance our competitive
1124 application for state financing with the Delaware State housing authority. So, to touch on this
1125 background slide, the financial success of our initiative depends on receiving an allocation of tax credits
1126 from the Delaware State Housing Authority. And DSHA is typically only able to fund around 1/3 of the
1127 applications they receive. And therefore, the resource allocation is determined by a competitive scoring
1128 rubric, so for those who might be interested, the root of this request is actually imbedded in section 42
1129 of our federal tax code which provides guidance to the state on how they allocate the tax credits and
1130 that’s what that bottom reference is there. If we could go to the next slide, please. So here I have
1131 referenced the specific policy document which really compels this request and also, I have extracted the
1132 specific section of that document with the point scoring that I had mentioned in the rubric associate
1133 with this request. So, it is a very meaningful category to have our initiative recognized by name for the
1134 opportunity to secure these resources for what would become our future proposal to you folks to the
1135 City of Newark and moving forward an affordable housing development initiative. So as Planner Fortner
1136 mentioned at one point, we do have a tight timeline on this relative to the previously proposed full
1137 Comprehensive Plan rethinking so I very much appreciate the Planning Department’s support in
1138 considering an amendment and helping us usher this forward because we believe it could further the
1139 opportunity to take existing affordable housing for seniors and turn it into a modern, energy efficient,
1140 high quality affordable housing building for many years into the future. So, with that I’m very
1141 appreciative of your time this evening and I’m happy to answer any questions I might be able to clarify
1142 for you.

1143 Chair Hurd: Thank you. We’ll begin with Commissioner Serva.

1144 Commissioner Serva: Thank you for the presentation it’s really interesting. If this were to move forward,
1145 how long would the process take to do the construction and I’m just curious what would happen with
1146 the existing residents? How would that be handled?

1147 Mr. Kelly: Sure, that's a great question. So, if we our timeline as mentioned is really leading up to this
 1148 April and then the Delaware State Housing Authority will be making decisions on the competitive
 1149 application in July of this year and then if we are successful in receiving the resource in July by winning
 1150 the competition then we are able to take that resource, the tax credit and structure something that
 1151 looks more like a conventional real estate transaction. And it does take obviously in addition to the Land
 1152 Use approval that I would be seeking with you folks and with Council, you also have a more traditional
 1153 real estate closing. So really best-case scenario would be 8 months from July of this year so heading into
 1154 the second quarter of 2023, to be closing on the financing to actually begin the construction process.
 1155 And then the answer to the question about the residents is that no resident that currently resides in
 1156 George Reed Village will be permanently displaced. So as a little bit of background on my firm, we own
 1157 and operate Main Towers at 330 East Main we are also the owner of Marrows Court and we have been
 1158 you know invested in affordable housing in the city of Newark specifically bringing in affordable housing
 1159 but services that cater to our seniors in Main Towers for many years. And we do have experience with
 1160 this temporary relocation process, so we essentially move folks out for a period of time, they are given
 1161 assistance through the United States Department of Housing and Urban Development to cover their
 1162 expenses while they're off site and once we complete the building, we move them back in.

1163 Commissioner Serva: Thank you.

1164 Chair Hurd: Ok, Commissioner Silverman?

1165 Commissioner Silverman: I have no comments.

1166 Chair Hurd: Ok, thank you. Commissioner Stine?

1167 Commissioner Stine: Thank you for this presentation I think it's a great effort and anything we can do to
 1168 advance affordable housing in Newark is a good thing. Thank you.

1169 Chair Hurd: Thank you. Commissioner Kadar?

1170 Commissioner Kadar: I have no questions.

1171 Chair Hurd: Alright, I have no questions I'm just glad to see this project is moving forward I'm involved in
 1172 a similar type of project with another group, and I understand about low-income housing credits and the
 1173 importance of having those to make the development so I'm fully in support of anything that can make
 1174 this happen. Ms. Dinsmore or Director Gray have we received any public comment on this item?

1175 Ms. Dinsmore: No Chairman we have not.

1176 Chair Hurd: And has anyone indicated that they wish to speak on this item?

1177 Ms. Dinsmore: No Mr. Chairman.

1178 Chair Hurd: Ok, if there's anyone here that wishes to speak on the topic, I'm opening the floor to public
 1179 comment...going once, ok closing public comment and I think we can move directly to the motion
 1180 because it didn't seem like the Commissioners had anything that they needed to discuss. Commissioner
 1181 Kadar do we have enough for the motion, looks like we do.

1182 Commissioner Kadar: Yes, there's enough here. **I move that the Planning Commission recommend
 1183 approval of the text amendment to the Comprehensive Development Plan V as shown in the planning
 1184 and development department report dated January 25th, 2022 as shown in exhibit A of the report,
 1185 this is based on the fact that the proposed text amendment for George Reed Village Housing
 1186 Redevelopment addresses the need to increase affordable rental housing identified in the rental
 1187 housing needs assessment and the rental housing work group the addition of the text will aid the
 1188 Newark Housing Authority in obtaining needed federal funding for the project and it is in compliance
 1189 with the Comprehensive Development Plan V.**

1190 Chair Hurd: Alright do I have a second?

1191 Commissioner Serva: Second.

1192 Chair Hurd: Alright thank you. Any discussion to the motion? Alright seeing none I'll move to the vote.
 1193 Commissioner Kadar?

1194 Commissioner Kadar: I vote aye for all the reasons in the Planning Development Department report.

1195 Chair Hurd: Alright, Commissioner Serva?

1196 Commissioner Serva: I vote aye for the reasons stated in the Planning and Development Department
 1197 report dated January 25th, 2022.

1198 Chair Hurd: Ok, Commissioner Silverman?

1199 Commissioner Silverman: I vote aye for the reasons cited in the Planning and Development Department
 1200 report dated January 25th, 2022.

1201 Chair Hurd: Thank you Commissioner Stine?

1202 Commissioner Stine: I vote aye based on the information provided in the Planning and Development
 1203 Department report dated January 25th, 2022.

1204 Chair Hurd: Thank you and I vote aye as well for the reasons in the report as well. Alright motion passes.
 1205 Mr. Kelly, go get 'em.

1206 Mr. Kelly: Thank you. See you soon.

1207 Chair Hurd: That closes item 5, yes, it'll be good to see you back here.

1208 **6. Informational Items**

1209 **a. Planning Director's Report**

1210 Chair Hurd: Alright that takes us to number 6, Informational items and we will begin with the Planning
 1211 Director's report. Lets see if we can do it in 5 minutes.

1212 Director Gray: Yes, I can this is Director Gray speaking. So first I wanted to start off my comments and I
 1213 know I sent notification to all the Planning Commissioners. We have a couple of non- Planning
 1214 Commissioners on the line here. I would like to announce to all those listening I'm pleased that Renee
 1215 Bensley has accepted the new position of Deputy Planning and Development director. Deputy Planning
 1216 and Development Director Renee brings to this position a depth of experience in management
 1217 administration and planning, and a wealth of knowledge in all aspects of local government. She will be
 1218 starting on February 14th, and she will begin transitioning out of her current position as City Secretary
 1219 into Deputy Planning and Development director; this process is likely to take 2 months. So, we're all
 1220 very excited to have her and we welcome her on board. Projects that went and are going to Council
 1221 since we met last, there was only one meeting in December after our Planning Commission meeting and
 1222 that was on the 13th where a special use permit was heard for the Grain at STAR campus and that was
 1223 approved. On January 10th a Subdivision Agreement Amendment for the building of the property at 318
 1224 South College Avenue that was approved to the amendment was to allow for a partial demolition of a
 1225 wall to the crest of (inaudible) building. The applicant will be preserving the current building in the front
 1226 and then building a 10,000 square foot two story building behind. Upcoming meetings, the Mill which is
 1227 the 500-700 Creek View Road project, that is scheduled for first reading on February 14th and then
 1228 second reading for March 14th. Our next Planning Commission meeting is March 1st, hard to believe
 1229 we're looking at March already, and we are potentially looking at bringing we have an opening in the
 1230 agenda so we're looking at potentially bringing the Comprehensive Plan 5-year review project to the
 1231 Planning Commission for review. Other meetings and happenings are the Charette and revisions to the
 1232 RA and BB zoning code, we have been meeting regularly with the consulting team of AECOM as a matter
 1233 of fact we have another meeting tomorrow. And as I last reported on this, we were looking to have the
 1234 Charette in February, well Covid has caused a delay and we're now looking to push that back to March
 1235 where we will be looking to having a hybrid meeting and with the Charette being largely virtual we're
 1236 still working out all of the details on that. We will be very specific with the details when we release it
 1237 after they've all been worked. We will also have an in-person component and we plan on keeping the
 1238 record open for at least a week and we will have a workshop format for folks to walk in and ask
 1239 questions and comments on the Charette after the Charette's been done. I don't think we had hired the
 1240 new Fire Protection Specialist Todd Reese; he started a couple of weeks back and he's doing fabulously.
 1241 Another project that we're working on in addition to all our other day to day activities we're working on
 1242 updating our Development Plan Proposals website that needed some revisions and we're working with
 1243 our GIS person Jay Hodney on mapping and adding categories to that and then also, we currently have a
 1244 mapping component, but it doesn't discern which project is in process, which has been approved, which
 1245 is being built so we're looking to kind of color code it. And I think that's a really good project. For those
 1246 of you who followed Council I should mention at the January; is it January 14th? The last Council meeting
 1247 there was a discussion on project priorities of the Council and Council came up with an 18 list of projects
 1248 and 8 of them are Planning so we'll be working on because we have our work plan, and these are all

1249 items that are included in our work plan, so we'll be looking at putting together a more specific work
1250 schedule for that here in the future. Our land use projects we just have one new land use project that
1251 came in 1119 South College where currently the Red Roof Inn is currently located; this is for a major
1252 subdivision and special use permit for a 5 story 126 room hotel and a commercial pad site. We're also
1253 looking at we had done this before and then we had lost the thread of when we get a new project, we
1254 send them out to you all, just to give you a heads up those new projects are coming in so we're starting
1255 to do that again. So, when you see that email that's what that's about. Projects in house, we are waiting
1256 for SAC comments for 25 North Chapel we are currently putting together SAC comments for 339 East
1257 Main Street and 10 and 16 Benny Street. And 30 South Chapel as well. The projects that we're waiting
1258 on revised comments the proposed Chik-fil-A on Ogletown Road that is currently they are doing a traffic
1259 impact study, so that project is paused until that work is done per DelDot requirements. So that
1260 concludes my comments thank you.

1261 Chair Hurd: Alright thank you Director Gray.

1262 **b. Quarterly Report**

1263 Chair Hurd: That takes us to Item B the Quarterly report, I always love to read this because it's always
1264 nice to see everything that's happening in one spot. Any specific comments you want to make to the
1265 report or anything you want to highlight?

1266 Director Gray: This is Director Gray, not at this time.

1267 Chair Hurd: Ok, well that was quick.

1268 **c. Article: Making Lemonade out of Lemons: A case for Zoning Reform**

1269 Chair Hurd: And then we had the article that Commissioner Silverman had submitted about zoning
1270 reform. And this being informational this really just for looking at. I don't know if Commissioner
1271 Silverman you had a comment on this you wanted to make or if this was just information being
1272 presented?

1273 Commissioner Silverman: This is just information being presented, it shows that there is a path forward
1274 if and when in the near future we choose to start working on the nuts and bolts of our zoning code that
1275 spans almost half a century now. And do some revisions and apparently there's some successful
1276 programs out there that have been able to do incremental changes and just a food for thought piece.

1277 Chair Hurd: And I would agree, I get general newsletters on these items and such and I think a number
1278 of municipalities are working out the more detail specifics about how what's going to work and what's
1279 not. So, I think when we come around to look at this there's going to be a lot of information available
1280 maybe too much, we'll figure that out. Alright thank you, that closes informational.

1281 **6. New Business**

1282 Chair Hurd: That takes us to New Business, introduction of new items for discussion by city staff or
1283 Planning Commissioners anything on people's minds that they want to put forward for future
1284 consideration or discussion? Ok, hearing none we'll close that.

1285 **8. General public comment**

1286 Chair Hurd: Which takes us to item 8 General Public Comment. Which is for items not on the agenda but
1287 related to the work of the Planning Commission. Ms. Dinsmore or Director gray have we received any
1288 public comment on this item?

1289 Ms. Dinsmore: No Chairman we have not.

1290 Chair Hurd: Ok and has anyone indicated that they wish to speak in this item.

1291 Ms. Dinsmore: No Chairman they have not.

1292 Chair Hurd: Ok, alright I will open the floor to anyone from the public that wishes to share any thoughts
1293 that they might have with the Commission? Ok. Seeing none we will close public comment and having
1294 reached the end of our agenda that concludes the business of the meeting. Thank you everyone.

1295 **Chairman Hurd adjourned the meeting at 9:35 PM**