

CITY OF NEWARK
DELAWARE

PLANNING COMMISSION
MEETING MINUTES

MEETING CONDUCTED IN PERSON AND REMOTELY
VIA MICROSOFT TEAMS

JULY 5, 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
Chris Williamson
Allison Stine

Commissioners Absent:

Stacy McNatt

Staff Present:

Paul Bilodeau, City Solicitor
Mary Ellen Gray, Planning and Development Director
Renee Bensley, Planning and Development Deputy Director
Michael Fortner, Planner II
Katie Dinsmore, Administrative Professional I

Chair Hurd called the Commission to order at 7:04 P.M.

Chair Hurd: (inaudible) There we go. Alright, good evening everyone and welcome to the July 5th, 2022, City of Newark Planning Commission meeting. Trying to do two things at once is hard. This is Will Hurd, chair of the Planning Commission. We are conducting this hybrid meeting through the Microsoft Teams platform. I would like to provide some guidelines for the meeting structure so that everyone is able to participate. Katie Dinsmore, the department's Administrative Professional, will be managing the chat and general meeting logistics. At the beginning of each item, I will call on the related staff member to present followed by the applicant for any land use items. Once the presentation is complete, I will call upon each Commissioner in rotating alphabetical order for questions of the staff or presenter. If a commissioner has additional comments, they would like to add later they should ask the chair to be recognized again after all members have had the opportunity to speak. For all 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 would like to comment on an agenda item and are attending in person, they should sign up on the sheet near the entrance and will be called on to speak at the appropriate time. If members of the public attending virtually would like to comment, they should use the hand raising function in Microsoft Teams to signal the meeting organizer that they would like to speak or message the meeting organizer through the chat function with their name, district or address, and the agenda item on which they would like to comment. All lines will be muted, and all cameras disabled until individuals are called on to speak. At that point the speaker's microphone and camera will be enabled and they can turn on their cameras and unmute themselves to give their comments. All speakers must identify themselves prior to speaking. Public comments are limited to 5 minutes per person and must pertain to the item under consideration. Comments in the Microsoft Teams chat will not be considered part of the public record for the meeting unless they are requested to be read into the record. We follow public comment with further questions and discussion from the Commissioners and then the motions and voting for roll call. The commissioners will need to articulate the reasons for their vote if there are any issues during the meeting, we may adjust these guidelines if necessary. The City of Newark strives to make our public meetings accessible. While

the city is committed to this access, pursuant to 29 Delaware Code 10006A, technological failure does not affect the validity of these meetings, nor the validity of any action taken in these meetings. Alright.

1. Chair's remarks

Chair Hurd: That takes us to item 1, Chair's remarks for which I have nothing tonight.

2. The minutes of the June 7, 2022, Planning Commission Meeting

Chair Hurd: Which takes us to item 2, minutes. We have the minutes from the June 7th meeting before us and I had a couple of minor corrections. Have there been any other corrections or comments on the minutes? Alright, you have a comment?

Commissioner Williamson: A correction also. I assume this is done like an automatic.

Chair Hurd: No.

Commissioner Williamson: No. Ok, no offense there. Line 1253, page 20 it says, "six there eventually going to be" it should be "is there eventually going to be". It seemed like a computer-generated error. Thank you.

Director Gray: We've tried those in the past without much success.

Chair Hurd: Yes, it was terrible. Alright any other corrections or comments? Alright seeing none the minutes are approved with those amendments by acclamation.

3. Review and consideration of the parking waiver, rezoning, major subdivision with site plan approval and special use permit for the property located at 25 North Chapel Street

Chair Hurd: That takes us to item 3, review and consideration of the parking waiver, rezoning, major subdivision with site plan approval and special use permit for the property located at 25 North Chapel Street.

Director Gray: Thank you Chairman Hurd, I just have a brief presentation. I will not be reading the whole application report into the record, I'll just be hitting a couple of highlights. The report is for the Planning Commission and for members of the public. This application is for a rezoning for the property located at 25 North Chapel Street, from RM, multi family dwelling garden apartments, to BB, central business district, a major subdivision by site plan approval, special use permit, and parking waiver. The applicant proposes to demolish the existing structures located at 23 and 25/27 North Chapel Street between East Main Street and New Street to construct a 4 story approximately 8,100 square foot structure. The new structure will include parking and the apartment lobby on the ground floor and 21 two-bedroom units on floors 2 through 4. The parcel will include about 3,100 square feet of paved area outside of the building footprint with 19 of the 32-parking located completely under the building and the rest at least partially uncovered.

Approximately 4,000 square feet of the parcel will remain as landscaped area with a number of new trees to be planted with no existing trees to be removed. The zoning regulations for residential units in the BB zoning district indicate a maximum number of dwelling units on this parcel which is 0.349 acres with two-bedroom units is 18 units and that's calculated at 50 units per acre. Got to do the math on that one; through the site plan approval process, a 15% increase is allowed. And so, the number of units proposed for this building doesn't conform to the project density requirements but is allowed through the site plan approval process. So that's a discretionary approval through the site plan approval process. Speaking of site plan approval, in addition to the density requirements this applicant is looking for relief for building setbacks from the street and the side yard. So, as with all other plans that utilize the site plan approval process, this code section provides alternatives for new development and redevelopment proposals to encourage variety and flexibility and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations. And site plan is based on distinctiveness and excellence of site arrangement and design. That includes a number of areas that are described in the code. So, the Commission will need to consider these requested area regulation exceptions against the standards of distinctiveness and excellence. and the developer's site plan approval submission and the

applicant indicates that they are providing distinctiveness and excellence of site arrangement as outlined in the staff report and exhibit G of the staff report.

The proposed plan conforms to the designated land use designation indicated in the Comprehensive Development Plan V and will not require a Comprehensive Development V Plan amendment. This project as I indicated includes apartments which are permitted in conjunction with any nonresidential use with a special use permit. The code generally limits structures to a height of 3 stories and 35 feet but includes provisions to allow additional floors provided they meet certain requirements. And this project is utilizing a provision that allows up to 3 additional floors for buildings that consist of more than one half of their apartment dwelling units with a maximum of two bedrooms and occupancy of one family or up to 4 unrelated tenants each. This project includes 32 parking spaces with the apartment lobby on the ground floor with 21 two-bedroom apartment units on 2, 3 and 4.

So, for the special use permit, the provisions are articulated in the code and as indicated in the staff report, staff feels that these provisions are met by the applicant. This plan includes a parking waiver and the applicant, the project, there are 42 spaces required for this proposed use, and 32 spaces are provided, so therefore they are asking for a 10-space parking waiver. The applicant has indicated in their parking waiver letter dated April 12th that the difference of 10 spaces can be managed by having a provision in 10 of the residential leases that only 1 parking space will be provided for those units. The applicant has indicated that the garage will be privately operated therefore allowing them to control and enforce these provisions in their leases. The Planning and Development department concurs with this approach and per the section 32-45(b)(9), the applicant is required to pay the city a fee in lieu of the required parking spaces. And the fee may include applicants' in-kind services, land donations, granting of easements or right of way, or similar parking improvement activities or pay the fee. In this regard, the applicant is choosing to pay the fee and that fee is \$33,555 dollars.

While the applicants for the development of downtown commercial properties were encouraged to present their designs to the Newark Design Committee, the committee is currently not meeting so they are not available to review the plan. So, staff as we have done in the past has conducted a design review of the project. And further, this design is subject to the provisions in Chapter 27, Appendix XIV. and both of these reviews are available in Exhibit I of the staff report. And according to staff's review, this project meets the provisions in both Chapter 27, Appendix XIV as well as meets the design guidelines as articulated in the Design Guidelines for Downtown Newark.

In conclusion this plan does comply with the subdivision ordinances detailed in our code. As articulated in the June 28th staff report and as well in addition to complying with the Subdivision Advisory conditions. Going down to the...so regarding the staff recommendations. Because the rezoning and major subdivision by site plan approval should not have a negative impact on adjacent and nearby properties and because the proposed use does not conflict with the Comprehensive Plan V, the Planning and Development department suggest that the Planning Commission recommends that City Council approve the rezoning of this parcel from the current RM to BB; that the Planning Commission recommend that City Council approve the special use permit for the 21 two-bedroom apartments; and, finally, because it should not have a negative impact on adjacent and nearby properties and because the proposed plan does not conflict with the development pattern in the nearby area, staff recommend that Planning Commission approve the 10-space parking waiver with the condition that the applicant pay the required parking waiver fee of \$33,555 dollars. Thank you, Mr. Chair.

Chair Hurd: Thank you very much. Who is presenting for the applicant? Alright.

Mr. Lang: Hello Chairman Hurd, Director Gray, and members of the Planning Commission, pleasure to be here this evening. I'd also like to introduce Chris Locke, my name is Jeff Lang. We have Alissa and Maddie from our office, Scott Mason, and a couple of gentlemen from the Chapel Street Players. Charles DeTurk is here for additional information – he's the adjoining property owner who we are under agreement to purchase his property in conjunction with the project. Here's our basic concept of this project starting with the thought process of building a theatre down at Creek View for the Chapel Street Players. As we started moving through the locational thoughts on where we could build it, obviously you are all aware that we were approved to build the theater down at Creek View. Part of the contingent agreement with the theater is that we needed to get their property approved for redevelopment. So really this is a secondary piece of the original approval project of the project down at Creek View for the theater. The

original concept for this site was, if you look at it – and you guys have driven by this many times, I’m sure. – Chapel Street Players is on the right-hand side and the duplex is owned one half by the theater and one half by Mr. DeTurk. We were not necessarily fully aware of that until we started looking into the opportunity to redevelop. So, when we got together with Scott and his group, he said I got this great theater on Chapel Street; you guys can do something with it. We said OK, well what do you own? So, when we started to delve through this whole conversation, we determined that obviously they only own half of the rowhouse. and we started talking to the city about redevelopment. Our original concept plan was a three-story building on just the property that the theater owned. If you could move to the next slide? So, it kind of gives you an understanding of what we’re trying to do. We’re basically trying to redevelop just that property.

There were some concerns from the Building Department about the structural stability of knocking down half a building, there were some issues with sewer laterals and water service and a number of other things. Additionally, there’s an easement to allow access to the back of Mr. DeTurk’s property so we’re trying to figure out how to accommodate an easement, how to we get through our property to his property, and still develop this in a form that makes sense so we can build the theater at Creek View for the Chapel Street Players. Next slide please. So, this is the original footprint as you can see Mr. DeTurk’s rowhouse still exists on the bottom of the picture of the plan and there’s our building. A three-story building, pull in underneath and fully code compliant. Unfortunately, how do you get to the back of this property to provide parking? Then we started thinking about different ideas. Can we pull in the building, pull underneath, provide parking behind his building? Does it make sense to wrap the building around one of the townhouses and keep one of the townhouses there? I’ll show a couple pictures here. Next slide please.

So, this was the original submission plan in November of 2020. It coincided very similar in time schedule with the Creek View project because we were trying to get them approved at the same time, so we weren’t here talking about a project we already got approved when we’re trying to get this project approved. However, city staff and Mary Ellen, Tom Fruehstorfer and a couple of other people saw some concern with not only the structural stability of tearing down half a building but also the inconsistency of the zoning. Because we would go from a BB zoned corner property to leaving a little sliver of an RM property to go to a BB zoned property here. And there was a suggestion that we get together with Mr. DeTurk and work out an arrangement to possibly purchase his property. So, we pursued that opportunity and now come back with a revised plan. The plan is a little bit larger building on a similar footprint, but a lot of the site plan approval constraints are tied to the redesign of the building necessitated by the acquisition of the adjoining rowhouse. So now we’re looking at a 4-story building instead of the 3-story building. The logic was that we had 7 units on the floor, so how were we going to put 7 units on one floor and 4 units on another floor. And Director Gray and Tom Fruehstorfer said well, we have the opportunity to do the 15% additional density if you seek site plan approval. While we were looking at the footprint, we said we really need a side yard setback variance because we’re adjoining a residential zone. So that’s why we need the side yard setback. So, if you look at the original existing property the building is practically on top of that property line already. So, it’s not like we’re increasing our exposure to the adjoining property owner. We also need a small front yard setback; we actually pushed the building back a little bit farther than it was before. And the building, one of the problems with the site is that because of the age of the property some of them go farther into the street than others. So, a portion of our property and a portion of the building is totally compliant with the 20 feet but a portion of it isn’t. So, we actually need a 3.2-foot front yard variance to get the 20 feet. We also have met with DelDOT, and they love this redesign because there’s actually buildings farther back from the street then there used to be. People would come out that lane and couldn’t see what was going on. This is actually a much better design for traffic and is probably a lower traffic generator due to the fact that you used to have a theater there. So, with the theater, it would overparked in the back and everyone would try to come in and out at the same time; we’re going to have very little traffic due to the residential nature of the building and everyone’s not going to come and go at the same time due to the nature of the residents.

So, our new design we tried to maximize the parking on site and got up to 32 spaces, our previous design had 24 spaces, so we increased it by 8 spaces. We put as many spaces as we could and we do feel comfortable, as long as we provide 1 space per unit, it isn’t a detractor from the lease-ability of the building. We also modified the design and incorporated some comments from the police department. We originally had some balconies out on Main Street; we eliminated those, we changed some of the materials and made it a little more of a modern design and we think now that the building sits a little more centered

236 on the overall property, if we include Mr. DeTurk's site in the project development. So, we also feel it fits
237 nicely with the adjoining property on the corner and if we look at the next slide, we'll show you a couple
238 of views of it. There's one side view of what you would see coming up Chapel Street towards Main Street,
239 let me show you a back view. And it does fit very well with the adjoining building. And there's another
240 side view there.

241
242 So, in summary, maybe the next slide, this talks about the parking and the landscaping. One of the pluses
243 too which we didn't really get into, the existing site, or two sites if you include Mr. DeTurk's property, is
244 totally paved. The back of the site years ago there was an easement where they paved the entire back for
245 the benefit of the theatre as well as Mr. DeTurk's house and you have 27 parking spaces on that site right
246 now, and it's just a paved mess in the back with no trees, no landscaping, very little stormwater
247 management. And we've actually improved that by adding more green areas, we've met the stormwater
248 management criteria by a reduction in by 15% of the impervious area. And really the discussion we have
249 tonight here is does the minor site plan concerns are they outweighed by the benefits to the community
250 by bringing the theater down to Creek View. Also, we need the 10-car waiver which we're willing to pay
251 for, though you could probably argue that the site used to have more parking requirements than it does
252 now. And historically there was some discussions with the previous Planning Director where you got credit
253 for some uses that demanded additional parking and was handled off site which the theater obviously
254 did. There was a tremendous amount of demand when there were shows either in the public lots or in
255 the arrangement originally, I think was with the Newark Shopping Center. Which has since gone away so
256 we're reducing overall parking and the overall traffic demand. So really, we think it's a great addition to
257 the street and an evolution of the redevelopment of Chapel Street. Obviously, we have another building
258 on the other end of the street, there was one approved a while ago and hopefully it'll be built soon. And
259 we think it's a great opportunity to finalize the approvals to allow the new theater to be built at Creek
260 View. And here's a couple of quick pictures of the existing theater and what the new theater will look like
261 hopefully when we can start construction this year and hopefully have it open sometime in the middle of
262 next year. Thank you.

263
264 Chair Hurd: Alright, thank you. We will begin with Commissioner Kadar.

265
266 Commissioner Kadar: A few questions. On line 140/142 setback. I have a question on the setback of the
267 building. It says that it doesn't meet the 20-foot requirement. What's the setback of the existing buildings
268 on that street?

269
270 Mr. Lang: The buildings in general? I know the existing building that front patio area is 10 feet or less to
271 the property line.

272
273 Commissioner Kadar: 10 feet or less?

274
275 Mr. Lang: Yeah, so we're actually stepping the building farther back. That's one of the reasons why when
276 we designed the building, and we had our DelDOT review they said this was a huge improvement over the
277 traffic lines and sight lines.

278
279 Commissioner Kadar: So, this won't negatively impact what's already there. It won't be sticking out.

280
281 Mr. Lang: No, so it would be more set back. So, if we built a 3-story building, we could build right up to
282 the property line. But if we build a 4-story building, then you need a 20-foot setback Director Gray will tell
283 you. So, the 3-story building is actually closer than the 4 story because we had the setback concerns and
284 we tried to push it back. Part of the building is 20 feet but the way the property line is drawn it's 20 feet
285 on the Northern side of the site and then it jogs back to 16.8 feet. The existing building is less than 10 feet
286 and the building we originally designed was about 10 feet so we're actually farther back off the property.

287
288 Commissioner Kadar: Alright, thank you. On 206 it's good to see the stormwater reduction, I remember I
289 mentioned that at the last one, it wasn't included but I see that you put it in this time. Even though it's a
290 state requirement.

291 Mr. Lang: I remembered it, good point and it was good for us to point it out.

292
293 Commissioner Kadar: Alright and if I might just a general comment on the report from the Planning
294 Department. Some of the exhibits are mixed up. I noticed that some of the exhibits we received have

295 stickers over the existing original exhibit numbers and lack references for example on line 304, the J should
296 actually be a K I think several of them are misnamed. I just wanted to point that out. And then one
297 additional comment and this is not a criticism of you or anyone, but I notice on lines 341 to 344 that's a
298 paragraph that talks about the 27 parking spaces that are currently included with the existing properties
299 and that the proposed plan includes 32 all of which will be located on the structure. I find that paragraph
300 a bit disingenuous. Because it basically talks about 32 spaces when the requirement is actually 42. It makes
301 it appear as though we're doing really good here. I think it's a neutral statement and shouldn't be put in
302 there to kind of mislead. And that's all I have to say thank you.

303

304 Chair Hurd: Thank you. Commissioner Silverman?

305

306 Commissioner Silverman: I welcome this proposal as an addition to improving the North Chapel Street
307 corridor as the applicant pointed out in their relationship to the community in their letter to the Planning
308 Department. The site is an example of very proactive redevelopment and I'm very much in maintaining
309 property tax bases and this will directly contribute to that. The building although it's larger than what's
310 there now will fit with the scale of the buildings generally around it partially the Tsionas center on the
311 corner. It's also helped by the surface parking commercial that's on the corner. The use is not an intrusion
312 in the sense that it reflects the commercial and rental properties that dominate the area. The applicant
313 talked about the unstructured parking in the rear and here's an opportunity to control runoff not only
314 from a quality point of view but also a water quality point of view. So, it improves the site. This is Old
315 Newark, one of the difficulties in old Newark was the way that property lines were established, and parcels
316 were laid out. This parcel is essentially a trapezoid but requires a rectangular lot thinking as far as the
317 code's concerned so the side yard variance you're asking for is no difficulty. That's what the code was
318 designed for to handle this kind of partition and dealing with very old parcels including the fact where I
319 think this will be one of the few lots in Newark where the sidewalk is actually in the public right away. So,
320 when the time comes to clean it and maintain it'll be interesting to see who owns it in that point in time.
321 Which is a bugaboo in Newark. I find this plan satisfactory, and I would like to see it move forward.

322

323 Chair Hurd: Alright thank you. Commissioner Stine?

324

325 Commissioner Stine: Thank you Chairman. I'm going to recuse myself from the discussion and the vote
326 this evening. I rent a commercial space from Lang Development at 300 Creek View so it's probably not
327 appropriate for me to participate in this.

328

329 Chair Hurd: Ok, understood. Commissioner Williamson?

330

331 Commissioner Williamson: Good Evening, thank you. I have a number of questions and clarifications, let
332 me see where to start. The project description does not directly say that the theater development at the
333 other location is tied to this approval in some private arrangement. Not that it's necessarily bearing on
334 this but is that the case, will the other location not go forward if this is not developed?

335

336 Mr. Lang: It would be a financial hardship for the theater to move forward on the other site if there was
337 no approval on their property. They could still try to sell their property but without a development
338 approval in place it would be much less attractive to the market. So, we've tried tying the projects together
339 so they didn't have to sell to a third party and actually our original timeline was to have both projects here
340 at the same meeting, so we could discuss how they would tie together. Unfortunately, due to the concerns
341 over the development site here, we had to delay the resubmission. But yes, to answer the question
342 bluntly, they need to receive some form of – technically we're the equitable owner, they're still the owner.
343 So, we're seeking approval for them so that they can sell the property to us, and we can develop it.

344

345 Commissioner Williamson: Yes, and I'm not being critical of that, I just want to understand. Question for
346 your design, and first a question. I understand in the application that if we don't get floorplans, I would
347 have liked to see the floorplans. The units, knowing that each bedroom and the living room have to have
348 windows and I'm assuming it's a central hall, double loaded floor plan and you've got kind of long units
349 with windows at one end and that's ok, nothing bad about that, I would just like to see unit floorplans as
350 part of the application. My comment, and I'm a little uncomfortable, not on these particular buildings, in
351 as much as it's a box, it's a very efficient way to use a property a box on the box basically and you elevate
352 it. And it's kind of driven by the parking, you know how much you can get on the ground floor then multiply
353 that out by the units. And that's a typical approach, what I'm concerned about is the cumulative effect on

this entire street and in a good housing market and these properties one by one develop from BBs and that's an attractive process that could very well happen. And you get a lot of these in a row, and you've essentially got a row of boxes with relatively narrow space between them. The windows look at each other, you know you don't have privacy out of your window, you're looking directly into somebody else's unit 12 feet away on another building. And is that a desirable outcome from the city's point of view? Understanding code wise for this one building and I call that, this is my own little invention, the "law of unintended buildout consequences" and when you build out you go like oh, that really wasn't a good idea. And that's not your responsibility to look at that in the long run. The one side yard that has essentially the parking jutting out into it, I guess the fire people have said that's ok. Usually, your side yards are for fire department access and ladders and the whole bit running down that side yard. If they said it's ok, I guess it's ok. And a side yard is usually some breathable air space light type thing in between the buildings which the parking on the ground floor doesn't impact. But maybe you can comment on the fire?

Mr. Lang: Sure, so if you look on page 11 of the report, line 479, 480 and 481 it talks about that issue exactly Mr. Williamson and it says structure does not have the 30% access required by the state of Delaware so the building must be constructed due to that to those standards. And I think a general comment on the development trends in urban settings, I mean my son lives in New York City, my daughter used to, you know you go up there and there's 4 story brownstones the entire length of the street. I mean there's no side yards on any of them. So, you need to think about densely populated enjoinments and how development works and in BB technically, in BB zoning you can build right to the property line. If you do a 4-story building, you need a side yard setback. And actually, a side yard setback, and Director Gray correct me if I'm wrong, is dictated by the fact that you have an adjoining residential zone. But if it was commercial zoned next door, you could build a building right on the property line, but you wouldn't be allowed to have any windows. So big question is what is desirable, and that really depends on their residential habits and really, we design buildings around the market. You look at New York City or Philadelphia and you have lines of four-story buildings that are connected to each other. We have in theory, if somebody built a BB building next door to this and built a built a four-story building, they would need a significantly larger setback than a three-story building, but we'd still have 9 feet which is more than some buildings up and down our Main Street and even Delaware Avenue. So, you've got to think about what's logical in your downtown area. It's probably not logical for you and me if we were living in a suburban setting with as you said a much wider setback, but there is some residential communities which are amazingly very close to each other and they're big, large houses and you look out and the house is literally 12 to 15 feet away and you're like how did that happen? But you know everyone has a different zoning code. And that's the planning, the zoning plan for the city which I think is a very good comment in general, what do we really want it to look like. We think about it all the time because we've lived here all the time and we think about what it used to be like, and we think that Chapel Street needs some improvement due to the age of the structures and we think any redevelopment of that area would be great. One of the problems is that there's many different property owners along that street. And we were looking into working out an arrangement with Mr. DeTurk to purchase his property but many of the property owners on that street might not want to sell due to the locational advantage of their dwelling.

Commissioner Williamson: Right and I understand all that, Chapel Street is sort of a unique little area, it's maybe three blocks maybe and between downtown and the graveyard and the tracks. And it could be something really neat. And you know on a whimsical level you can say, you know get the powerlines all buried the idea of more buildings and even more wires hanging out on that street.

Mr. Lang: I agree, we've been advocating for that for 20 years.

Commissioner Williamson: Ok, and also you could have 1000 people living on that street with a lot of buildout and maybe there are already. And there are no and except for little front yard setbacks there would be no open space. You know does it need a pocket park at some point. And I guess my comments to the Planning Department and to us is there an opportunity here of incrementally losing one project at a time which are understandable compliant projects. Maybe we could take a moment and do a little Charrette study of just that 3 blocks? Has that been done?

Director Gray: Well, we just did a Charrette.

Commissioner Williamson: But not on this?

413 Director Gray: So, I would say it depends on how you define the downtown and this area is included in
414 the downtown area so –
415
416 Commissioner Williamson: But as we approve BBs –
417
418 Director Gray: So, there was a discussion to include more incentives or have developers include public
419 open space or plazas if you will in their developments, to have them be as an incentive to address your
420 comment to provide additional open space downtown and to provide an area of repose if you will for
421 people walking downtown. The other component of this is that we have a number of parks around our
422 community, Hillside Park being the most recently developed. And I'm not a Parks and Rec person, I know
423 there's a formula as to how close you want to be to a park, and I think this development is probably within
424 those guidelines of being very close to Hillside Park for that open space. But I totally get your point from
425 a planning standpoint, but without articulating it in our plan, in redeveloping downtown the tradeoff is
426 that it has been directing people to our open space and trail system. So, and providing making sure that
427 there are accessible walkways. And then the Charrette opened up the area of providing additional spaces
428 within each development. So, I guess the short answer is yes, we are looking at that.
429
430 Commissioner Williamson: Thank you, thank you, that's good news of course. The comment about the
431 bicycles being outside, is bicycle theft a problem; should they be secured?
432
433 Mr. Lang: We've tried storing them inside, but there's really no preference.
434
435 Commissioner Williamson: Finally with regards to the parking waiver, I did a little math, if you did this
436 according to density. So, the code allows 18 units if 11 of those were two bedrooms and 7 were 3
437 bedrooms. You would still have 43 bedrooms overall and 21 times 2 is 42. So, it's basically the same
438 number of bedrooms and there's two spaces per unit, the requirement would be 36 and you're providing
439 32. So, you'd be a lot closer to your parking and I'd imagine your floor space would just be the same you'd
440 just be moving some walls around and save a couple of kitchens potentially and still qualify for the bonuses
441 because over 50% is two bedrooms. Just wonder if you had considered that or how does that factor?
442
443 Mr. Lang: It's actually in Director Gray can maybe explain it better but it's really a ratio of two bedrooms
444 allows the density to be maximized for whatever it is, because if you have more than 50%, you're allowed
445 to go to a taller building, but you're not allowed to build to the same density because you have not all
446 two-bedroom units. So, it's a ratio of two bedrooms versus three or four bedrooms allows you to maximize
447 the... So, if you have two bedrooms than you can build the most. If you build twos and threes, you can
448 build a little less based on which type you have. It's an excellent point but I argue with our engineer about
449 this all the time, and he says "that's not the way they do it, you have to figure out how many three
450 bedrooms and how many two bedrooms. And if you have 70% off two bedrooms and 30% percent three
451 bedrooms you get a reduction off the 50 down to like 42 per acre." Which then allows you less, so you
452 have a good point, but you would end up not having the same amount. So that's why we did it. So actually,
453 the parking, that's why we did it, it's a good idea on parking modifications and I know some of the
454 conversations you might be having later this evening. Hopefully not too late this evening, but you're going
455 to be talking about some of these parking changes that have been around the Parking Committee and city
456 staff for months. Or years. So, I think our general concern as an owner-developer is if we have at least one
457 space per unit, our unit is very marketable. And we still have a lot of units in town that don't have any
458 parking available, and we continue to fight the parking with them, you don't need parking when you walk
459 to class most of the time. Most of our residents as you know are related to the University, so they don't
460 necessarily need to park on site. And when I went to college I never parked on site, but everyone else
461 seems to feel that they need to park on site. So, I actually would love to have 21 spaces on site, not 32 or
462 42. Which allows more green space which allows more potential, you know, little park areas or outside
463 areas for people to enjoy the green outside benefits of life, whatever that is.
464 Mr. Locke: Just to add onto it was in the report, currently there is no green space on this property I think
465 we have about 4,000 square feet of green space that will happen due to this project.
466
467 Commissioner Williamson: Ok, thank you.
468
469 Mr. Lang: Thank you.
470

471 Chair Hurd: Thank you. I agree that this is a much better-looking building, I'm kind of partial to the theater
472 building because I love the shape and such, but I do agree also that this is likely the beginning of Chapel
473 Street becoming something. And I think we've got this nice balance from the church on the other side and
474 I'm looking forward to good things happening there. I do also share Commissioner Williamson's concerns.
475 It would be nice if we could kind of at the city have some sort of plan or thinking about that space as much
476 as the Charrette. I had one question of staff in the report that I was confused about. In the future land use
477 map, I zoomed in just to be sure, the properties are shown to be mixed urban. But the underlying zoning
478 is RM which does not support the mixed urban use. So, I'm confused as to how it exists in that state. When
479 did it become a mixed urban use?
480

481 Director Gray: Ok, I need to look at that I don't have a ready answer for you.
482

483 Chair Hurd: Ok. Because, otherwise we have the, because I was surprised that we weren't amending the
484 Comp Plan because we were rezoning.
485

486 Director Gray: Ah ok.
487

488 Planner Fortner: I can, it's some legacy future land use designation in a way so it's non-conforming, it's a
489 good catch. It was put that way in previous plans because there was a theater there at the time and it just
490 kind of looped into that a little bit but you're right the current zoning does not match the future land use
491 designation. So, it already had that future land use designation because of the kind of use of the property
492 in that area in the downtown. So that's just the way it is.
493

494 Chair Hurd: Ok, yeah because the existing one does have it as commercial which is where the theater is
495 but yeah, the future land use. So, we won't say anything to the state about the fact that we never rezoned
496 the underlying. I just want to be sure.
497

498 Director Gray: We were forward looking. Always looking to (inaudible)
499

500 Planner Fortner: Right
501

502 Chair Hurd: I know that, but we had this conversation in Council last week, where they wanted to do stuff
503 on the future land use map. And we had to be like, you can't make that designation without also changing
504 the zoning and you don't like to change the zoning through the document you like to do it yourself. And
505 we can't do that, and then we get this and I'm like (inaudible). Alright so there it is, that answers that
506 question.
507

508 Mr. Lang: We have no comment.
509

510 Chair Hurd: Yeah. I had no idea. I would just say thank you for putting the transformer in the renderings
511 even though it is buried in the bushes it is there.
512

513 Mr. Lang: We had heard your comments previously.
514

515 Chair Hurd: (inaudible) Alright awesome, other than that I think it's a very good building and use, so good
516 job. Alright that takes us to public comment. Do we have any submitted public comments?
517

518 Ms. Dinsmore: Virtually no, however we do have three individuals that would like to speak about the
519 project.
520

521 Chair Hurd: Ok. Just be sure to state your name for the record, you have five minutes.
522

523 Mr. Mason: My name is Scott Mason, I'm the president of the Chapel Street Players. I'm not a citizen of
524 Newark but I might as well live here for all the time spent at the theater. For those of you who don't know
525 just a quick history. The theater was purchased by the group – it was previously a church – in 1968. When
526 I first joined in 1989, the street was residential, it was not college students renting homes it was
527 residential, it was parking on the street, parking was an issue. So, over this 37-year period, we've lost
528 parking. We had an arrangement with the Newark Shopping Center however it worked really well when
529 the shopping center was a mess, and the theater was closed. Now that it has been rejuvenated, now

530 parking is at a premium and we are very grateful and pray that they will continue to let us use parking
531 spaces because it affects their businesses. So, we're waiting for that hammer to fall. Should that hammer
532 fall our operating budget. – we're all volunteer, there's no one paid in this organization. – the operating
533 budget is about \$50,000 dollars a year. So, we are a simple nonprofit theater. We're one of only 3 groups;
534 you've got the parks groups, the Delaware Dance Company, the Newark Symphony. Unfortunately, the
535 Mid-Atlantic Ballet had to close its doors, so you lost that. So, we are one of the few cultural icons still left
536 in Newark and we were going to leave in 2009; we were offered a location out by Glasgow to have a new
537 theater and parking but the Downtown Newark Partnership it was called at the time begged us to stay.
538 And got us some parking arrangements at the municipal lots but that has since fallen through due to the
539 demand on the municipal lots. So, we're really being strangled out. Luckily, I approached Tsionas, I
540 approached the owners of College Square when it was a ghost town. No one wanted to help us, and then
541 I approached Lang and he was just getting his organization started so then he approached us back a few
542 years later and started this and was willing to build a brand-new theater. Because we can't afford it. At
543 best \$750,000, even a million, you couldn't build a new theater. Luckily this exchange of development,
544 Lang can have our property and build the apartments to offset the cost of our theater space that we will
545 then have parking space for our patrons who are petrified to walk down Chapel Street when UD is in
546 session because you know of the ruckus that goes on the patios. We've had cups thrown at patrons,
547 cursing, I was there in February, and they set a couch on fire across the street during a performance. We
548 have broken glass on our parking lot every single day from people throwing beer bottles over our 14-foot
549 fence. So, it's not a pleasant experience for the patrons, I don't know if any of you have been there for a
550 show? It's not, and you can tell it's not always a pleasant experience going to and from the theater. So, I
551 hope you can support this project because indeed you will be supporting the cultural arts in the city of
552 Newark. Thank you.

553

554 Chair Hurd: Alright thank you. Is there anyone online who wishes to make public comment?

555

556 Ms. Dinsmore: No Chairman.

557

558 Chair Hurd: Alright, to that I will close public comment and bring it back to the dais for any final comments
559 and discussion. And I will begin with Commissioner Silverman.

560

561 Commissioner Silverman: One of the items that I found missing in the department's report were any
562 references to the focus area. This the particular project includes the merits of the focus area concept. It
563 fits towards Commissioner Williamson's observations. And Mr. Bilodeau can also comment here. We are
564 no longer able to do overlay districts correct. The courts have decided against that so moving forward
565 with the ideas of how we comprehensively develop an area like this, there is an impediment of not being
566 able to put an overlay district on the Chapel Street area.

567

568 Mr. Bilodeau: That is correct, there's a case out of Kent County that ruled that overlay districts were a no
569 bueno.

570

571 Commissioner Silverman: And that would include some of the design elements that both the applicant
572 and the Commissioners have been talking about with respect to relationships to courtyards, and windows,
573 and open space and access. So that option may no longer be on the table for us.

574

575 Chair Hurd: Thank you. Commissioner Stine? Oh right, sorry. Commissioner Williamson?

576

577 Commissioner Williamson: I'll support the project. I don't want to...great trade off with the theater, it's
578 very good news. I do just want to reiterate that some way to look at places like Chapel Street. And it's not
579 so much that the zoning is doing this, it's when you change to another zone, BB which gives you different
580 development standards which kind of weren't envisioned in the original thinking? And that's an
581 incremental process maybe. And then the other comment which will likely come up in our next item, is
582 the parking. And luckily the city has Lang and I assume other owners who have other resources available
583 on other sites and these projects work because of your good management your foresight to have that,
584 but that might not always be the case down the road. And these projects could get sold off individually
585 and not have access to it in the off-site parking to make up for that. So that's the situation here and not
586 to be held against your project now. I just bring it as a prelude to the next item on the agenda. Thank you.

587

588 Chair Hurd: Commissioner Kadar?

589
590 Commissioner Kadar: Yeah, I'd like to compliment the improvements that have been made to Chapel
591 Street over the years and this project will definitely add to those improvements. And I do look upon this
592 as phase 2 of the Creek View project and it does need to be completed, both pieces need to be in place. I
593 will support it, it's a clean design and a definite improvement over the existing structures.
594
595 Chair Hurd: Alright thank you. I guess I also am in favor. I'm kind of wishing that we'd had our
596 conversations around parking requirements and such earlier because this project is ideal for those things
597 we talked about. It's so close to Main Street there's almost like none or very little parking provided
598 because of the market and everything else that's there for it. So. And I will be glad to see the Chapel Street
599 Players find a new home. Because amateur community theater is an important thing, I grew up in it so.
600 No, I never performed, my parents did, so I think it's important. Alright. So that moves us to the motions.
601 Secretary Kadar are you prepared?
602
603 Commissioner Kadar: Yes, but before I start, I'd like to ask Solicitor Bilodeau that the four that are being
604 proposed here are in the correct order? The first is the rezoning, then subdivision plan, then special use,
605 then parking waiver, is that correct?
606
607 Solicitor Bilodeau: That can be correct, yes.
608
609 Commissioner Kadar: Just wanted to make sure before we start. Alright first motion. **Because it should**
610 **not have a negative impact on adjacent and nearby properties the Planning Commission recommends**
611 **that City Council approve the rezoning of the 0.349 acres at 25 North Chapel Street from the current RM**
612 **Multifamily dwelling garden apartments zoning to BB Central Business District zoning as shown on the**
613 **Planning and Development report exhibit E.**
614
615 Chair Hurd: Thank you, do I have a second?
616
617 Commissioner Silverman: I'll second.
618
619 Chair Hurd: Thank you. Any discussion on the motion? Alright seeing no discussion we'll move to the vote.
620 Commissioner Williamson?
621
622 Commissioner Williamson: I vote aye based on the staff report and the hearing this evening.
623
624 Chair Hurd: Thank you. Commissioner Kadar?
625
626 Commissioner Kadar: I vote aye as well for the reasons specified in the Planning and Development
627 department report dated June 28th, 2022.
628
629 Chair Hurd: Thank you. Commissioner Silverman?
630
631 Commissioner Silverman: I vote aye for the reasons cited in the June 28th Planning and Development
632 department report.
633
634 Chair Hurd: Thank you. And I vote aye as well for the reasons stated in the Planning and Development
635 department report. Alright, motion carries. Alright, next.
636
637 Commissioner Kadar: Ready? Alright. **Because it fully complies with the subdivision ordinances, the**
638 **building code, the zoning code, and all other applicable ordinances of the city and the laws and**
639 **regulations of the state of Delaware, Planning Commission recommends that City Council approve the**
640 **25 North Chapel Street major subdivision and site plan approval plan as shown on the Karins and**
641 **associates major subdivision plan, rezoning, site plan approval, special use permit, and parking waiver**
642 **site plan for 25 North Chapel Street dated October 13th, 2020. And revised through April 8th, 2022, with**
643 **the Subdivision Advisory Committee conditions as described in the June 28th, 2022, Planning and**
644 **Development Report.**
645
646 Chair Hurd: Thank you, do I have a second?
647

648 Commissioner Williamson: I'll second.

649

650 Chair Hurd: Ok, any discussion of the motion? Alright seeing none we'll move to the vote. Commissioner

651 Kadar?

652

653 Commissioner Kadar: I vote aye for the reasons specified in the motion.

654

655 Chair Hurd: Thank you. Commissioner Silverman?

656

657 Commissioner Silverman: I vote aye for the reasons cited in the June 28th Planning and Development

658 report.

659

660 Chair Hurd: Thank you. Commissioner Williamson?

661

662 Commissioner Williamson: Aye based on the June 28th staff report and public hearing.

663

664 Chair Hurd: And I vote aye as well for the reasons stated in the staff report, especially regarding the site

665 plan approval the minor nature of the amendments. Ok, motion C.

666

667 Commissioner Kadar: **Because the proposed use does not adversely affect health and safety, is not**

668 **detrimental to the public welfare, and is not in conflict with the purposes of the Comprehensive**

669 **Development plan, the Planning Commission recommends that City Council approve the 25 North**

670 **Chapel Street special use permit for 21 two bedroom apartments as shown on the Karins and associates**

671 **major subdivision plan, rezoning, site plan approval, special use permit, and parking waiver site plan**

672 **for 25 North Chapel Street dated October 13th, 2020. And revised through April 8th, 2022, with the**

673 **Subdivision Advisory Committee conditions as described in the June 28th, 2022, Planning and**

674 **Development Report.**

675

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

677

678 Commissioner Silverman: I'll second.

679

680 Chair Hurd: Thank you. Any discussion on the motion? Alright seeing none we'll move to the vote.

681 Commissioner Silverman?

682

683 Commissioner Silverman: I vote aye for the reasons cited in the June 28th Planning and Development

684 department report.

685

686 Chair Hurd: Thank you. Commissioner Williamson?

687

688 Commissioner Williamson: I'll vote aye for the staff report and public hearing contents.

689

690 Chair Hurd: Thank you. Commissioner Kadar?

691

692 Commissioner Kadar: I vote aye for the reasons stated in the June 28th Planning and Development

693 department report.

694

695 Chair Hurd: Thank you and I vote aye as well for the reasons stated in the staff report. Alright.

696

697 Commissioner Kadar: And the final one. **Because it should not have a negative impact on adjacent and**

698 **nearby properties and because the proposed plan does not conflict with the development pattern in**

699 **the nearby area, the Planning Commission approves the 10-space parking waiver for 25 North Chapel**

700 **Street with the condition that the applicant will pay the required parking waiver fee of 33,555 dollars**

701 **and zero cents.**

702

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

704

705 Commissioner Silverman: I'll second.

706

707 Chair Hurd: Alright there we go. Any discussion on the motion? Seeing none we'll move to the vote.
 708 Commissioner Williamson?
 709
 710 Commissioner Williamson: I vote aye based on the staff report contents and the public hearing.
 711
 712 Chair Hurd: Thank you. Commissioner Kadar?
 713
 714 Commissioner Kadar: I vote aye based on the conditions noted in the staff report dated June 28th, 2022.
 715
 716 Chair Hurd: Thank you. Commissioner Silverman?
 717
 718 Commissioner Silverman: I vote aye for the reasons cited in the June 28th Planning and Development
 719 report and the applicant's acceptance of the condition that they will pay a parking fee as part of the
 720 waiver.
 721
 722 Chair Hurd: Alright. And I vote aye for reasons stated by my fellow Commissioners. Alright. That's the
 723 hearing. Good luck.
 724
 725 Mr. Lang: Thank you all for your time this evening.
 726
 727 Chair Hurd: Ok.
 728
 729 **4. Review and consideration of the Downtown Newark Parking Plan recommendations to reduce**
 730 **residential and commercial parking requirements in the BB zoning district, unbundling the cost of**
 731 **parking spaces from residential rental leases, and updating the parking fee-in-lieu payment language**
 732
 733 Chair Hurd: Alright, item 4, review and consideration of the Downtown Newark Parking Plan
 734 recommendations to reduce residential and commercial parking requirements in the BB zoning district,
 735 unbundling the cost of parking spaces from residential rental leases, and updating the parking fee-in-lieu
 736 payment language. And I see Mike is all ready.
 737
 738 Planner Fortner: Good Evening Commissioners. I'm Mike Fortner, a planner with the City of Newark. I'm
 739 here to present the amendments to change the parking requirements for the commercial and residential
 740 districts, residential and the BB zoning district. Your plan has a lot of attachments including something the
 741 Planning Commission's been working on for a while, so I have kind of this and on the exhibits, they keep
 742 track of sort of the history, in the background I start off with the Planning Commission's efforts in 2016
 743 but you can go back even further to the invention of the automobile to understand this topic completely.
 744 But we'll start in 2016 when you started working on this to address the parking waiver program. These
 745 are programs that you've been talking about for a long time, reducing minimum off street parking
 746 requirements, and also adjusting or changing the way we do parking waivers. So, these have been
 747 identified we had a Parking Subcommittee that met for about a year to discuss these issues. So, there's
 748 really three core parts to this thing, it's fairly simple even though it seems like there's a lot there.
 749
 750 The first part is the zoning requirements for off street parking requirements for off street minimum
 751 parking requirements in the BB zone. We're recommending that we reduce or use a shopping center
 752 model for determining parking. So, the Parking Subcommittee recommended eliminating off street
 753 parking all together in the downtown business district then having a kind of tiered system. The area
 754 around that would have a reduction. We've vetted this with a consultant, and we've also talked with
 755 Council a number of times. They seem to be more comfortable with this shopping center approach, so
 756 there's tremendous benefits for downtown. And since we don't have to, we have a development, we have
 757 to determine what's in each space, and then we have to calculate the parking requirement on each
 758 individual use, it's just a uniform approach. Sometimes a restaurant opens, and they want 40 seats and
 759 then they decide that they could have some more seats, and that could throw off their whole parking
 760 requirement. They would have to pay the parking waiver. So, this creates a uniform approach, we know
 761 what the parking standard will be. It's based on shopping centers, because these are three or more
 762 businesses that are managed together, it's very much like a downtown. Shopping centers have shared use
 763 parking so people go to downtown at a shopping center to park, they can go to a number of places and
 764 not have to move their car. And sometimes businesses are closed, and some are open, and businesses

765 have different peak times so this sort of shared parking is incorporated into the shopping center type of
766 standard for downtown. So, it would take all of the BB and make it the exact same there.
767

768 For residential, we're recommending reducing the parking requirements. Essentially instead of two for 2
769 to 3 bedrooms, we'd just go down to 1 and then a second one for over 3 bedrooms. This is because we're
770 trying to discourage residential parking downtown, we want more for the businesses. We don't want to
771 require the building of parking downtown as it just encourages students to bring their cars if you require
772 these residential units to have parking spaces. If there's two for them then they'll bring their cars and
773 we're looking to decrease that. So that's the zoning requirements.
774

775 The second part of that is the decoupling. And so decoupling is when you separate the rent that you pay
776 for residential units and the parking. So, a person downtown will pay for their rent and then if they don't
777 have to pay anymore. But if they need a parking space then they have to pay market rate. They'd have to
778 purchase that extra and we're proposing that we'd be requiring that in new developments downtown.
779

780 And then the third part is that we're changing the parking fee. We'd take away this incentive to from
781 separation of residential and commercial, but most importantly we'd raise the price. Instead of the surface
782 lot parking fee, which is around \$6,000 dollars, we'd be changing that to a structured parking so they
783 would pay the spot for a structured parking space. And that is around, what is it, I think it's around 25?
784 It's in the code, drawing a blank on that.
785

786 Anyway, if we could look at Exhibit A and I'll kind of walk you through the ordinance really quick. There it
787 is and I'll pull it up here. The first part's just a simple deletion of a line but I guess that doesn't include the
788 actual in your report it will actually show what was deleted there. So, we deleted a sentence we don't
789 need and then we separate the tables. So, table 1 is all your parking for every individual use, all the other
790 zoning districts besides BB will stay with those tables for now. So that continues on through the next two
791 pages of your report and again I'm in Exhibit A. And then you get to on the page 3 of 6, you go to 2, you
792 create a table for BB zoning district, and you can see the change in blue and so we create for nonresidential
793 uses we use the shopping center and for residential uses, since residential isn't usually included in a
794 shopping center, we create a new one. So, we have 2 we do 1 and for units over three bedrooms you need
795 another parking space. And then at that we add the text and that's the text we're using for the decoupling.
796 We're requiring that they separate their lease agreements from their parking agreements and then they
797 add their addendum and then a tenant can decide to rent there and then if they choose not to bring
798 parking, they just pay rent and if they want to bring a car there, they purchase individually from the
799 developer. This is a better approach to managing the parking supply.
800

801 For example, if two spots are dedicated to a unit and those tenants don't use those parking spots then
802 nobody's going to use those parking spaces. But if a person from another unit could rent, you know it just
803 manages it. So essentially you go to the tenant and there's 20 parking spaces, it's first come first serve,
804 they pay a market rate for it. And if they don't want to pay that market rate for it, they don't have to bring
805 their car they can find other means. And that covers the decoupling.
806

807 If you go to section B, that gives the parking plan option and so we've simplified that, the zoning code
808 used to divide the difference between non-residential and residential spaces. It used to give a discount
809 really for waiving residential spaces, we eliminate that, we just keep it one standard. Actually, we'd like
810 to encourage them to provide more commercial parking spaces than the tenant parking spaces. And then
811 we set the fee, we have one table where we raise that fee from 25, the first 5 spaces they pay 25% then
812 75% for the next 6 to 10 and then over 10 they pay 100%. And the fee is cited in the chapter for 32-3.1
813 and then go to the next page, the parking waiver fee of \$330 dollars which is the same as \$25,000 dollars
814 per space. They're paying for a structured spot rather than the surface spot. So, it raises. On the other
815 hand, their parking waiver should be reduced because we're reducing the parking requirements.
816

817 And that covers the basic walkthrough of the ordinance, and I can take questions, again a lot of the back
818 work that we've done over the years is covered in the attachments for the Parking Subcommittee the
819 report that was done, the bold future for Newark. It kind of explains all of the rationale for reducing
820 minimum parking requirements or even eliminating them. And that concludes my presentation, thank
821 you.
822

823 Chair Hurd: Ok, thank you. We will begin with Commissioner Kadar.

824

825 Commissioner Kadar: I'm looking at the proposed change to the parking waiver fee in lieu of actually

826 providing parking spaces. And it's listed as \$25,000 dollars per space, and I understand that's been shifted

827 to just a flat parking area to what it would be in a parking garage?

828

829 Planner Fortner: That's correct.

830

831 Commissioner Kadar: I don't think that's enough. I challenge you to build a parking garage that has 100

832 spaces for 2.5 million dollars. The loan would cost you a fortune so why are we using numbers (inaudible)?

833

834 Planner Fortner: We're discounting the land – we don't put that in the equation. It's based on our

835 consultant analysis and other types of trends that we then research on and so that's probably could be

836 more. The thing is that we can amend it every year, just like all fees we can always choose to revisit it.

837 This is the first step. But the land's already been purchased so it's what the structure is.

838

839 Commissioner Kadar: Ok, and what do we do with those fees?

840

841 Planner Fortner: What can we do with those fees?

842

843 Commissioner Kadar: What does the city do with those fees?

844

845 Planner Fortner: Mary Ellen?

846

847 Director Gray: So, it is currently, the parking waiver funds are put into a fund for maintenance of our

848 surface parking lots. So, this fee would be put into a separate fund.

849

850 Commissioner Kadar: Has that been done over the last several years as well? So, any parking waiver fees

851 have been put into this same fund?

852

853 Director Gray: Yes, there hasn't been a fund established for the construction of the structured parking, it

854 has been put into a fund for the maintenance of our surface parking lots.

855

856 Commissioner Kadar: Doesn't seem to me like we're getting ahead. We're constantly being asked to make

857 changes to grant parking waivers and we do. And I would think that the city would be concerned that

858 almost every building that's being put in downtown or BB's district or anywhere near the central business

859 district. Those buildings all have trouble meeting the requirements for the parking spaces and yet I don't

860 see us doing anything to alleviate that problem. So, it's kind of sad that we're charging these fees but

861 we're not using them to save up to provide some parking solutions.

862

863 Planner Fortner: Just to clarify we do use it to expand parking lots too and we have done that, like at the

864 Galleria for example.

865

866 Director Gray: Yes.

867 Commissioner Kadar: Well, we have had if you go back to what we talked about at last month's meeting,

868 I mean Lang came in with the South Chapel Street with the 7 story apartments. Next door was the old

869 Aetna Fire Hall, which is no longer there, it's an empty parking space and I got the impression that they

870 were perfectly willing to put in a structure that would help the city provide some parking spots, but I didn't

871 see anyone jump at that –

872 Director Gray: Commissioner Kadar if I could on a couple of items on that. So, the parking waiver money

873 was used to increase the capacity at lot 1. We used it to purchase 2 UD buildings that were owned by the

874 University of Delaware. We used that to purchase them, demolish those buildings, and increase the

875 capacity of that lot by about 72 spaces. Regarding the purchasing of land or looking to build a structured

876 parking building, or structure. The City Council does not currently have an appetite for that. There was a

877 proposal that was put out, an RFP that was put out right before I got here, so that was about 6 or 7 years

878 ago and there were about 4 or 5 proposals that were received. And the Council at the time did not move

879 forward with those proposals to build a structured parking lot. And then I guess the third item, not to be

880 argumentative, but what Planning is doing is trying to address parking by the Parking Subcommittee, and

881 by these parking solutions to try and address the parking issue downtown by offering these various

882 parking solutions.

883
884 Chair Hurd: I'll just add, having been on the Parking Subcommittee the fact that we're granting waivers
885 for buildings that are effectively an appropriately urban scaled downtown building told us that the parking
886 standards are too high – that we're requiring too many spaces for these buildings because we were using
887 the suburban style parking standard. Which makes sense in the edge of the city, but it just didn't make
888 sense on Main Street. So, that is partly why we're also trying to also get in here the revision to consolidate
889 the parking standards down to a single you know 4 spaces for every 1,000 square feet with the hope that
890 will reduce the number of spaces that will be required to be provided. And I know I'm not, and I hope that
891 through this discussion we may also generate additional criteria that we might want to consider in that
892 calculation of required parking in the sense of like if people are coming to this building to shop, coming to
893 Main Street, how many are coming and where are they going. And if we have alternate ways for them to
894 get here, if we have other places for them to park themselves then that property has to provide less and
895 less or fewer spaces for their customers. So that was one of the things that the Parking Subcommittee
896 was trying to drive that, to say besides the fact that the standards were kind of grossly oversized. When
897 you look at downtown Newark, it's a lot of parking but it's dedicated parking to those buildings. And if I
898 go to Traders Alley and I park to go to the Game Shop or the Camera shop; if I want to go somewhere else,
899 I have to move my car because that parking space is for when I'm shopping at the camera shop. And we'd
900 like to see, we the Committee I should say, wanted to see that parking becoming more available to the
901 public, inventory more available to the public so that I could park there and then go other places. And not
902 be forced to move it to another building that has created parking spaces for me to come and park at. So
903 that's one of the other things that we're trying to get rid of. And I don't know exactly how we're going to
904 get there, but that sense of you have a parking space at every single building on the street instead of you
905 have a parking space somewhere on this street so you can walk around. Is that helping you understand?
906

907 Commissioner Kadar: Well yeah, it helps. But I get back to, as a city, the city should be planning on
908 providing – now I'm not saying building it or owning it or running it. I'm just saying, providing appropriate
909 numbers of spaces so that people can come downtown, park their car and do exactly what you said. I
910 mean it's only a couple of blocks, right? So just to walk half a mile one way and half a mile the other way
911 is not going to cause an issue.
912

913 Chair Hurd: And I think at least in our talking, we wanted to see what happened when first we loosened
914 up the requirements and we looked at decoupling, and we looked at reducing the overall you know
915 parking spaces required and we looked at making previously private spaces available for public. Because
916 that's when you start to see things like you know an employee parking lot for businesses that maybe have
917 a, take the Grain for example. You know they have a very small parking lot, and they would like to keep
918 that for just their customers. Which mean their employees need a space to park. We'll all those parking
919 places are dedicated. But in the evening, there's got to be, there's a lot of available parking. If we can
920 release it from the code, if the code can basically release that space, and make it so that and I'll point to
921 Chris, so he can say hey my lot isn't being used at all at night. We can work out an arrangement you have
922 it from 5 to whenever, it's just across the street, that's where your employees park and your customers
923 can still have convenient parking. But you know it's, that's why this was the really hard thing to try and
924 explain and I think Council had trouble with this when we first presented it. These solutions are very
925 intertwined. You can't just say "well let's just change the parking standards". And then what? Because
926 that's a piece of it, decoupling's a piece of it, releasing privately owned into the public inventory is a piece
927 of it. Encouraging more transit, encouraging fee lots, encouraging all of these things, that's what gets
928 more spaces into the inventory. It makes it available so that somebody coming in from Hockessin is going
929 to find a spot on the street near to where they want to go. Because all that other long-term parking that's
930 taking up the short-term spaces has been moved and this other stuff, all this stuff is important.
931

932 Commissioner Kadar: Well, that's what I see in these parking proposals. It's just musical chairs.
933

934 Chair Hurd: Not the word I would have used.
935

936 Commissioner Kadar: You're saying to reduce the number of spaces that are required in buildings, and we
937 do that. And then whatever is leftover we wind up allowing people to rent those spaces at the market
938 rate which sucks them right back up again. Trust me they will. And then we still, we haven't made any
939 improvements, we're still right where we were, with 10 less parking spaces than expected. The
940 coordination of all of this stuff is a massive endeavor.
941

942 Chair Hurd: Yes. Did you look over this?

943

944 Commissioner Kadar: Yes, I saw that.

945

946 Chair Hurd: Because that sort of started to break it down. I guess my analogy's always like if you have a

947 tangled ball of string, the only way to start untangling it is to pull it open. You can't just start pulling one

948 string you have to open the whole thing up so you can see all the parts so it can start to become loose

949 again. Which is a challenge in government when things are linear and things are you know, you want to

950 do easy things that don't cost a lot first. And that may not be the thing that really needs to be done.

951

952 Commissioner Kadar: Well first, I'll end with the comment that if this was an easy thing to do, we've been

953 working at it for 6 years.

954

955 Chair Hurd: Yeah, we've been working at it for way too long.

956

957 Planner Fortner: And just to add on, Mr. Chairman, we've made some pretty good progress over the last

958 few years. 141, the 94 where the hotel is, these all have shared parking. There's going to be parking

959 available for the public and it's going to be managed in a way that creates (inaudible) for that. So, when

960 Will was saying like at the Iron Hill and Trader Joes, though I guess on the Trader Joe's side, they don't

961 charge for parking but on the Iron Hill side I guess they do now? And so, before it was free, and you could

962 never get parking there because it was free and so you go there first to get free parking then go to lot 4.

963 Well now you can go to Iron Hill and public park there because there's metered lots there and so that just

964 manages. So, what we're trying to work is to get all of these private lots to be part of the parking system

965 and managing them holistically. Same with the on-street parking, it's all a part of the system. Eventually

966 we're going to get to dynamic parking rates again it's part of managing the supply that we have more

967 effectively so that there's turnover and you can always find a place to park at a reasonable place where

968 you want to go. And so, it's complicated but we're making tremendous progress with the committee's

969 work and this consultant.

970

971 Commissioner Kadar: I have no further comments.

972

973 Chair Hurd: Thank you. Commissioner Silverman?

974

975 Commissioner Silverman: A question for the director. I remember reading in minutes or reports, staff

976 reports that there is a desire to reconstitute the parking committee.

977

978 Director Gray: Yes, that's on the, it's on the first reading that was sent to Council on June 27th, and the

979 second reading will be...Renee?

980

981 Deputy Director Bensley: July 11th.

982

983 Director Gray: Thank you, July 11th for a second reading to reestablish the parking committee.

984 Commissioner Silverman: Was there any discussions of the recommendations for the more than two years

985 of work that the parking committee did being forwarded to this committee and that be a priority? Or do

986 they have a particular task or is this just gathering another working group?

987

988 Director Gray: So, this is the Parking Subcommittee per the recommendations of the Parking

989 Subcommittee.

990

991 Commissioner Silverman: Yeah.

992

993 Director Gray: So, the Parking Subcommittee...

994

995 Commissioner Silverman: Will they be implementing the recommendations, is their primary purpose

996 implementing the recommendations of the Parking Subcommittee?

997

998 Director Gray: No. No, we are the staff went to Council and submitted a work plan, sorry I've got too many

999 dates in my head Commissioner Silverman. We submitted a work plan to Council back in March on the

1000 Parking Subcommittee recommendations, wait not a work plan, the recommendations. And then we
 1001 submitted a work plan to Council in June, was that June 13th Renee?
 1002
 1003 Deputy Director Bensley: Yes.
 1004
 1005 Director Gray: On June 13th the workplan of what recommendations we were going to implement and
 1006 when and that was going to be part of my director's report. And so, there were a number of
 1007 recommendations, so we put it in three buckets. The one bucket was the recommendations and ordinance
 1008 changes that needed to go to Planning Commission first with this set being the first. Another set of
 1009 recommendations that can go directly to Council because they're not a part of Chapter 27 or Chapter 32,
 1010 and a third bucket that can be done administratively. So, the timelines are all broken up and we are rocking
 1011 to do those. So, the parking committee is being recommended to be established to be similar to the
 1012 previous Downtown Parking Committee that and I'm not using the right term I forget what it was called,
 1013 to review and look at to regularly meet to review and talk about downtown parking issues and related
 1014 issues. And also, we're going to add whether there's going to be a parking district, it's all laid out in the
 1015 first draft I'd be happy to forward that to you should you wish to review that. But that was based on the
 1016 Parking Subcommittee recommendations and further discussed in the Kimley Horn report as a
 1017 recommendation.
 1018
 1019 Commissioner Silverman: Speaking of the Kimley Horn report, I was very surprised to see that the
 1020 consultant recommend the parking structure as a solution for downtown parking and heavily focused on
 1021 that particularly in light of what was brought to the table here tonight, that Council soundly rejected that
 1022 proposal even going after RFPs to the point that there was a developer in the area that was willing to step
 1023 up and build a building and come to a very economical lease arrangement with the city and even that was
 1024 rejected. And here's a consultant saying the solution, not a solution, but the solution is parking structures.
 1025
 1026 Director Gray: Well, I don't exactly remember the exact words, I believe it was part of a solution. Keep in
 1027 mind that this was, this consultant was hired to give their recommendations based on the Parking
 1028 Subcommittee recommendations, that was their recommendations. That was-
 1029
 1030 Commissioner Silverman: I believe it was carrying forward to the department (inaudible)
 1031
 1032 Director Gray: That was the consultant that recommended that, that was not the Parking Subcommittee
 1033 and that was not the Planning staff. So.
 1034
 1035 Commissioner Silverman: I found it interesting that a disinterested out of town consultant would come to
 1036 that conclusion. Let me focus back on some of the things I've identified here. We are decoupling the
 1037 residential component parking rents. Are we doing anything in this to set up the same structure that I
 1038 believe was commented on a little while ago with respect to employee parking? Would this be a good
 1039 time to think in that direction?
 1040
 1041 Director Gray: The, I'm not sure what...is your question that you want to add discussing what to do with
 1042 employee parking?
 1043
 1044 Commissioner Silverman: Yes.
 1045
 1046 Director Gray: So that is another phase in the implementation of the parking plan, that's not on the docket
 1047 for tonight.
 1048
 1049 Commissioner Silverman: So, it will be considered.
 1050
 1051 Director Gray: Yes sir.
 1052
 1053 Commissioner Silverman: Ok, with respect to the fee being calculated against the parking structure, we've
 1054 already identified that the city has a history of utilizing fees that are collected for resurfacing parking lots,
 1055 restriping, snow maintenance, and all other kinds of things to deal with and surface parking. Yet, we're
 1056 designing a fee around something that if the numbers work right, at this time of night are 4 times the cost
 1057 of a surface lot, 6000ish dollars versus 25000ish dollars. Unless that money is going to be dedicated for a
 1058 building and excluded from being used to maintain surface, I don't see the relationship of charging a fee

1059 that's 4 times the cost with respect to the fee itself. In maintaining a system that costs relatively little
1060 compared to the money that's brought into the existing lots. And frankly I don't think I can support part 3
1061 because of that, I don't think it's well thought out. Now also, do any of these provisions eliminate the
1062 autonomy that the Planning Commission has with respect to granting parking waivers?
1063
1064 Director Gray: No.
1065
1066 Commissioner Silverman: Ok, that's the end of my general comments.
1067
1068 Chair Hurd: Great, thank you. Commissioner Williamson? Oh, I mean Commissioner Stine, I'm so sorry.
1069
1070 Commissioner Stine: I don't have to recuse myself on the parking issue thankfully. As a frequent parker I
1071 do have some comments on this particular issue. Who, can we apply the math to the project that came
1072 before us this evening? Just as a hypothetical. So, the 10 parking spaces that this project, this group voted
1073 to grant that parking waiver. Those now, those first 5 were at?
1074
1075 Planner Fortner: Yes, so the first 5 would have been, they would have paid 25% of the \$25,000 and then
1076 the second 5 would have been-
1077
1078 Commissioner Stine: Of the \$6,700 though, right? Or under the new one, so it would have been 25% of
1079 \$25,000 for the first five.
1080
1081 Planner Fortner: Right, so then the next 5 would have been up to 75% now if the code was changed as
1082 we're proposing they might not have needed any parking waiver.
1083
1084 Chair Hurd: They wouldn't have, there would have been 21 spaces.
1085
1086 Commissioner Stine: Right so I guess that's sort of the math I'm having a hard time following. Is if on one
1087 hand you're reducing the need to grant a parking waiver to begin with, then you're saying if one is in fact
1088 granted then it's going to be extremely costly for the developer. Which will only pass those costs on to,
1089 right? They'll be in the project, and eventually be passed on to the tenant if it's a residential or commercial
1090 tenant. So, when there's enough money in the kitty let's say to build this structure, is the city of Newark
1091 going to build it?
1092
1093 Chair Hurd: No idea.
1094
1095 Commissioner Stine: Ok. So, we have no plan in place, we've not identified a lot, we've not said "we're
1096 going to collect all of this money and when we get to 5 million, 10 million, or 15 million whatever it costs,
1097 because I think the reports said \$25,000 to \$70,000 which was quite a range for space, there's no
1098 commitment to build this fictitious structure. So, a lot of what I'm reading is saying that parking should be
1099 market driven, right, there's a market rate for a parking space. So why do we mandate it at all?
1100 Planner Fortner: Mandate parking requirements?
1101
1102 Commissioner Stine: Right. So why have a parking requirement in? I mean that's a very serious question,
1103 that I'm asking. Because if its market driven, if Mr. Lang and Mr. Locke for instance wants to build a hotel
1104 on Main Street and provide absolutely no parking for his guests, I mean who are we to prevent Mr. Lang
1105 from committing financial suicide by not having parking space? So, my typical Saturday morning starts at
1106 the Co-op where I park at the Newark Shopping Center, but I cannot leave the Shopping Center, there's
1107 literally someone following me around waiting to tow my car. So, I go across the street to Bing's, which
1108 has very nice parking in the back but dedicated only to Bing's. Then I go down the street to get my
1109 Starbucks, and they have three spots in the back, but they're generally filled with their employees. But I
1110 almost always have no problem finding something on the street, and I'm in a certain zone, I'm in 19720,
1111 but if I want to stop anywhere else, I have to move my car again. And that's the goal of Passport parking?
1112 To make me have to move my car up and down Main Street to go to three or four.
1113
1114 Planner Fortner: You shouldn't have to move your car.
1115
1116 Chair Hurd: So, the reality I've discovered is, and this has come up in Council, if I've paid to park in a lot
1117 through the passport app, and I move from say 7 to 1, the guy that checks me into 1 will see that I have

1118 active parking in a parking lot and I will not get a ticket. Same if I parked on the street in one zone and
 1119 moved about two blocks up the street. I'm still in sort of the street zone and I won't get a ticket. They
 1120 have not publicized this.

1121

1122 Commissioner Stine: So, if I go from one zone to another zone, I'm not going to get a ticket?

1123

1124 Chair Hurd: As long as they have the same –

1125

1126 Commissioner Stine: But there is no sign telling you that. So, I'm the sucker who keeps paying for parking
 1127 in every new spot.

1128

1129 Director Gray: Keep paying, awesome.

1130

1131 Commissioner Stine: So, in this recommendation, in theory right, the Newark Shopping Center and what
 1132 you're saying Bing's, the street, the lots, they're all going to harmoniously get together and say you know
 1133 what, you can park in the shopping center and go to Bing's. And Bing's is going to say go ahead to park in
 1134 our parking space and go down to Starbucks. I mean that's just never going to happen.

1135

1136 Chair Hurd: That not as much. I think what we're thinking of places that are both retail and residential, so
 1137 there's a chunk of parking dedicated to those apartments, and then when the summer comes, and there's
 1138 no one parking in them.

1139

1140 Commissioner Stine: Right.

1141

1142 Chair Hurd: But that owner cannot start putting people in those spaces, because those spaces are for the
 1143 apartments.

1144

1145 Commissioner Stine: Right, they're all dedicated.

1146

1147 Chair Hurd: So, it would give the owner the ability to go you know what, in the summer, using Grain,
 1148 "Grain do you want your employees to park here? Park here" it opens up Grain's lot. Same for Bing's,
 1149 Bing's might say "we need parking for three employees, I'd rather they not be in my lot which is not big,
 1150 I'd rather they'd be a block over where I can find them a less expensive option"

1151

1152 Director Gray: And Chairman Hurd we were also looking at day to evening. So, a use is businesses that are
 1153 open during the day that have dedicated parking we were looking to have them share it at night. So, the
 1154 sharing concept which we think would be fairly easy to implement but would involve an infrastructure
 1155 cost on the city end which would be to install kiosks. So, then we could have some sort of shared fee
 1156 arrangement with the owners of the parking, like Simon Eye, they're not open at night, but they have
 1157 some parking. So, they could charge for parking at night, and we could share some sort of fee with them.
 1158 So that's one of the concepts we're working on.

1159 Chair Hurd: That's similar to what the university's been doing. Where they say "this is a permit lot from 8
 1160 to 5. After 5, it's this code on the parking"

1161

1162 Commissioner Stine: Because the lots never max out, right? They get close, around noon they get close,
 1163 but they never really hit capacity. So, do we have a parking problem downtown? I asked this question I
 1164 think the first day I got here and I'm going to ask it again.

1165

1166 Director Gray: That's the question that the subcommittee looked to answer. And Chairman Hurd and our
 1167 only member of public here were also on the Parking Subcommittee that was the, oh I'm sorry and
 1168 Commissioner Silverman was also on the subcommittee. That was the question that they wanted to
 1169 answer. And their determination was, members of the committee?

1170

1171 Chair Hurd: Oh, no.

1172

1173 Commissioner Stine: There's no parking problem downtown?

1174

1175 Chair Hurd: There's no parking problem as defined by either a lack of available parking or reasonable
 1176 whatever. What there is, there is a perception. Because people can't park in front of where they want to

1177 go. So, there's an availability. So that's why one of things that was mentioned – which I don't know has
 1178 started yet – was a marketing plan. Because one of the things to do is to change people's ideas about how
 1179 close should I be able to park in a downtown area. But I mean if you look at just the number of parking
 1180 spaces within the city, just in the downtown area, it's thousands.

1181

1182 Commissioner Stine: There's no parking problem. I've never had a parking problem.

1183

1184 Chair Hurd: But there is a problem in that many of those spaces are committed and locked out from doing
 1185 or forcing you from doing what you want to do which is I park here, then I park here, and then I park here,
 1186 and then I park there and then I leave the town, and that's ridiculous.

1187

1188 Commissioner Stine: How do you make the parking profitable enough for a company like Lang or any other
 1189 to want to build a parking structure? Or is it in the city's best interest to just partner? Like, why, I mean
 1190 just an example the Aetna.

1191

1192 Planner Fortner: Our building parking structure, at 141 and 94 they built parking structures. When you set
 1193 the parking waiver fee high enough it creates an additional sense of well, I can build the garage, or I can
 1194 pay the city the waiver. So, if it's too cheap, they can say well I'll just do it.

1195

1196 Commissioner Stine: We can never charge a waiver high enough to equal the cost of building a parking
 1197 structure.

1198

1199 Planner Fortner: Maybe not, and it's probably not a good idea.

1200

1201 Commissioner Stine: So, I'm just wondering. Why wouldn't we go to like the Burger King site and
 1202 encourage that parking structure there by even participating in the cost? If we need parking which you're
 1203 saying we don't even need, I just don't understand why the parking situation is so complicated, I guess.
 1204 And I'm not discounting the work that the Parking Subcommittee did. I know you guys have been working
 1205 on this long before I got here, and you'll be working on it clearly long after I'm gone. But it just seems like
 1206 it's overly complicated.

1207

1208 Chair Hurd: Yes.

1209

1210 Planner Fortner: Yeah. By charging the higher parking waiver fee, it's more money for us to create a
 1211 partnership in the future so we'd have that instead of the surface lot. So, we want to have more in this
 1212 fund, and we can do these partnerships with maybe another developer like 141 or the hotel. We could
 1213 have been maybe more of a partner in that garage too.

1214

1215 Commissioner Stine: But 141 lorded it over us. They are weaponized that parking structure, if they didn't
 1216 get what they wanted they weren't going to do it.

1217

1218 Planner Fortner: Yeah.

1219

1220 Chair Hurd: Yeah.

1221

1222 Commissioner Stine: So that was not cool.

1223

1224 Planner Fortner: Well, that was part of the negotiation. We were negotiating with them, and they tried to
 1225 use it as leverage. I don't know if it's cool or not, but the truth of it is it's going to be available for you to
 1226 park there, pay the fee and then walk to different places you want to go then come back. And that's the
 1227 idea. Is that maybe you can just park once and even the shopping center, if they chose to sign up as part
 1228 of this network, you could just pay the fee then you could just walk over to Bing's, you wouldn't have to
 1229 drive over there. And I don't know, Starbucks might be a little far, but if you're interested in walking that's
 1230 fine. But that's the idea, that it creates this whole network. The city could go into agreements with
 1231 developers and have a higher parking wavier fee, it gives incentive for the developer to build it or if they
 1232 pay into it, which we want them to do because we think that they're providing too much if they follow
 1233 our code. We'd rather them try and get a parking waiver, but the problem with that and the perception
 1234 is that we're giving this away. You know when we do a parking waiver, you know we're just letting the
 1235 developer off the hook for that, we really don't want them to build those because it's to suburban

1236 standards, not urban standards and so they don't need to build all of this parking so we'd rather they
1237 waive it.
1238
1239 Commissioner Stine: Right.
1240
1241 Planner Fortner: So, getting rid of parking requirements is an approach, a valid one.
1242
1243 Commissioner Stine: So, on this project this evening, the ground floor has to be paved because we have a
1244 parking requirement versus green space that might have been there or maybe a small commercial space
1245 with some commercial frontage because we still don't allow first floor apartments, right? So, it would be.
1246
1247 Planner Fortner: That's correct it would be retailer parking, some sort of commercial space for parking,
1248 yes, preferably commercial space.
1249
1250 Commissioner Stine: It's a conundrum.
1251
1252 Planner Fortner: Yeah. So, this is a step to reduce these requirements, trying to get this more on the lines
1253 of a downtown, that's what the zoning part is. And the decoupling. The parking waiver.
1254
1255 Commissioner Stine: Honestly you said parking's are kind of tongue in cheek but that's really what the city
1256 needs. It needs someone to go building to building, business owner to business owner and put this
1257 network together.
1258
1259 Commissioner Silverman: That's where I was heading with the charge to the (inaudible) committee.
1260
1261 Chair Hurd: Hopefully.
1262
1263 Director Gray: So, Commissioner Stine if I could. So, the recommendation by the Parking Subcommittee
1264 was not to have any parking requirements downtown and some of the Council did indicate and open this
1265 to looking at not having parking requirements having downtown. When staff was putting this memo
1266 together, and preparing these documents we discussed quite a bit, as to how to approach this and what
1267 to propose. Because if we propose the no requirements downtown and then we get to Council and then
1268 it goes another way then we would have to come back to Planning Commission with the numbers. With a
1269 parking requirement. So, if it's the pleasure of the Planning Commission, to recommend not having
1270 parking requirements downtown or a combination of let's say commercial, the shopping center, the
1271 commercial requirements of the shopping center and let's say no residential parking requirements
1272 throwing that out there, that could be a recommendation. So, I'm just saying that Council was fairly split
1273 on how they felt, and Will listened to that and how they felt about that. And we as a staff didn't want to
1274 bring forth a proposal that would totally have to be walked back to Planning Commission if it went to
1275 Council. Because if it went to Council with no parking requirements and then they decided they wanted
1276 parking requirements, then it would have to come all the way back to Planning Commission.
1277
1278 Commissioner Stine: But that would add some, the downside of that being it would add another month
1279 or two months?
1280
1281 Director Gray: At least two months, possibly three.
1282
1283 Commissioner Stine: It sounds like it's been 6 years.
1284
1285 Director Gray: Oh, Renee is raising her hand. Am I misspeaking?
1286
1287 Deputy Director Bensley: You're not misspeaking but I think I'll add some additional context.
1288
1289 Director Gray: That would be awesome.
1290
1291 Deputy Director Bensley: For the record, Deputy Director of Planning and Development Renee Bensley.
1292 When we were formulating this proposal another part of the discussion was some past experiences we've
1293 had with Council. Where we did kind of a swing for the fences home run approach to go for everything
1294 that we thought could be the best policy we could put forward. And we've had experience in the past

1295 when we've chosen not to take a more incremental approach, instead of saying "ok, we're not going to
1296 go all of the way but part of the way" it's "well, go none of the way". So, looking at this particular item, it
1297 was thought that there was enough concern from some members on Council that an incremental
1298 approach will be best where we take this first step to reduce the parking requirements. We show that it's
1299 an improvement and there may be room for additional improvement. And then commit to reevaluating
1300 within a certain time frame. As to what kind of projects we're getting, do we see if additional reductions
1301 would be helpful, and to move forward like that as opposed to taking the opportunity to go too far too
1302 fast and not get any changes at all.

1303
1304 Commissioner Stine: So, this is not the recommendation that you would prefer to put forward?
1305

1306 Deputy Director Bensley: I wouldn't say that, I mean we back the recommendation we're putting forward,
1307 and it's part of, right now it's part of the draft Charrette recommendations, so it meshes with that effort
1308 as well but in looking at whether to move forward with the Charrette/downtown parking plan
1309 recommendations versus the Parking Subcommittee recommendations, we fell on the side of let's take
1310 the incremental steps and make some progress forward and then commit to reevaluating it if need be and
1311 then going forward in the future.

1312
1313 Commissioner Stine: So, what's the total timeframe to get everything you would like to get?
1314

1315 Deputy Director Bensley: So, and Mary Ellen and Mike, you can correct me if I'm wrong. I think we looked
1316 at a two-year timeframe for revaluation to see how everything was working after that happened and
1317 move forward. And also just from a practical perspective, we're shorthanded now in the Planning
1318 department, we're about to be more shorthanded, so having to redo things because they get sent back is
1319 not something that's going to be easily absorbed for us, so if are in a position where this gets rejected by
1320 Council and gets sent back, it might take two months to get through the process but it's going to take
1321 longer than two months to get back on an agenda.

1322
1323 Commissioner Stine: Well, that's a shame that you can't do what's right for fear of getting rejected by
1324 Council. I mean are you confident that they would not accept a proposal based on what you'd like to see?
1325

1326 Chair Hurd: Well, I'll just step in on this briefly. So, you see the Planning Department is in a bind at times
1327 because they are of course, the staff that works in a certain direction has to be there. We are not as
1328 constrained. So, you know I think, I appreciate the delicate nature of the position that staff is in in trying
1329 to assure that they're proposing something that moves the objective forward without scaring Council, I'll
1330 use that word, startling. Because Council is, they are split. There were a few people who were like, let's
1331 just do this, let's just go. Then there others who say no, all these problems, no one's going to park, it's
1332 going to be madness. And so, trying to craft something that reaches all of them is almost impossible I
1333 would say. So, staff has done as best a job as they can to say alright, let's you know baby step here. And
1334 that's what's come to us but now we are the advisory body, you know we are the ones who send this on.
1335 So, if we are feeling that this is not, I'll say aggressive, if this isn't big enough, this doesn't really move it
1336 then I think we can start to do that. And then it's not staff who are presenting this plan, it's here is what
1337 was recommended by Planning Commission.

1338
1339 Commissioner Williamson: Mr. Chair just a thought. Could we do a two-part recommendation that says
1340 the Planning Commission prefers no parking standard but if the Council wants a standard this is what we
1341 recommend?
1342

1343 Chair Hurd: We could. And I would like to give Commissioner Williamson a chance, but I want to be sure
1344 that you voice your concerns. I know that each concern kind of takes us in a new direction.
1345

1346 Commissioner Stine: No that's ok, I hate to keep everyone here late, but I think it's an important
1347 discussion. Ok, I'm fine.
1348

1349 Chair Hurd: I'll first enact Chair's prerogative to continue the meeting to 9:30. Then Commissioner
1350 Williamson, your initial thoughts and comments?
1351

1352 Commissioner Williamson: Yes, I do have some and I'll try to be brief. And of course, the preamble is that
1353 Planning, and parking goes back to the Romans where you put your chariot and stuff. So, this is a constant

1354 chasing your tail thing. In cities 100 years ago, we added parking because everybody got cars and then
1355 now, we have too much parking but yet the retailers want maximum Christmas parking, right. So,
1356 everyone coming at Christmas wants a space then half of them are empty all year. And so on. So, it's a
1357 tangle, so a couple questions. First, is outside dining on the public right away considered part of gross
1358 square footage?
1359
1360 Planner Fortner: No.
1361
1362 Commissioner Williamson: Alright, number 2. On the decoupling, would a new tenant coming in have 1st
1363 right to somehow recall a space that would otherwise be available to them but has been sold out by the
1364 previous tenant.
1365
1366 Planner Fortner: I'm not sure I get your question.
1367
1368 Commissioner Williamson: So, in other words, if you lease a space out because no one wanted it, it's on a
1369 month to month then could you cancel it because a new tenant wants it? So, the tenant has first rights to
1370 get that space back if they need and want them.
1371
1372 Planner Fortner: So, the idea is to separate the basic rent from the parking cost. So, it could be market
1373 rate. If the owner of the property thinks that he can rent these 20 spots and you know we set a market
1374 rate for him and he sells those, if he thinks 10 of them would be more valuable in the commercial market
1375 then he would go in that direction to give them flexibility. Go ahead Mary Ellen.
1376
1377 Director Gray: So, the ordinance would not get into the management of it.
1378
1379 Commissioner Williamson: And therein lies the rub. For example, because this says "shall" is there a
1380 liability to the city, in other words, you shall require decoupling the owner of the building says "well I can't
1381 force my tenants to rent these spaces, I need to have income, I'm going to rent them to people who don't
1382 live in the building" now you have outside people coming into the building, that's a security issue. So is
1383 there some liability to the city because we set this up and someone could argue there's security issues
1384 etcetera, etcetera, I just raise the, it's a weeds thing. So just to keep that in mind. On the waiver, the
1385 amount for the structured parking, what's the rationale for the discounts in the first 10 spaces? Why are
1386 they discounted? Why wouldn't they just pay the full amount?
1387
1388 Director Gray: It was in the ordinance already and we didn't want to mess with it too much.
1389
1390 Chair Hurd: So, my guess would be that any building that's just a few short, they're not getting slammed,
1391 but if you are significantly short then you're getting taxed at that point.
1392 Director Gray: That sounds a lot better than mine.
1393
1394 Planner Fortner: That's actually right. That's actually the correct answer.
1395
1396 Commissioner Williamson: Just asking. So, under Delaware law, how long can you hold the fees and not
1397 build a garage before you have to give them back in some form? I don't know the answer. It's going to
1398 come up.
1399
1400 Chair Hurd: It's going to come up.
1401
1402 Commissioner Williamson: All of this seems to commit the city to some kind of district parking
1403 management. Is there proper management to maintain all of this running. And to have the land for a
1404 parking garage near the demand at some point. So that's kind of already understood more or less. When
1405 you reduce parking requirements for new permits, do all the existing businesses also get all of their
1406 requirements reduced retroactively? In other words, is it fair to me, I had to build 5 spaces, so and so
1407 across the street doesn't have to do any now? Therefore, the city has reduced their cost relative to mine
1408 and that's an unfair trade, etcetera.
1409
1410 Chair Hurd: So that item is mentioned in the consultant's report, and that is in fact an item of my topic as
1411 well.
1412

Commissioner Williamson: Alright. You know, another comment is that this is supposed to potentially reduce costs, but there's no requirement to reduce costs. An apartment with zero spaces arguably would be less expensive than one with a parking space but in reality, the rent's going to be the market rate, whatever they can charge for an apartment will be what they charge. It may not happen. And finally, and this will be the last one. First of all, the approach of having 3 main points is great, I find that very refreshing that it's rather simple. 4 per thousand, you could summarize that on a PowerPoint slide, right? 4 per thousand decoupling structures, that's your whole program. Careful you've probably been through this and I'm just repeating something. So, the shopping center comparison, the downtown I'm guessing is 50 percent eating establishments. And usually eating establishments have higher parking, more than 4 per thousand, that's been my experience. When a restaurant comes in, they really do have a high. But that's a typical destination restaurant when everyone comes in from 4 to 7 o'clock and you know you have that peak. But this is a different type of market, you've got a large lunch time crowd I'm thinking, and a lot of people walk and all that. So maybe when you say shopping center, 4 per thousand is not just a shopping center, it's a shopping center for this particular kind of market. Because if you went to a shopping center in the ITE manual it might be more than with this many eating establishments, it might be more than 4 in a thousand. So just watch that that's all thank you.

Chair Hurd: Ok, what's on my mind in this besides what we've already talked about, I'm certainly in favor of a number lower than 4 per thousand because I would like to remove the employee component from that number. Because I think in a shopping center that's included for employees and I think I'd like to sort of push that out and start making that. I think that in my mind, and sort of like if we're going to keep the parking waiver fee in lieu and that again is something on the table, you know it's right here and we're making changes. To my mind in this new paradigm, parking fee in lieu is the last thing that we assess on a project. And up until that point, we need to give developers and such opportunities to demonstrate, I don't want to say compliance necessarily, but demonstrate that they're going to meet the demand of their project. So, if we say it's 4 spaces per thousand to say calculate a base number. And then we start saying ok, how many bus lines go past your project? Ok, you get a space for every bus line. You know we start looking at a map to say ok, buses take some spaces out. Public parking nearby gives you some spaces. Offsite arrangements for the employee component of your commercial tenant takes some spaces out. Basically, I think what I want to say is that the parking management plan that we talk about, should be a requirement to demonstrate to us that this project is not going to be a drain on parking because it has some on site, some off site, it has access to other transit options and therefore it has no excess demand and therefore no requirement of payment in fee of lieu because it's not pertinent. And that lets us inside that downtown zone without necessarily because I would love to take the downtown Newark boundary and say within that box is our parking demand and outside it it's something else and I know that gets close to being an overlay and I don't know if it is an overlay but that's what I'd love to do, just to start there. But if we're not doing that then we just say fine, this is the BB parking demand. And College Square can go build that but say the Astra Center can sit there and say, there are like 5 bus lines that go down Main Street. I should get something for that. You know, LEED projects do that all the time, defined within a certain distance of a bus spot, you get points. So, you can look at that and calculate it and say, "ok, I'm decoupling the residential, I've got commercial things, I've got this covered. My parking demand is practically zero." Or whatever it is, I'm providing some spaces and therefore we never get into the fee in lieu. But if they have a parking plan that doesn't meet that or it's in a location that doesn't allow it to use other systems, use other ways to get there then yeah, they need to provide the parking or they need to provide a fee for it.

Those are my sort of big ones. I'd like to see that parking management plan be a bigger piece of this process. Because I think that's what will really demonstrate that we don't need to be paying for fee in lieu because we're managing the demand of that project in other ways. Yes?

Commissioner Silverman: I have a question for Mr. Bilodeau. If we recommended that the fee as used in the section of the code conform to the standards for impact fees with a rational nexus, there has to be a direct relationship between the fee connected and the public service provided. The future public service, and there's a time limit you know, one of those very common ones and I can't recall what the law of the State of Delaware is. If the proposed capital project and that's usually what they're tied to, doesn't come to fruition then the moneys are actually returned to the property owner record for those impact fees that were paid. Would that alter the equation with respect to what the city does with its money and parking structure? That sort of thing.

1472 Solicitor Bilodeau: That would be a game changer, so as far as, number 1 the nexus between the fees
1473 charged and you know the cost to the city we'd have to just make sure that all these fees are justified.
1474 You know that's something we have to make sure of. And then boxing the city into building a garage within
1475 5 years of collecting the money or you lose the money; that's certainly something that could be included
1476 in any ordinance but it's one we really need to think long and hard about if you want to create that type
1477 of deadline if you will.

1478
1479 Commissioner Silverman: Ok, thank you.

1480
1481 Chair Hurd: Alright I'm going to jump to public comment because it's about time for that. And Chris's head
1482 is going to explode, then we'll come back to the conversation. So, we'll start and of course you need to
1483 identify yourself.

1484
1485 Mr. Locke: Boy there is so much I want to say. Chris Locke, 47-year resident of the city of Newark, 33-year
1486 merchant on Main Street and 20 years with Lang Development Group. I have also sat on the parking
1487 committee that's been spoke about back in I guess '16 or '17. So, a couple of things, first I really appreciate
1488 Commissioner Stine's comment of why we are even in the parking business, why don't we let the market
1489 dictate it. And that was definitely discussed years ago. You know we had done plenty of projects within
1490 the city of Newark from 2001 back to maybe 1999 where we did not provide any parking and Jeff Lang
1491 and Roy Lopata, the former Planning Director came up with this idea of the parking fee. And the idea was
1492 that it was supposed to be put in a lockbox and held to eventually build a parking garage in the city. And
1493 somehow magically it went into the general funds and some of it is used for maintenance of the parking
1494 lot, and you know staff of the parking department but a lot of it went into the general fund. And I think if
1495 we're going to do this, and this is a substantial increase. So, for example, and it's not apples to apples
1496 because under the new ordinance we would not need a parking waiver for the project that was approved
1497 earlier tonight. But if we needed 10 parking waivers, instead of paying \$33,000 dollars we would have
1498 paid \$125,000 dollars. So, it is a four-fold increase in the parking fees. So, I would implore the Planning
1499 Commission here that this money goes into an escrow account. You know, lock box it, make sure it goes
1500 to the parking garage that this city will need at some point you know in the future. Millions and millions
1501 of dollars have been raised by the previous cheaper parking waiver since 1998 and 1999. And it's gone,
1502 it's not there, and that's unfortunate especially if you think about the accrued interest that could have
1503 been happening all of these years, the city could have built a garage without even thinking about it. So
1504 that's that. In regard to the parking requirements, I agree with Chair Hurd, you know for years we built
1505 buildings without parking, and the tenants were perfectly fine. Then around 2009 or 2010 City Council
1506 decided, ok we're going to make parking required; we're not going to give parking waivers and we'll make
1507 it really difficult to get your project approved unless you provide parking. Now we've gone 12 years with
1508 parking being given to the tenants, they're used to that now. And now some of buildings we had no
1509 problem leasing, now they're a little more difficult to lease because they don't have parking. More
1510 importantly we have buildings on Delaware Avenue, on Center Street, on Main Street that are ripe for
1511 commercial use. Lawyers' office, doctor's office, dentist office, small shops, small retail shops. You
1512 mentioned earlier Commissioner Williamson about Chapel Street and your concern. Well, here's a
1513 perfectly good building, we just had approved that would have been great for commercial space, but we
1514 couldn't do it because we had the parking requirement. And there are many spaces, I know on Center
1515 Street for example we have a building there. I know if I could convert that parking, I'd rent it tomorrow.
1516 132 East Delaware, another perfect example, 20 parking spaces, again it could be office space
1517 immediately. So that's the dilemma that this parking requirement really puts onto the city. It really
1518 deterred a lot of commercial advancement we could do downtown. One thing and it's kind of ironic that
1519 the next thing on the agenda is height. Well, height and parking are completely connected. The reason
1520 that people have to go 7 stories is because of the parking requirements. That's why you see these heights
1521 on all the buildings, so if you get rid of all the parking requirements, you're probably not going to see a lot
1522 of 7 story buildings. So maybe this little political horse trading here. So, Council wants 5 stories, and we
1523 want no parking requirements. So maybe we could do some horse trading there, and say ok, you get 5
1524 stories but no more parking requirements. And I think that could be a real win-win for everybody, so
1525 maybe you could propose that. And I apologize, there is no parking problem and you said it perfectly as a
1526 consumer on Main Street. And the issue of when we pay for parking garages, you're only charging \$1.25
1527 an hour for parking where other major municipalities it starts at 2, 3, or 4 dollars an hour. I think we
1528 probably have more parking spaces than the city does, and we charge 2 dollars an hour, we're doing great.
1529 You guys are charging a buck 25 I think so. So, the economics of parking is not really being addressed. The
1530 decoupling, I get it, and Deputy Director Bensley and I had a conversation about this. I get it on a public

1531 policy perception, the economic reality and the operation of apartments it really is no decoupling. Rent is
1532 rent, you get parking, or you don't get parking. Now I do like the idea of if I tell the tenant "Ok it's going
1533 to cost you 100 dollars more a month for parking" She or he may say ok I don't want it and I can rent it to
1534 somebody else, but I don't know. I don't know how effective that's going to be and as for the commercial
1535 comment I agree with you. It's got to be lower. Because we want diversity of commercial tenants in here.
1536 And I think it has to be lower than that. One other thing Jeff and I were talking about, when you were
1537 mentioning Commissioner Williamson, your concerns about Chapel Street, this is for a different night.
1538 Maybe we need to have 3 different types of BBs. A BB one, that might be right on Main Street and that
1539 might be different than a BB two which may be Choate Street, and Center Street, and Chapel Street, and
1540 then a BB 3 west of East Delaware Avenue or something. And that may address some of those issues of
1541 height and all that. But great comments, I do want to say because this is Director Gray's last meeting, I
1542 totally appreciate all of your hard work over the years. We've not always agreed on a lot of things but
1543 what I will say is that you were always forward thinking, you were always trying to push the envelope.
1544 And unfortunately, you're really good ideas got pushed to the side because we were not prepared to be
1545 forward thinking. And I do want to thank you for your years of service, and I want to make sure I said that
1546 before I sat down. So, thank you.

1547

1548 Chair Hurd: Alright thank you. Do we have any submitted public comment?

1549

1550 Ms. Dinsmore: No Chairman.

1551

1552 Commissioner Williamson: Mr. Chairman, I do have one question if I may?

1553

1554 Chair Hurd: Sure.

1555

1556 Commissioner Williamson: If the lower parking requirements were somehow applied to existing uses in
1557 your buildings where you have parking, is it feasible to change spaces that are now parking to commercial
1558 with the building code?

1559

1560 Mr. Locke: If you remove the requirement of parking, yes. It would change the dynamics of the building
1561 substantially.

1562

1563 Commissioner Williamson: The existing buildings?

1564

1565 Mr. Locke: Without a doubt. Without a doubt. Yep. And it would be a benefit to the city as well because
1566 you would have more businesses and it would increase the property value which increases your tax base.

1567 Chair Hurd: Thank you. Do we have anyone online that wishes to give public comment? No. Ok, closing
1568 public comment. Bringing it back for further discussion.

1569

1570 Commissioner Williamson: Chair?

1571

1572 Chair Hurd: Yes, Commissioner Williamson?

1573

1574 Commissioner Williamson: Could I be so bold as to propose a motion?

1575

1576 Chair Hurd: Sure.

1577

1578 Commissioner Williamson: That serves as a way to focus ourselves essentially it's the three actions, the
1579 first action would be the 4 per thousand. The decoupling would be optional not mandatory, so a landlord
1580 could do this if they wanted to, but they don't have to. And the third is that the waiver is a fee subjectable
1581 to applicable law. Those would be, that's my quasi motion. Maybe we could discuss each of those at a
1582 time or?

1583

1584 Director Gray: So, I think a point of order. I think they would have to be three separate motions discussed
1585 separately and for the part 1 there's a commercial requirement with some off-street parking requirements
1586 as a recommendation on the commercial requirement and as a recommendation on the residential
1587 requirement. So, do you have a proposed motion or thought on the residential requirement? So, Chair?

1588

1589 Chair Hurd: So, when you're saying that the decoupling is optional?

1590
 1591 Commissioner Williamson: So, it's really just to change that one word to "shall" it could be "may"
 1592
 1593 Director Gray: A point of order I suggest you discuss each motion.
 1594
 1595 Chair Hurd: I am, I'm just taking this as a friendly starting point of conversation but not an actual motion
 1596 we're about to vote.
 1597
 1598 Commissioner Williamson: Yes, discussion.
 1599
 1600 Chair Hurd: But it's good to get something on the table.
 1601
 1602 Commissioner Williamson: Maybe the Commission could start with what we all agree on and then focus
 1603 on only the ones for the discussion.
 1604
 1605 Chair Hurd: Well, let's do that then. But before we dig into this too far, I will need a motion to extend the
 1606 meeting to 10:00 otherwise we need to stop in 5.
 1607
 1608 Commissioner Stine: I make a motion to extend the meeting to 10:00.
 1609
 1610 Chair Hurd: Thank you, do I have a second?
 1611
 1612 Commissioner Williamson: I'll second.
 1613
 1614 Chair Hurd: Thank you, all in favor?
 1615
 1616 All Planning Commissioners: Aye.
 1617
 1618 Chair Hurd: Ok great, that's covered. Just got to keep that, we put that in place many years ago so that
 1619 we didn't go too long. It doesn't come up that often, but it does come up occasionally. Alright so we've
 1620 put ideas, we've put out concerns and thoughts and we've all listened to what everyone has to say. So,
 1621 let's kind of take it from the top. And for the issue of parking requirements in the BB district, we'll start to
 1622 say, do people feel comfortable with 4 per thousand? Or is there a lower number? You know I don't want
 1623 to vote on 4, vote on 3 and so on you know. But I want to get if people have a sense, how far do we want
 1624 to go? I'll start. I'd personally be ok with 2 per thousand. I think on the condition that there's sort of an
 1625 understanding that this would help create or wait back up. That this would be applied retroactively to
 1626 existing properties and that those spaces made available by this revised standard could be used by the
 1627 property owner for employee parking, for residential parking, for other things. As sort of talked about in
 1628 the consultant's report about making those extra spaces come in to be managed. So that's sort of where
 1629 I am. And I think Commissioner Williamson is for? Again, I'm not trying to (inaudible)
 1630
 1631 Commissioner Williamson: Chair and other commissioners, I would rather stay with 4 because that
 1632 generates some waiver or fees depending on what we call them. If we lower the requirement, then it
 1633 reduces the opportunity of getting any fees I think. Potentially you know if you lower it way down then
 1634 you'd never need waivers so stay with 4 retroactive. And I hate to add things, if an existing use wants to
 1635 convert spaces that the city has first right of refusal to manage those spaces in a district in some way if it
 1636 makes sense. If it's inside a building it doesn't make sense. But if it's surface parking in the rear and now
 1637 they don't need 10 spaces then now the city gets first right to say we'd like to add that to our district
 1638 system. It's just first right of refusal is all. And if they say no, then they can do whatever they want, and it
 1639 can be at some agreeable rate. That way you don't lose those spaces to the overall system right away.
 1640 There's an opportunity to prevent losing those spaces.
 1641
 1642 Chair Hurd: And I'm not actually sure that we could put into this piece of code. I agree that we need
 1643 something that talks about those freed spaces are you know basically available to the owner and maybe
 1644 we just need to have a non-binding motion where we say we think the new parking committee that should
 1645 be one of their charges, they should be focusing on the management and working with that excess
 1646 inventory to create some sort of better system. Somebody's got to start that. Alright, Commissioner Kadar
 1647 what are your thoughts on parking requirements?
 1648

1649 Commissioner Kadar: You want a motion out of this?
1650
1651 Chair Hurd: No, we're just seeing.
1652
1653 Commissioner Kadar: I have no problem with leaving it at 4.
1654
1655 Chair Hurd: Ok.
1656
1657 Commissioner Kadar: And Commissioner Williamson makes some good points about that. If you do drop
1658 it back to 2 you're never going to get a parking garage because you'll never have anyone paying the fees.
1659
1660 Chair Hurd: Ok, Commissioner Silverman. We're not voting or anything we're just having a discussion
1661 around the idea of 4 versus something more aggressive.
1662
1663 Commissioner Silverman: I'll stick with 4. It's a start.
1664
1665 Chair Hurd: Ok.
1666
1667 Commissioner Silverman: I think in the future it could be reduced, particularly if the parking garage goes
1668 in.
1669
1670 Chair Hurd: Side question to staff, is the time for reviewing the requirements you would like in our motion
1671 or is that something that's in your planning and conversation.
1672
1673 Director Gray: That's something that's in our planning and conversation. And in addition, the review of
1674 fees is in code, that it's reviewed every two years.
1675
1676 Chair Hurd: Ok so that could be kind of something, we could put those two together. Commissioner Stine?
1677
1678 Commissioner Stine: I'd like to see it reduced. I don't think if we make the changes, we're not going to get
1679 parking fees in lieu and waiver fees, we're not going to get anything significant. It's going to raise the level
1680 of enough money to build a parking garage. Why don't we have developers pay some kind of rate into
1681 that lock box and make it zero? And then eventually we'll have enough money to put in a parking garage.
1682 Commissioner Silverman: And there's another element here, there's the TID which is going to be
1683 generating fees which is supposed to go into Transportation relief. I'm not sure of where this fee schedule
1684 fits into the TID.
1685
1686 Commissioner Stine: If you don't like this idea of having to you know, classifying it as an impact fee like a
1687 sewer or water impact fee and then saying after 5 years that if we don't provide the garage then that
1688 money goes back because what if we only raise 200,000 dollars over the next 5 years? When we need you
1689 know 6, 7, 8, more than 10 million dollars?
1690
1691 Director Gray: 48 million dollars.
1692
1693 Commissioner Stine: Right, I don't like that idea at all.
1694
1695 Commissioner Silverman: Well that was the purpose of the court ruling, it isn't a tax, it's a fee that's
1696 connect with a capital project and the court said you can't have it both ways, either call it a tax and it goes
1697 in the general fund or earmark it and if the public side doesn't do what it's supposed to do then it goes
1698 back to the people, the property owners who contributed.
1699
1700 Commissioner Stine: We'd just be refunding all of the money we'd collect every 5 years. Which is going
1701 right back.
1702
1703 Chair Hurd: I guess I would think that if we only collected 200,000 dollars in 5 years then we've probably
1704 got a parking standard that's about right because we're not actually granting a lot of waivers.
1705
1706 Commissioner Stine: Right.
1707

1708 Chair Hurd: So maybe we don't need a parking garage, and maybe, you know I think if there's not a whole
 1709 lot of people creating projects that are making parking demands then it's a sign that says maybe there
 1710 isn't. And that's a way, a concrete way to go "there really isn't a need for it."
 1711
 1712 Commissioner Stine: Right, but if it's in a lock box to Director Gray's point, it can be used for ongoing
 1713 maintenance, striping, repaving of the city lots. So, I'd rather see it go to some maintenance or expansion
 1714 or something rather than be refunded.
 1715
 1716 Commissioner Williamson: Just a note, you don't need to collect all of the money you just need enough
 1717 to satisfy a bond payment and the city bonds on building a garage and then your fees pay the-
 1718
 1719 Commissioner Stine: And that requires a referendum?
 1720
 1721 Commissioner Silverman: So, you're talking about the next hurdle, to try and get that to a referendum?
 1722
 1723 Commissioner Stine: Correct.
 1724
 1725 Chair Hurd: Director Gray?
 1726
 1727 Director Gray: So, two points, one of the intents to reducing the parking requirements is to reduce or
 1728 eliminate the need for a parking waiver. And Commissioner Williamson, any bond that would require,
 1729 according to our charter, a referendum. Which I don't, so. So yes. Thank you.
 1730
 1731 Chair Hurd: Ok, thank you. Yes, alright. I guess the one thing that I'd like to, and I don't know where this
 1732 goes but I think it goes into when we talk about requirements, because we talk about a parking plan option
 1733 I guess as a way to satisfy, it doesn't really say what a parking plan does, I think that's somewhere else in
 1734 the code right?
 1735
 1736 Director Gray: Yes.
 1737
 1738 Chair Hurd: Ok. Because I guess I would like to, again going back to trying to make it such that we're maybe
 1739 not charging that much of a fee in lieu. I would like to give people the option to basically demonstrate that
 1740 they're meeting the intention of the parking requirements, even if they're not meeting the physical
 1741 requirements. So, whether that's through counting transit and counting spaces. So, one way to document
 1742 that they've found 4 spaces per 1000 square feet in some sort of math.
 1743
 1744 Commissioner Silverman: If I may I believe that system already exists. And Michael, I believe you spoke
 1745 about with the hotel suite where they contracted with the fire station next door with "x" number of
 1746 parking spaces were generally employee spaces and that was part of the subdivision agreement signed
 1747 with the city? So, there's a place for somebody to go to say hey you're not meeting your requirements.
 1748
 1749 Planner Fortner: Yeah, that one hotel got a variance and that was a condition. But in terms of Will's point.
 1750 In section B the language is a lot looser but essentially is what a parking waiver is. They come and present
 1751 why they don't need the parking, that there won't be a hinderance to the town, that it's not highway or
 1752 commercial. And it's downtown and that's what they have to present to get the parking waiver. You know
 1753 it would be great if a project could do that and I mean that's kind of a by right route too so that they can
 1754 provide the parking that they want, I guess. But that's what they do when they want a parking waiver.
 1755 They have nearby parking, you can park here and there, we have arrangements so we don't need a parking
 1756 waiver, so that's why they might not want to provide it.
 1757
 1758 Chair Hurd: And is that something, if they came to us with that and sort of laid out that plan, do have the
 1759 ability to adjust the parking waiver fee? If we feel they have...
 1760
 1761 Planner Fortner: You know I thought you did but I couldn't find the specific citation in the code.
 1762
 1763 Director Gray: Mr. Chair there is a reference in the code that instead of a fee and I refer to my presentation
 1764 tonight, instead of the fee you can do other "in kind" things, such as land donation something Mr. Locke
 1765 wants to say.
 1766

1767 Chair Hurd: But I've closed public comment.
1768
1769 Director Gray: So, we recently had dedication of easements.
1770
1771 Chair Hurd: But this I guess what I'm talking about is not exactly that, but a way to say ok, I have, you
1772 require me to get 4 parking spaces per 1,000 square feet, ok I've got 1 space per thousand for my
1773 employees because they're parking over here. But I'm going to say also 1 space out of that thousand is
1774 people who bike or take transit to this facility. It's not a plan, it's not an agreement, it's just giving them
1775 credit for living an urbanized environment to say part of my customers are not going to come here by car
1776 and basically giving the applicant the opportunity to say you know these spaces are transit.
1777
1778 Director Gray: So as Mike indicated, that would be one of the justifications for getting a parking waiver, it
1779 would be getting out of doing a fee in lieu.
1780
1781 Chair Hurd: Ok, I guess I was trying to find a way where we didn't even, but that counted as a provided
1782 space not a fee in lieu, it counted as a provided space, you're not paying for that space because they're
1783 saying...ok. Maybe we need to mess with it a little bit. I will reopen public comment briefly for Mr. Locke.
1784
1785 Mr. Locke: Thank you Commissioner Hurd, this is Chris Locke again. The one thing developers want is
1786 clarity. Just tell us how much you want, and we'll pay. And I appreciate what you're trying to do but that's
1787 where things get messy. How come he got his waiver, but I didn't get mine? How come I had to pay for
1788 mine, but he didn't have to pay for his? And it just gets the public to also think that it's being undermined.
1789 Just make it a fee and it's simple. But if you don't have any parking requirements then you don't have to
1790 worry about it.
1791
1792 Chair Hurd: I appreciate that, thank you.
1793
1794 Commissioner Silverman: Isn't there an issue of Council override on parking waivers also?
1795
1796 Chair Hurd: There is but...
1797
1798 Director Gray: Council does not have override, but they can make an appeal.
1799
1800 Chair Hurd: They can appeal the decision.
1801
1802 Director Gray: Yes. Planning Commission has authority over parking waivers, Council can appeal it and
1803 have a hearing on it.
1804
1805 Mr. Bilodeau: For example, the one we granted tonight, if Council doesn't appeal it then it's a final
1806 decision.
1807
1808 Chair Hurd: Right. They have appealed and could overturn it.
1809
1810 Commissioner Williamson: Mr. Chair, in the interest of time, what if in table 2 the nonresidential uses
1811 were reduced to 3 per thousand and the language under residential uses, the word shall is changed to
1812 may. So, let's compromise at 3 and make the decoupling optional, maybe we could get through that one.
1813
1814 Chair Hurd: No, I this is usually how it works here. I'm trying to be cognizant of staff's efforts, and not
1815 make them bring this back to us again if we're able to come to some sort of clarity. Alright. I think we're
1816 good. Well, my recommendation to the secretary is let's do the motion with 4 as it's written.
1817
1818 Commissioner Kadar: Is it written? I don't...
1819
1820 Chair Hurd: Well, the motion is kind of accept all these things as they are, it's on page 8.
1821
1822 Director Gray: It's the recommendation on page 8.
1823
1824 Commissioner Kadar: Oh, ok.
1825

1826 Chair Hurd: But I think that we should maybe try to, let's maybe do them in pieces?
1827
1828 Commissioner Kadar: (inaudible) I should just go with the recommendation listed here on line 316?
1829
1830 Chair Hurd: Well, we haven't been through all of the various proposed amendments. So, what I'm saying
1831 is let's do a motion for amendments 1 and 2 because those have to do with the BB zoning and parking
1832 standards, do we think we have? I think we've talked through and around most of these things. The only
1833 thing I think I'm not clear about in my mind that we have language for is the basically the freeing of spaces
1834 for existing parcels.
1835
1836 Commissioner Williamson: Maybe that should be kicked to the new committee? Because that's more of
1837 a substantial economic issue. That might be a good thing for them to hash and would not delay us to get
1838 this out.
1839
1840 Chair Hurd: Ok, so that would have to do with the applying of the new standard.
1841
1842 Commissioner Silverman: Particularly if the city was to share that revenue there's the positive and the
1843 negative.
1844
1845 Commissioner Williamson: So, I think the concept should be presented you know in fairness for all the
1846 businesses that had to provide parking.
1847
1848 Chair Hurd: I'll look to the Solicitor, is that something that we need to put into this amendment to code
1849 or is that something that can just sort of, you know if we amend the parking standards, I'll point to Mr.
1850 Locke as he's sitting here. Would he come to us the next day basically and go I'd like to basically reapply
1851 those standards to my parcel and be clear on how much I'm actually required? Is it just sort of everyone
1852 would do that or?
1853
1854 Solicitor Bilodeau: You could. It's an option.
1855
1856 Commissioner Silverman: As I understand it, we could make the amendments, but we could also make a
1857 companion recommendation. Am I correct Mr. Bilodeau?
1858
1859 Solicitor Bilodeau: You can do amendments.
1860
1861 Commissioner Silverman: So, we could do our amendments with the several words we've described
1862 replacing the shall and other words like that, and then have a companion recommendation, that's
1863 something we could do I think we've talked about.
1864
1865 Chair Hurd: Ok.
1866
1867 Commissioner Silverman: Mr. Williamson, I think you've (inaudible)
1868
1869 Chair Hurd: So, I think Commissioner Williamson has been putting something in his head. So, I guess before
1870 we move to the motion, and the language. Is there any remaining pieces of this that people feel the need
1871 to discuss?
1872
1873 Commissioner Stine: One question. If somebody has, so I have 2,675 square feet of commercial space how
1874 many parking spaces do I need? Is it rounded up, rounded down? I mean I don't know, it's 2 per thousand.
1875
1876 Chair Hurd: Or is it one per 250 to make the math easier?
1877
1878 Commissioner Stine: I don't know if we need to make the math make more sense or I'm sorry if 4 per
1879 thousand is what you're currently saying.
1880
1881 Commissioner Kadar: And you have 2.6 thousand.
1882
1883 Commissioner Stine: 2,600.
1884

1885 Commissioner Kadar: Yeah, 2.6 thousand. 2.6 times 4.
1886
1887 Chair Hurd: No?
1888
1889 Director Gray: I'm very lost right now. Renee did some math on that. I got lost in the numbers there.
1890
1891 Deputy Director Bensley: That's ok. So, the way that this would be applied is we would take the square
1892 footage so the 2,675, divide it by 1,000 and multiply it by the required number of spaces. So, 4, 3, 2
1893 whatever that ends of being. So, for a 2,675 square foot space, at 4 spots per thousand that would be 10.7
1894 and we would round that up to 11.
1895
1896 Commissioner Stine: Ok, that's all I'm wondering, does it need to be rounded to the next highest number
1897 or?
1898
1899 Chair Hurd: The standard has been that we round up, any fractional gets rounded up.
1900
1901 Commissioner Stine: Alright. That's a lot of parking spaces for 2,675 square feet.
1902
1903 Chair Hurd: But not as much, I know.
1904
1905 Commissioner Kadar: Imagine if that was your house. 2,600 square house with 10 parking spots around
1906 it, you could have a parking lot in your backyard.
1907
1908 Chair Hurd: Alright, I'll just remind people of our process. So, I'll ask Commissioner Williamson to propose
1909 the motion with the language. Anyone is welcome to propose an amendment to that motion, which we
1910 vote on, and if the amendment does not get enough votes to carry then the original motion holds. So, you
1911 know if there are still parts of this that folks want to see changed, put that out as an amendment we'll
1912 vote on it and see if it's got legs. So, alright.
1913
1914 Commissioner Williamson: My motion, are we ready? So, **using the language on page 8 to change the off-**
1915 **street parking requirements for BB zoning district, codify the separation of parking fees from the rental**
1916 **lease agreement, and modifying the off street parking plan option, parking waiver, the Planning and**
1917 **Development department recommends the changes-**
1918
1919 Chair Hurd: Sorry, the Planning Commission recommends.
1920
1921 Commissioner Williamson: Sorry, **the commission recommends the changes shown in blue text in exhibit**
1922 **A with the following changes. Table 2**
1923
1924 Commissioner Silverman: Line number please.
1925
1926 Chair Hurd: It doesn't have a line number it's in the table.
1927
1928 Commissioner Williamson: **The standard would change from 4 to 3 spaces. And within the 2 residential**
1929 **uses section, the language on line 5 "this ordinance" the word "shall" will be changed to "may" and**
1930 **that's it, end of motion and I'm not proposing a change to the waiver language at this time.**
1931
1932 Chair Hurd: Alright do I have a second?
1933
1934 Commissioner Williamson: I'll second.
1935
1936 Chair Hurd: Alright, any discussion on the motion?
1937
1938 Commissioner Stine: Where do I offer an amendment?
1939
1940 Chair Hurd: Right now.
1941
1942 Commissioner Stine: Right now, I'd like to offer an amendment that we **reduce the required spaces from**
1943 **3 to 2.**

1944

1945 Chair Hurd: Alright do I have a second for that motion? I'll second that one just because. Hang on I have

1946 to make sure I get some notes here. Alright. Any discussion of the amendment? We understand what

1947 we're voting on?

1948

1949 Commissioner Silverman: A point on the amendment? What would happen if we changed the gross floor

1950 area to net leasable floor area? Why should be calculate hallways, mechanical rooms, vestibules? We're

1951 talking about leasable space.

1952

1953 Chair Hurd: So, I'll just say that gross will also include things like storage rooms, back rooms, mechanical

1954 spaces that you do sometimes have occupancy loads for. I will also say that the building code uses both

1955 net and gross for different occupancy loads. I'd say generally the term is usually gross because it's easier.

1956 And I guess my other answer is that it's harder to game a gross number. There are all sorts of ways you

1957 can make a net number smaller.

1958

1959 Commissioner Silverman: Ok thank you, my question's been answered thank you.

1960

1961 Chair Hurd: Ok, on the amendment to change 3 to 2. Commissioner Kadar?

1962

1963 Commissioner Kadar: Aye.

1964

1965 Chair Hurd: Ok. Commissioner Stine?

1966

1967 Commissioner Stine: Aye.

1968

1969 Chair Hurd: Commissioner Silverman?

1970

1971 Commissioner Silverman: Aye.

1972

1973 Chair Hurd: Commissioner Williamson?

1974

1975 Commissioner Williamson: No.

1976

1977 Chair Hurd: And I am aye. Alright. 4 to 1 the language is changed. To the original motion as amended. Any

1978 further discussion on the motion and the language and the edits? No, ok. To the vote. Commissioner

1979 Stine?

1980

1981 Commissioner Stine: Aye.

1982

1983 Chair Hurd: Commissioner Silverman?

1984

1985 Commissioner Silverman: Aye.

1986

1987 Chair Hurd: Commissioner Williamson?

1988

1989 Commissioner Williamson: Aye.

1990

1991 Chair Hurd: Commissioner Kadar?

1992

1993 Commissioner Kadar: Aye.

1994

1995 Chair Hurd: And I am aye. 5-0 and one for the amendment I forgot to bang the gavel on. I can't believe it

1996 but that closes item 4.

1997

1998 Planner Fortner: The parking waiver fee?

1999

2000 Chair Hurd: That was included, and it was not amended. So, it is as it was. Sometimes I'm not good with

2001 this. We do not have sufficient time to address item 5...

2002

2003 Director Gray: Chairman, is there any allowance, I just need to ask the question on the record. Is there
 2004 allowance in the bylaws to extend the meeting? I don't even know if there's a will, but I believe we might
 2005 be asked that question. I apologize, I read the bylaws about two weeks ago and I already forgot the answer
 2006 to this question.
 2007
 2008 Chair Hurd: Well, so we extended it to 10. Our bylaws are a little actually open. So "Planning Commission
 2009 hearings should conclude no later than 9PM. The Chair may extend the meeting to 9:30. Any further
 2010 extension shall require and approval of the majority of Planning Commission members present." So, we
 2011 could, if there is a desire.
 2012
 2013 Director Gray: Thank you Mr. Chairman.
 2014
 2015 Chair Hurd: Ok, so I'll just give a brief recap here in case people do want to do this.
 2016
 2017 **5. Review and consideration of interim building height limit for the BB and RA zoning districts**
 2018
 2019 Chair Hurd: Item 5 if you've read your packet has to do with an interim building height limit for the BB and
 2020 RA zoning districts. Council was, I think, firm in their direction that this be something we consider, and I
 2021 think, as Director Gray has pointed out, if they go back to them without something, there may be Council
 2022 heartburn. Now, having said that we are our own Commission, and we can decide if this is something we
 2023 want to take up and take time for. So...
 2024
 2025 Commissioner Williamson: Mr. Chair, I'd move to approve it.
 2026
 2027 Chair Hurd: Well to approve it or extend?
 2028
 2029 Commissioner Williamson: No to approve the item.
 2030
 2031 Chair Hurd: Well, we have to go through the process.
 2032
 2033 Commissioner Williamson: Ok.
 2034 Chair Hurd: So, what I'm looking for here is do I have a motion to extend the meeting to allow us to address
 2035 item 5 and item 5 only? At the end of which would be the conclusion to the meeting.
 2036
 2037 Commissioner Stine: I'll make that motion.
 2038
 2039 Chair Hurd: Ok, do I have a second for that motion?
 2040
 2041 Commissioner Williamson: Alternative motion?
 2042
 2043 Chair Hurd: Alternative motion...
 2044
 2045 Commissioner Williamson: To include item 5 and also the Planning Director's comments given this is her
 2046 last meeting you know unless you'd rather do that after the formal close of the meeting? We can just stay
 2047 here and (inaudible) your swansong I believe.
 2048
 2049 Director Gray: I could do an interpretive dance as well.
 2050
 2051 Chair Hurd: So, we have an alternative motion of extending the meeting to consider items 5 and 6. Do you
 2052 accept that amendment to your motion Commissioner Stine?
 2053
 2054 Commissioner Stine: I do.
 2055
 2056 Chair Hurd: Do I have a second for that amended motion?
 2057
 2058 Commissioner Williamson: I'll second.
 2059
 2060 Chair Hurd: Alright, we have a second. Calling the vote, all those in favor?
 2061

2062 Commissioner Williamson: Aye

2063

2064 Commissioner Stine: Aye

2065

2066 Commissioner Kadar: Aye

2067

2068 Commissioner Silverman: Aye

2069

2070 Chair Hurd: Any opposed? Ok, diving in. Ok, Director Gray?

2071

2072 Director Gray: So, Chairman Hurd introduced this quite well. So, to keep this brief the Mayor and City

2073 Council at the June 13th meeting directed Solicitor Bilodeau to put together an interim ordinance in the

2074 BB and RA zoning districts to limit the building height to 5 stories while the BB and RA zoning revisions as

2075 a result of the Charrette are put together to go through the public review process. So just a couple of

2076 things, and you're all familiar with the Charrette that we went through. And the presentation was made

2077 on the Charrette to Council on May 23rd, and you might not be aware that staff is currently working with

2078 the Charrette consulting team to develop a rough draft of these revisions based on those Council

2079 comments and feedback to present to Council at the next Council meeting which is July 11th. And the

2080 Planning staff recommendation is that Planning staff feel that these interim ordinance revisions are

2081 problematic given that the Charrette process that was undertaken to address concerns with the BB and

2082 RA ordinances is underway and this undermines the public process that was put into motion by the

2083 Charrette. In addition, given the short turnaround time to put together the attached revised meeting per

2084 the June 13th directive from Council, staff is concerned that a thorough review was not able to be done of

2085 these code changes and is concerned that not all of the impacts of these interim changes have been given

2086 enough time to be assessed. So, the changes for the BB, are that in section 13(c) going down there, that

2087 would be line 30, that the allowable building height should be 3 stories or 35 feet and then continuing

2088 down to the next change, on line item 45 is that under height of buildings is that the maximum allowable

2089 height shall be 3 stories or 35 feet. Permitted uses in the BB district may be erected to a height of over 3

2090 stories or 35 feet but no more than, so we changed it instead of 4 additional stories to 2 additional floors

2091 to a maximum of 59 feet. And we reached, we landed on 59 feet, that's 14 feet for the first floor, that

2092 would allow parking on the first floor then it's a math problem of adding 11 feet per story after that. And

2093 then on line 71 subsection C, then we just change the 3 to 2 and the 11 to 15 and 78 to 59 feet. Yes. So

2094 that's the BB. So, Chairman Hurd do you just want to discuss the BB and then discuss the RA?

2095

2096 Chair Hurd: You can present both of them and then we'll...

2097

2098 Director Gray: Ok, then let's continue on to exhibit B, in RA. So, in RA currently the building height is

2099 allowed up to 7 stories without any incentives. So, we just changed it on line number 24 to 5 stories or 59

2100 feet and then you can have incentives that will allow you to go up to 10 stories. So, then we just crossed

2101 out all of the incentives that would allow you to go up to 10 stories. So that was simpler change on that

2102 one. So, now back to Chairman Hurd.

2103

2104 Chair Hurd: Alright, thank you.

2105

2106 Director Gray: You're welcome.

2107

2108 Chair Hurd: I guess we will begin discussion with Commissioner Stine.

2109

2110 Commissioner Stine: Is this a temporary moratorium?

2111

2112 Chair Hurd: It's an interim.

2113

2114 Commissioner Stine: An interim.

2115

2116 Director Gray: And it's not a moratorium.

2117

2118 Chair Hurd: Yeah.

2119

2120 Commissioner Stine: Ok, let me use a different word. Temporary interim ordinance. How long will this
 2121 ordinance be in place?
 2122
 2123 Director Gray: Well, the proposal, it will be in place until replaced by the Charrette revisions.
 2124
 2125 Commissioner Stine: Which are?
 2126
 2127 Director Gray: Well, the rough draft is being proposed next week.
 2128
 2129 Commissioner Stine: So, this is an interim ordinance for a few weeks? Months?
 2130
 2131 Chair Hurd: Months. It's at least. I mean.
 2132
 2133 Solicitor Bilodeau: Excuse me, I don't think there's a revision here that says when it ends. But I think the
 2134 understanding is that it's going to and once the Charrette process-
 2135
 2136 Commissioner Stine: Well, I think we need to specify that if this is something that we're going to propose
 2137 although it sounds like the department is not supporting this, but if we do put this forward, I think that
 2138 we add a timeline.
 2139
 2140 Commissioner Silverman: And Mr. Bilodeau, can we say this will only remain in effect for 12 months or 18
 2141 months and then shall revert back?
 2142
 2143 Solicitor Bilodeau: I would say that you need to put well the maximum I would put is 12 months but an
 2144 argument, and I'm not saying it's a winning argument, but an argument could be made...
 2145
 2146 Commissioner Silverman: I understand the moratorium issues that come up when they are extended.
 2147
 2148 Solicitor Bilodeau: Right. So, I would say that there should be a sunset provision if you did pass this.
 2149
 2150 Chair Hurd: Ok.
 2151
 2152 Commissioner Stine: Reverts back or unless otherwise replaced?
 2153
 2154 Chair Hurd: By?
 2155
 2156 Commissioner Silverman: By any future code amendments.
 2157
 2158 Chair Hurd: Well, yes, so if we put a sunset into this amendment the next one could have no sunset
 2159 because it could be the final position of everything. I don't think we need to say why, it's just a sunset in
 2160 reverse I think is enough language.
 2161
 2162 Commissioner Stine: Ok, then I would like to see that added.
 2163
 2164 Chair Hurd: Ok. Commissioner Williamson?
 2165
 2166 Commissioner Williamson: Given that the parking has been reduced to 2 per 1,000, you know the need
 2167 for the additional stories should go away and that was...well. And given that the Charrette changes are
 2168 soon, hopefully soon in Planning time, 3 to 6 months, I don't see a need for a time ending. I trust that the
 2169 Council will follow up on...
 2170
 2171 Commissioner Silverman: The parking recommendations have been hanging out there since 2019.
 2172
 2173 Commissioner Williamson: As a newbie, I stand corrected. Perhaps in the language to be inserted after
 2174 each of the changes, is for example on line 31 where it says, "Three stories of 35 feet for a period not
 2175 exceeding" and then put in a date or something like that. And then for everywhere you have a change you
 2176 have that language added. Is that the format?
 2177
 2178 Solicitor Bilodeau: I mean that's one format, I guess.

2179
2180 Commissioner Williamson: Do you have to pinpoint the changes each time they occur with some sunset
2181 date?
2182
2183 Chair Hurd: And checking with you Solicitor Bilodeau, the sunset date would be part of the motion,
2184 correct? Not in the language of the zoning?
2185
2186 Solicitor Bilodeau: I know that the sunset date for the COVID, it was in code. So, I see Deputy Director
2187 Bensley over here.
2188
2189 Chair Hurd: Yes, she has great experience with this.
2190
2191 Deputy Director Bensley: So, typically when we've had sunset language in ordinances there has been a
2192 precipitating event rather than a date. For example, when we did the COVID related ordinances, it would
2193 be lifted upon the cancellation of the state of emergency by the Governor of Delaware. It's not been
2194 typical to put an exact calendar date just because we're in the process, and I'll use the Charrette process
2195 as an example, you know we're in the process right now where if this had been introduced in the beginning
2196 of the Charrette process and with some of the delays due to particularly the Omicron variant with COVID
2197 delaying the actual Charrette taking place, there's an unpredictability there where you're sunsetting
2198 before the project's complete. We are at the stage of the Charrette right now...as Director Gray said we're
2199 going to be presenting a second first draft of proposed tenets to Council on Monday based on their
2200 feedback from May 23rd. We're hopeful that we will move forward at that point but that's not assured.
2201 After that we have been discussing next steps with our consultant, we're likely looking at, we are
2202 potentially looking at a joint Planning Commission and Council meeting for round 2 so both groups have
2203 input on the draft code language that will actually be moving forward to ordinance and actually have a
2204 workshop roundtable on that. That will help streamline the process as well in where we're not looking at
2205 two separate meetings for the entities. And then once we come out of that with how everybody feels and
2206 how they'd like to see the language move forward, looking at moving to the formal ordinance approval
2207 process of coming to Planning Commission with the Code language for you to make a recommendation
2208 then moving to first and second reading. So that's all you know, if everything goes as planned and
2209 expected that would be what we'd be following but again it's going to depend on how the steps in the
2210 process go, the feedback that we're getting and how many times we have to go back for revisions. So, to
2211 make a long story short, it would be difficult to pinpoint an end time for this particular item that we could
2212 confidently say at this point that the Charrette process would be completed. And I think it would be –
2213 depending on how long it takes, it would be challenging to have as Solicitor Bilodeau put it, a “defensible
2214 position” if we were to run over for another extension.
2215
2216 Chair Hurd: Ok.
2217
2218 Commissioner Williamson: Chair? Or rather Solicitor? Perhaps a motion would be – I'm not making it, I'm
2219 just discussing it. Would be to approve as proposed with the insertion of language on lines 31, 48, 76, and
2220 line 24 of exhibit B that the Solicitor would create you know not right now that sets an appropriate.
2221
2222 Chair Hurd: I'm sorry. Yes.
2223
2224 Commissioner Williamson: As directed by the Planning Commission motion. You know not to parse those
2225 words right this minute...
2226
2227 Chair Hurd: So, what you're saying is that if our intention is to have a sunset than the intention would be
2228 to put that into our motion and that the language that goes to Council would be an ordinance that would
2229 have sunset language inserted in a completely legal way for them to review and approve it that way, so
2230 not to find the language tonight since there is a gap in time between us and them.
2231
2232 Solicitor Bilodeau: I like the way Chairman Hurd said it, yes, I think we can work with that.
2233
2234 Chair Hurd: Ok, Commissioner Kadar, any comments?
2235
2236 Commissioner Kadar: I agree with the Planning Department on this one. I don't think it's appropriate for
2237 us as a city to put forth the Charrette which was billed as an opportunity for the community to provide

2238 input, for the business owners to provide input, and the consultants would work with them and develop
2239 the appropriate response to the BB business district. In my opinion, this usurps that activity. And I would
2240 feel slighted if I was a member of the public who commented on this stuff that was already implemented
2241 and put together by the consultants and the drafts only to find out that the City Council has decided that
2242 they are arbitrarily going to throw in a 5-story limit to any new buildings in downtown. without fully
2243 digesting and processing the Charrette requirements. So, I don't support any of this right now. I think it
2244 should stay exactly as it is and the Charrette should move quickly forward to get the drafts into the City
2245 Council and get the approvals that are necessary and then we change what is in here. Not now. These
2246 interim changes just make it difficult, we put them in there and after every change we would have to put
2247 a sentence that says, "these changes will expire in 12 months unless something has taken their place".
2248 And that's just – I don't think it's well thought out, I'll just leave it at that.

2249
2250 Chair Hurd: Ok, thank you. Commissioner Silverman?

2251
2252 Commissioner Silverman: I concur with Commissioner Kadar. Also, there are other elements in the
2253 ordinance as it exists that have significant impacts, one of which was testified to you tonight that it's the
2254 parking that drives the stories of the building, and one of the other elements that wasn't talked about
2255 tonight was the bonuses for two-bedroom apartments. Even though there might not be markets for two-
2256 bedroom apartments, we've heard the rental survey people and the housing survey say "we need smaller
2257 units" yet the ordinance as it stands requires 800 square feet in residential units. You don't get bonuses
2258 for smaller units or more affordable units, market rate units or subsidized units. So, more discussion needs
2259 to be done.

2260
2261 Chair Hurd: Thank you. I agree with Commissioner Kadar, he said what I was going to say but slightly
2262 better. My other concern with enacting an interim ordinance, and thank you Commissioner Stine for
2263 suggesting the sunset, because I had not thought of that. Because if we enact this or rather if we
2264 approve it and Council enacts it, that's what's in place and they can take the Charrette report, and they
2265 can say "no thank you we're going to keep it at five and that's what it is" and the public input has been
2266 tossed aside. And all that work that they asked for has been tossed aside. And I'm not willing to sit here
2267 and let the process get short circuited. We have a public engagement process for exactly this, and this is
2268 a big thing; BB zoning and the bonus and what are we incentivizing and what are we trying to change to
2269 is a key part of that and that's something that we need the public's input on. We'll move to public
2270 comment, oh look at that. Do we have any submitted public comments? No. Ok. Sometimes people email
2271 stuff earlier in the day.

2272
2273 Mr. Locke: That's true. I don't want to take a lot of your time because I'm kind of getting a feel from the
2274 room here. I concur with Commissioner Kadar, Commissioner Silverman, and Commissioner Hurd. This is
2275 transformational issue for our downtown and nothing has really been discussed with the business
2276 community. Yes, there was Charrettes, there was limited public input on that and there are far more
2277 people that want to input with City Council. We only became aware of this when we saw it on July 5th.
2278 Ninety percent of the city's still on vacation, I've heard from business owners, and I've heard from other
2279 developers. Where did this come from? And I think Commissioner Kadar said it perfectly. The public's had
2280 some input, but they haven't had full input on this thing. And this is really a dynamic issue because this
2281 gets into what do we want our downtown to be in the next 20 years. And how are we going to compete
2282 with STAR Campus where they're building 10 and 12 and 20 story buildings that do not have the
2283 restrictions put on them that the private developers have in this community. So, you know this opens up
2284 the Pandora's box for many different discussions. So, I do concur totally with the Planning Department
2285 and the Director when she makes her comment which I'm highlighted here. And I'm shocked that the
2286 Council did this. But I hope Planning Commission corrects it, thank you.

2287
2288 Chair Hurd: Alright. Is there anyone online that wishes to make public comment? No. Ok, seeing none
2289 closing public comment and bringing it back.

2290
2291 Solicitor Bilodeau: I would just add that the motion has to be a positive motion, we have to make a motion
2292 to adopt this and then vote as we will.

2293
2294 Chair Hurd: Right.

2295
2296 Commissioner Kadar: The motions are here I can just read them then directly.

2297
2298 Chair Hurd: Well first are there any other comments or discussion from the Commissioners or are we
2299 ready to move to the motion? Ok.
2300
2301 Commissioner Williamson: Chair I can make the motion if-
2302
2303 Chair Hurd: So, what we established way back because we always had trouble with who was going to
2304 make the motion. So, we said the secretary would make the motion because in general it's written down
2305 here and we just need to have somebody read it into the record and then have somebody second it and
2306 then we can move on. So, I appreciate your eagerness.
2307
2308 Commissioner Williamson: I wanted to add that language about the timeline into the motion.
2309
2310 Chair Hurd: So, we can either try to work that into the motion as is or that can be an amendment to the
2311 motion.
2312
2313 Commissioner Kadar: Based on what I'm feeling here, the motion as written is sufficient because, unless
2314 you want me to spell out the specifics –
2315
2316 Chair Hurd: I think we should put something in there to express our desire that if this should be enacted
2317 we do not want this to be permanent. That it is an interim revision and needs to have some sort of sunset.
2318
2319 Commissioner Silverman: Mr. Bilodeau, do we need to make that a side recommendation or can we make
2320 that as part of ours?
2321
2322 Solicitor Bilodeau: Yes, and this is all going to be in the minutes that Council will read, so my
2323 recommendation is to go with the motion as presented and you know, and I think everyone knows when
2324 it goes to Council.
2325
2326 Chair Hurd: Well, I would say everyone knowing and having language in the actual enacted ordinance and
2327 the motion that comes to Council is two different things. Let's see if we can work in the language into the
2328 interim.
2329 Commissioner Kadar: 12 months?
2330
2331 Chair Hurd: Let's start there.
2332
2333 Commissioner Kadar: I move that the Planning Commission recommend that City Council approve the
2334 interim revision to the BB zoning ordinance labeled Exhibit A dated June 24th, 2022, limiting the building
2335 height to 5 stories and 59 feet with the additional point that it be enforced for no more than 12 months.
2336
2337 Chair Hurd: Ok, let's try that. Do I have a second?
2338
2339 Commissioner Williamson: I'll second.
2340
2341 Chair Hurd: Thank you. Solicitor Bilodeau does that sound?
2342
2343 Solicitor Bilodeau: That sounds fine.
2344
2345 Chair Hurd: Ok, any discussion of the motion? Ok, alright moving to the vote. Commissioner Williamson?
2346
2347 Commissioner Williamson: I'll vote aye.
2348
2349 Chair Hurd: Thank you, Commissioner Kadar?
2350
2351 Commissioner Kadar: No.
2352
2353 Chair Hurd: Thank you. Commissioner Stine?
2354
2355 Commissioner Stine: No.

2356
 2357 Chair Hurd: Thank you. Commissioner Silverman?
 2358
 2359 Commissioner Silverman: No.
 2360
 2361 Chair Hurd: And I vote no as well. Alright, motion fails. Next motion for the RA zoning please.
 2362
 2363 Commissioner Kadar: I move that the Planning Commission recommend that City Council approve the
 2364 interim revision to the RA zoning ordinance labeled Exhibit B dated June 24th, 2022, limiting the building
 2365 height to 5 stories and 59 feet in addition we this should be limited to expire within 12 months.
 2366
 2367 Chair Hurd: Thank you, do I have a second?
 2368
 2369 Commissioner Williamson: I'll second.
 2370
 2371 Chair Hurd: Thank you. Any discussion of the motion? Alright moving to the vote. Commissioner Kadar?
 2372
 2373 Commissioner Kadar: No.
 2374
 2375 Chair Hurd: Thank you. Commissioner Stine?
 2376
 2377 Commissioner Stine: No.
 2378
 2379 Chair Hurd: Thank you, Commissioner Silverman?
 2380
 2381 Commissioner Silverman: No.
 2382
 2383 Chair Hurd: Commissioner Williamson?
 2384
 2385 Commissioner Williamson: Aye.
 2386
 2387 Chair Hurd: And I vote no as well. Alright motion fails 1-4. And that concludes item 5.
 2388
 2389 **6. Informational Items**
 2390 **a. Planning Director's Report**
 2391
 2392 Chair Hurd: Alright onto 6 the final item on our agenda, the Planning Director's report.
 2393
 2394 Director Gray: Ok, I will be brief and then Renee has a couple of remarks as well. Talk about current land
 2395 use projects...so as discussed, my last day with the City of Newark is July 15th, which is next Friday. I
 2396 resigned my position to take the position as Planning Director for the City of Dover. So, it's a lot shorter
 2397 of a commute, 9 miles as opposed to 52. I've been here for over 5 years; time has flown by. My boys are
 2398 now teenagers, and they were in middle school when I started here. One's looking at colleges; so, I really
 2399 enjoyed my time with you all and yeah, I will miss you all.
 2400
 2401 Chair Hurd: Best wishes.
 2402
 2403 Director Gray: I've enjoyed my time with the city, and I hope that I've provided value to the city and
 2404 hopefully it's a better place, hopefully I leave it better than when I came.
 2405
 2406 Chair Hurd: There you go.
 2407
 2408 Director Gray: We try to leave things better. So, moving on, projects that went to Council on June 13th,
 2409 there was a first reading on the first part of the work plan for the Downtown Parking Study and then the
 2410 second reading's going to be on July 2nd, and that's for residential parking permit zones. No excuse me
 2411 the, no that's the...Renee help me. The first reading for June 13th and I'm sorry the second reading will be
 2412 on July 11th, I apologize. So that's for changing the on-street parking hours from 36 to 24, establishing the
 2413 downtown parking committee, shifting the parking management from police to planning, and off-street
 2414 parking requirements for commercial and residential. We just had that discussion this evening. On June

2415 27th, there was the second reading for the 5-year review of the Comprehensive Plan V, Mike gave a
2416 fabulous presentation and a very robust discussion of that. Deputy Director Bensley will be coming back
2417 to Council with 3 revisions to the plan. One to incorporate to make some changes to the focus area on
2418 New London regarding underground railroads, and there were two other changes we talked about them
2419 this morning, and I didn't write them down. What were the three changes?

2420
2421 Deputy Director Bensley: So, the three changes that were requested. They've asked for changes to shrink
2422 Focus Area 3 from being a full Center Street focus area to just encompassing the North Chapel Street
2423 corridor. Additionally, they have asked for Focus Area 1, added language to encourage the preservation
2424 of the historical African American churches in that area and then there was also a request to add language
2425 about Underground Railroad stops in Newark to the community profile in the Comprehensive Plan so we
2426 will be coming back with language on all of this.

2427
2428 Director Gray: And that will be the end of August?

2429
2430 Deputy Director Bensley: We're scheduled to come back August 8th.

2431
2432 Director Gray: So, and then there was the 2nd reading of the townhouse project on 10 and 16 Benny Street
2433 and that was approved. At the Council meeting next week, we'll have a discussion on the Charrette, we've
2434 talked about that as well as the discussion we just had. There's also going to be the 2nd reading on the
2435 other parking items I just discussed. First reading on what we're calling the pools etcetera ordinance which
2436 is not allowing pools in the front yard, regulation of temporary storage structures, exterior lighting, and
2437 revising our bamboo ordinance. The second reading for that will be July 25th. I think we covered well
2438 what's going on with the Charrette, so I don't need to talk about that. The nuisance property ordinance
2439 and the revisions to property maintenance code, staff is working fast and furious on that. We've had lots
2440 of internal meetings but obviously we have finalized our pools etcetera ordinance our next step is to we
2441 are up to draft number 6 I believe on the nuisance ordinance so we're still having lots of discussions on
2442 that, and once staff get to a point where we can bring that to Council then staff will get to work on the
2443 revisions to the property maintenance code.

2444
2445 I think I've already talked about the downtown parking strategies, so I think we're good on that. Our next
2446 Planning Commission meeting is on August 2nd, and I'll let Renee speak to the anticipated items on that
2447 one. So, Renee, I'll hand it over to you for our current land use projects.

2448
2449 Deputy Director Bensley: Ok so for the, well I'll start with the projects we've received and then I'll go into
2450 the August Planning Commission meeting as part of that. So submitted since the last Planning Commission
2451 meeting, we've had 4 projects submitted. So, 515 Capitol Trail is a major subdivision, rezoning, and special
2452 use permit to demolish the existing structure there and build one story office space with associated
2453 storage. 1115 South College Avenue, which is the former Friendly's site, has had a sketch plan submitted
2454 for a convenience store with gas pumps to replace that. 249 East Main Street which is the former Quest
2455 Diagnostics and a couple of coffee shops that rotated in there recently. They are proposing a Comp Plan
2456 amendment, major subdivision, special use permit, and parking waiver for a 6-story mixed use building
2457 with commercial and parking on the 1st floor, apartments and parking on floors 2 and 3 and apartments
2458 on floors 4 through 6. 55 Benny Street has proposed a Comp Plan amendment, rezoning, and minor
2459 subdivision to construct 3 three story five-bedroom garden apartment units on that parcel.

2460
2461 Existing project updates, Director Gray mentioned the approval of 10 & 16 Benny. 30 South Chapel Street
2462 which was recommended for approval at your last meeting, and the applicant has submitted the
2463 additional information that was required before the scheduling of the Council hearing which is currently
2464 under review before we can give the ok to Council, we anticipate that review being done by the end of
2465 the week and them getting scheduled for a Council date. 1119 South College Avenue which is the current
2466 Red Roof Inn site, they received their final SAC comments today and we're targeting that plan for the
2467 August Planning Commission meeting if the responses are submitted in time. And we've given them the
2468 deadline to make that meeting.

2469
2470 Other submissions that are in our queue for review are 65 South Chapel Street, 339, 341, and 349 East
2471 Main Street, and 1025 and 1033 Barksdale Road. Applications that we have comments out on and are
2472 waiting for responses from the applicant include 532 Barksdale Road and 244 Kells Avenue. We also
2473 anticipate a plan to be submitted soon for 1050 South College Avenue which is the former Boston Market

2474 site. So, we will be keeping busy with land development. Additionally for the August Planning Commission
2475 agenda, we will be looking to bring the next element, since you finished with the commercial and
2476 residential parking this evening, we will be looking to bring the next element of the downtown parking
2477 plan to you guys which would establish design requirements for parking lots. So that is in our original
2478 implementation plan with Council. With the interim limits that we're going to be getting ready to go to
2479 Council based on tonight, we'll see how the workload shakes out. We'll be down two staff members as of
2480 July 15th and I will be off some time in that time as well, so we'll see if we get that ready for August or not.

2481
2482 Director Gray reviewed the progress on the Downtown Parking Plan and the Comprehensive Plan. And
2483 just a couple of staffing updates, temporary Community Planner Josh Solge was promoted into the Planner
2484 II position vacated by Tom Fruehstorfer, so he has officially started in that new position, so if you see him
2485 congratulate him. The temporary Community Planner I position is posted and open for applicants through
2486 July 8th and then the Director of Planning and Development position is open for applicants through July
2487 15th. So please let me know if you have any questions.

2488
2489 Chair Hurd: Thank you. Trying to think of an appropriate way to thank Director Gray for all of her stuff,
2490 but I do want to thank you for your dedication to the process. Even when process didn't exist and your
2491 creation of the process. Because that always made things easier if we knew we had a process we had to
2492 follow. Then we need it every single time. And it was very useful for me when I came into this position to
2493 sort of know there was a plan, that things were working, that things came through the department in you
2494 know there was a process. And they came thought and when we got them, they were in good shape and
2495 we kind of knew what to expect from them. And cut down on the surprises and things because that's
2496 never fun. So, thank you, Dover's lucky to have you and we will miss you.

2497
2498 Commissioner Stine: Thanks Mary Ellen.

2499
2500 Chair Hurd: Alright that concludes item 6, and the agenda as well.

2501
2502 **7. New Business**

2503
2504 **8. General public comment**

2505
2506 **The meeting adjourned at 10:30 P.M.**

2507
2508 Respectfully submitted,

2509
2510
2511 Karl Kadar, Secretary
2512 As transcribed by Katie Dinsmore
2513 Planning and Development Department Administrative Professional I