

CITY OF NEWARK
DELAWARE

PLANNING COMMISSION
MEETING MINUTES

MICROSOFT TEAMS
MEETING CONDUCTED IN PERSON

MAY 7, 2024
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
Scott Bradley
Chris Williamson
Alexine Cloonan
Kazy Tauginas

Staff Present:

Renee Bensley, Director of Planning and Development
Jessica Ramos-Velazquez, Deputy Director of Planning and Development
Paul Bilodeau, City Solicitor
Michael Fortner, Senior Planner
Josh Solge, Planner
Katelyn Dinsmore, Administrative Professional I

Chair Hurd called the meeting to order at 7:00 P.M.

Chair Hurd: All right. Good evening, everyone. Welcome to our friendly with your neighbor temporary quarters here. So good evening, everyone and welcome to the May 7th, 2024, City of Newark Planning Commission meeting. This is Will Hurd, the chair of the Planning Commission. We are conducting this hybrid meeting through the Microsoft Teams platform. I'd like to provide the guidelines for the meeting structure so that everyone is able to participate. Katie Dinsmore, our administrative assistant, will be managing the cameras, chat, and general meeting logistics. At the beginning of each agenda 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 on each Commissioner in rotating alphabetical order for questions of the staff or presenter. Oh, I should back that up, I'm not going to be doing rotating alphabetical order. I'm going to do left to right so that the microphone doesn't have to bounce around. If a commissioner has additional comments they would like to add later, they should ask the Chair to be recognized again when all members have had the opportunity to speak. For items open to public comment, we will then read into the record comments received prior to the meeting followed by open public comment. If members of the public would like to comment on an agenda item and are attending in person, we ask you to sign up on the sheet near the entrance so we can get your name spelled correctly and they 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 they can 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 cameras disabled until individuals are called on to speak. At that point the speaker's microphone and camera will be enabled so the speaker can turn them on. We are unable to remotely turn on cameras or microphones in Microsoft Teams. 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 then the motions and voting by roll call for all land use items. Commissioners will need to articulate the reasons for their vote for all land use items and

all votes must be audible, no hand signs. 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 actions taken in these meetings.

1. Chair's Remarks

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

2. Minutes

Chair Hurd: Item 2, the minutes were not ready in time because we only had our meeting two weeks ago, so we will have the April meeting minutes in June.

3. Review and consideration of the Comprehensive Development Plan Amendment, Rezoning, and Major Subdivision for 30 South Chapel Street

Chair Hurd: So that takes us to, item 3 review and consideration of the Comprehensive Development Plan Amendment, rezoning, and major subdivision for 30 South Chapel Street. Director Bensley, are you starting?

Director Bensley: Thank you, good evening everyone. This land use application is a Comprehensive Development Plan amendment, rezoning, and major subdivision for the property located at 30 South Chapel which is the northeast corner of the intersection of South Chapel Street and Delaware Avenue. The applicant proposes construction of a five-story mixed-use building with ground floor parking and retail on the northern portion of the parcel and a five-story apartment building with ground floor parking and apartment lobby at the intersection of South Chapel Street and Delaware Avenue on the southern portion of the site. The current zoning is BC (general business). No buildings remain on the parcel as the previous use, a Burger King fast food restaurant, has been demolished for several years. The lot is currently comprised of approximately 46,000 square feet (80%) of paved surface parking and approximately 11,600 square feet (20%) of open area which is comprised primarily of landscaped borders along the street lines and property lines. The plans indicate 3,800 square feet of existing building coverage; however, those were demolished and paved over structures are now included in the paved area above. The proposed uses, two five-story apartment buildings with ground commercial space and parking, are allowed uses in the proposed BB zoning district and it should be noted that this is the first project to be brought to Planning Commission under the new BB zoning regulations that were adopted in December of 2022.

Regarding the Comprehensive Development Plan, the proposed plan does not conform to the existing land use designation indicated in the Comp Plan V 2.0 and will require a Comprehensive Development Plan Amendment to change the designation of the proposed lot from "Commercial" to "Mixed Urban." 30 South Chapel Street is included in Planning Section "A" of the Comp Plan which currently designates "Commercial" use for the entire parcel. The majority of the parcels in the vicinity north of Delaware Avenue, comprising much of the downtown area, are already designated "Mixed Urban".

Regarding major subdivisions, this proposed development meets all requirements detailed in Chapter 27, Subdivisions, and Chapter 32, Zoning, once rezoned to BB and does not require site plan approval. Regarding the density of the project, zoning regulations for residential units in the BB zoning district do not restrict the density of new development. The 80 proposed apartments on the 1.33-acre property results in a proposed unit density of 60 per acre. As these units are all three bedrooms this will result in a total of 240 bedrooms for the site, which will be a net increase of 80 units as the site previously had no residential use. The density of this project, along with other pertinent project details, compared to other recent projects, is shown in the development density data comparison chart which is Exhibit F in your packet.

Regarding traffic, South Chapel Street and East Delaware Avenue are both State roads. Estimates of traffic generation are based on the change in use from the now-demolished Burger King fast food restaurant use to the proposed apartments and retail spaces, which is consistent with the methodology used by DelDOT on other projects. If approved, the proposed development is estimated to generate 809 fewer average daily trips. A Letter of No Objection to Recordation and approval of entrance and exit plans will be required from DelDOT prior to approval of Construction Improvement Plans if this application for major subdivision is approved by the City Council. As this application was submitted prior to the approval of the TID by the City Council in March of 2023, it is not subject to the fees outlined in that agreement. Regarding parking, the property is currently operated as a large surface parking lot with

114 no buildings present. The proposed 3-bedroom apartments in the mixed-use building and apartment
115 building each require one parking space. The retail space requires two spaces per 1,000 square feet. The
116 proposed plan provides 87 spaces, satisfying the parking requirements detailed in Section 32-45(a)(2).

117 Some questions have been raised regarding the design of the project relative to fire access, electric, and
118 communications infrastructure and the landscaping. In reviewing the project with the applicant, there
119 were concerns regarding the height of the buildings related to site surrounding utility lines as the
120 buildings are five stories tall so the street cannot be used as a portion of the fire lane. The city also does
121 not have any requirements for applicants to bury utility lines that are in the right of way. In addition, due
122 to the covered driveway on the eastern portion of the property, fire apparatus would not be able to fit
123 through there to access the rear portion of the buildings. While there is a fire lane on the adjacent Main
124 Street Court property this cannot be part of these applicants because they do not control the property
125 and if it was redeveloped in the future that fire lane may still not be there. The final conditions agreed
126 to by the applicant and Fire protection staff were to supply reinforced pavers and turf for the front areas
127 of the buildings and to create a line to access the middle fire lane of the building. In order to still be able
128 to have landscaping that would not block the fire lane access, the applicant and staff agreed to plant
129 varieties of trees that would not be larger than 18 feet in maturity in order to avoid interference with the
130 power lines as shown in the landscape plan. The applicant is also providing alternative measures as
131 approved by the city's Fire Protection staff to also end the additional fire lane and additional perimeter
132 access requirements not met by the current plan.

133 Because this Comprehensive Development Plan amendment, rezoning and subdivision should not have a
134 negative impact on adjacent and nearby properties and because the proposed use does not conflict with
135 the Comprehensive Plan V 2.0, the Planning and Development Department suggests that the Planning
136 Commission recommend to Council approval of all three of these items. Thank you.

137 Chair Hurd: Thank you. Ok, so who's beginning, or presenting this? All right Chris Locke.

138 Mr. Locke: First, I plead not guilty to all charges, getting PTSD I just remember being in here when I was a
139 young man. Good evening, everybody my name is Chris Locke. I'm the legal counsel and senior vice
140 president for Lang Development Group. With me is Alissa Cirillo who's in charge of our commercial
141 department and Zach who's our project manager of many projects. So, we have some faces that are
142 familiar to me and some new faces. It's been a while since I've been to the Planning Commission, but I'm
143 happy to be here this evening. We are here to talk about 30 South Chapel or as we call it the Burger King
144 property because everyone knows it as if you've lived in the city for any length of time. Could you go to
145 the next slide please? So, as I said prior to 2020 this was a Burger King which was about 3200 square
146 feet. Next slide, and right now we're operating it as a private parking lot, we have three spaces that can
147 be done on an hourly basis and then you have some long-term parking customers as well we all know
148 this corner is a pivotal corner in our downtown area. Connecting Chapel Street and Delaware Avenue.
149 Across the street would be the old 7/11 and across the street on the other side is the University of
150 Delaware Courtyards and then the TD Bank on the other side.

151 A little history on the project, we originally came in here, it was so long ago now, and originally, we were
152 thinking about doing the project with Aetna, where we would combine an apartment building with a
153 brand-new fire station. The initial plan had included a 7 story building at some point Aetna decided not
154 to continue with that project so we went with a seven story building with a green space area almost
155 about three quarters of an acre park, it came to Planning Commission and you did approve it, I think it
156 was either 6-1 or 5-2 we went to Council, we were caught up in the political debate on how many stories
157 should we have in the downtown, we got caught up in that, they were not going to approve a seven
158 story building so we trashed it. Then under the new architectural guidelines that were approved
159 December 12th of 2022, we filed that night under the new architectural so that we could see you this
160 evening. Mixed use in pretty much all of the adjoining properties – almost every property, if not every
161 property, is either zoned BB or BC in the area. This is a large site of 1.33 acres, one of the larger sites
162 that we have in the downtown area. There is a significant tree that has been there for at least 150 years
163 maybe more that we are saving and keeping, and another part is we did coordinate with DelDOT when
164 they were doing the Delaware Avenue improvements to make sure that the project was in line with the
165 improvements they'd done over the last couple of years. Next slide please.

166 Just to give you some historic context this was the original plan that was the building and to the left of
167 that would have been the fire station next slide. This is just kind of the site plan, and you see that fire
168 station, that's where we proposed to do that green space area, next slide. So, some of the revisions to
169 the original like I said, City Council made some changes to both architectural guidelines as well as BB.

170 The most significant of course was no height of a building could be greater than 5 stories, so we
171 redesigned it taking into account both the architectural guidelines and more of a positive feel in front of
172 the building, there's more open space, and we made those changes.

173 Parking requirements were reduced so we took advantage of that as well and that was, as Director
174 Bensley said, we do meet all the guidelines for parking requirements. The inspiration is kind of what
175 you've seen recently it's more of a modern design to the buildings so that it can grow as downtown
176 grows. Next slide please. Project scope, so you have two buildings, one building will have 44 units, the
177 other building will have 36 units for a total of 80 units. The building closest to Main Street, as you go up
178 Chapel Street, will have commercial space as well, that'll have about 3400 square feet of commercial
179 tenancy and we think that's important to be able to expand our commercial marketplace. If you're
180 familiar with the commercial marketing of Main Street, depending where you are on Main Street, the
181 rents are higher than other parts of Main Street and the same thing on Delaware Avenue so we think
182 this may be an opportunity to bring in some new businesses that may not be able to pay the higher rents
183 on Main Street but may be able to pay the discounted rent on this location. The upper floors are going
184 to have the apartments, the parking that meets code. We already talked about DelDOT and how we
185 coordinated with them. And we also have some nice amenities and an outdoor plaza area for seating for
186 people to be able to hang out and talk to each other. We've also included a fitness center in the building
187 closest to the intersection of Delaware Avenue and Chapel. Next slide please.

188 That kind of gives you the site plan now as we're proposing it. As Director Bensley said we did make
189 some modifications to address the issues that the fire department and fire marshal brought to our
190 attention. So, we've made those changes as well, next slide. This is the building closest, right at the
191 intersection of Chapel and Delaware Avenue. Nice building, nice lobby area, that tiered area that you
192 see in the plaza area that's where the fitness center will be, so it'll be really nice to work out and get
193 some natural lights there. We have a nice plaza area which is something both the Council and Planning
194 Commission wanted to see in some of the newly designed buildings. As you go up towards Chapel Street
195 you can see where the umbrellas are for tables, we tried to separate the building by designs, having the
196 black brick on the first floor and then this red brick because red brick is everywhere in Delaware and
197 then the grey color just to give some separation and specs to the building. Next slide.

198 Here are the dreaded wires that we all love and know in the City of Newark and if I had 30 million
199 dollars, I'd get rid of all of them, it'd be a great thing to do, and other cities have done it but
200 unfortunately, we're stuck with what we're stuck with. This brought a challenge of how to get fire trucks
201 in to service the building in case of emergency and that's why we made the design changes that Director
202 Bensley talked about. I think what's great about this, and this was one of your suggestions, is that I've
203 hidden most of the parking. So, you're walking or driving down Chapel Street you're not going to see a
204 sea of a parking lot. And remember right now this is 46,000 square feet of paved surface and we're
205 going to reduce that to about 16,000 so about 66% reduction on that. And the next slide just gives you a
206 little more definition of what the front of that building looks like. Next slide we're going to just go
207 through these, this is pretty much giving you what's required under the new guidelines of code so you
208 can get an idea of what the building's going to look like as well as the height. Next slide, thank you, next
209 slide. This is the rear of the building, and you'll see that most of that car park is tucked behind the
210 building. I think that's a nice visual appeal to those walking up and down Chapel Street, next slide.
211 Landscaping is done nicely to kind of give some positive access to the building. We have a great
212 landscaping team that we've used for years, and they do a great job making our properties look like a
213 model I think. Next slide, just again a different view of the rear of the building, and the next slide is the
214 aerial view, so you'll see that building tucks in, in front of the lodge structure that's already there, I'm
215 trying to remember, I think that Main Street Court, Courtyard, we have so many courts here. So, that
216 blends in nicely, and then the project, next slide, so as Director Bensley said we meet all parking
217 requirements, we are proposing two EV charging stations we meet the scope requirements and usually
218 what we do is we look at the need of the community that lives in those buildings and we'll find ways to
219 add more bicycle parking spaces as the need arises, it has as I said a natural buffer protecting the area as
220 well as keeping that tree and improved stormwater of course.

221 As I said earlier, we're going from 46,000 square feet of paved parking spaces to 16,000. Some of the
222 community benefits, next slide. We think it's a great addition to this area taking a site that's really been
223 vacant for a while and not used to the max, and it should be used, with a nice clean building design.
224 When we submitted our plans December 12th, 2022, we had a lot of positive comments from staff saying
225 this is what we were thinking when we were passing all of these different code changes and architectural
226 changes, so we're happy to be the first one to make this proposal under the new guidelines. We think it

227 will complement other mixed uses in the area. Provide some open area, provide some long-term
228 flexibility because it'll be 2- and 3-bedroom units, so this gives us flexibility as the housing market
229 changes, as housing markets always do. It increases local tax base – I estimate City of Newark will get an
230 additional 72,000 dollars in tax revenue, the schools would get an estimated 245,000 dollars in school
231 taxes, and the utility revenue would be about 300,000 dollars year gross so a real financial benefit to the
232 city. And I like to keep my presentations short so we can answer any Q and A's that you may have. So, I
233 am happy to answer any questions you may have.

234 Chair Hurd: All right thank you. I'll begin on my left with Commissioner Tauginas.

235 Commissioner Tauginas: Can you hear me? Ok. I remember when Burger King at midnight became a
236 parking lot for low rider Neons with spoilers and really loud sound systems. This is better than that. And
237 I remember the hotrods in the 70s and 80s. I think well if you think about excellence in design, I really
238 like the design I think the building looks really good. Just a couple little questions. So, I know with the
239 covered parking, has there been any feedback in terms of security concerns? Like you know, and I'm
240 sure you'll have...

241 Mr. Locke: Yeah, we'll have the appropriate cameras in there, the tenants prefer, but we have cameras
242 throughout the premises.

243 Commissioner Tauginas: So just going along, because I owned a business on Main Street, so I know after
244 hours people can get a little crazy so in that case, so you'll have a security system in place, how will that
245 be potentially monitored? You know.

246 Mr. Locke: We have 24/7 surveillance on all our buildings and if someone sees something going on, then
247 we know about it, and we'll deal with it. Remarkably, it was much more of an issue I would say 10 years
248 ago and it's kind of calmed down, we don't see some of the craziness that we did say a decade ago. But
249 yeah, we have it monitored for any issues.

250 Commissioner Tauginas: Ok, that's fair. And then, just then, I saw South Chapel at rush hour, it's tough.
251 So, I see that the entry for like both ways, so that's also going to allow left turns out onto Chapel from
252 the property?

253 Mr. Locke: I'm trying to remember. I don't know if it allows left, I know back in one of the original
254 projects we took, I know there were no lefthand turns but I think this one does allow it and it's
255 important to note this was DelDOT's recommendation. We had, we designed it to what they were
256 envisioning for that whole area and you're right about Chapel Street. I've lived here since 1975 and
257 Chapel Street has always been like that, it has been and will be since 1975.

258 Commissioner Tauginas: Commissioners are all sick of me asking about traffic impact. No, overall, I really
259 like the design, it's definitely an improvement over what it was before, and just an empty lot sitting there
260 marinating so that's all for me thank you.

261 Chair Hurd: Thank you. Commissioner Silverman?

262 Commissioner Silverman: I like what's been done with the corner, I think the rezoning is appropriate and
263 I think the building's appropriate, it brings the site into harmony with the mixed uses they're found along
264 the north side of Delaware Avenue and behind the property. With respect to traffic generation for the
265 market that you're seeking out, will they be generating automobiles during the high peak in the morning
266 and afternoon?

267 Mr. Locke: No, one thing we've learned with the tenants that we have, they tend to walk everywhere.
268 They'll have a car so they can go food shopping and maybe go see family at weekends or something, but
269 for the most part they keep their cars where they are until they need to go somewhere. But in the sense
270 of the actual daily traffic, no. They pretty much walk or bike.

271 Commissioner Silverman: So, they won't really contribute to the ADT.

272 Mr. Locke: No and as Director Bensley said we tend to see a decrease in average daily trips.

273 Commissioner Silverman: And as with the earlier plan, the only thing that bothers me with this site and
274 the design is the exit from under building A that leads out to Delaware Avenue.

275 Mr. Locke: That was DelDOT's request. We had a different design, but this is what they required.

276 Commissioner Silverman: Ok, my suggestion would be, as I did last time and I've seen this done in the
 277 City of Wilmington, that a strobe light be mounted on the exterior wall of the building so that when a car
 278 is exiting, at least it allows the people who are using the bike lane to be aware that there's some activity.
 279 I've seen that on the parking building that's at the base of French Street in Wilmington.

280 Mr. Locke: Right. Ok, you're talking about right as you exit out on to East Delaware Avenue.

281 Commissioner Silverman: Yeah, because the sight distanced for somebody who is driving, I'm sorry who
 282 is bicycling, from the east is blocked by the electric meter and I don't know how the wall of the building
 283 is going to be there.

284 Mr. Locke: So, you're thinking kind of those yellow lights that you pull out of the underground parking
 285 lots in Philadelphia.

286 Commissioner Silverman: Yes. And that's just a thought.

287 Mr. Locke: Ok, and I think it's a good thought.

288 Commissioner Silverman: At least it'll be a defense for the driver.

289 Mr. Locke: And also, the cyclist.

290 Commissioner Silverman: That there was some type of warning there.

291 Mr. Locke: Yeah, minimally a mirror so everyone can see each other but I like the light idea.

292 Commissioner Silverman: Something needs to be done, because all of us who drive on Delaware Avenue
 293 are used to looking to our right and it takes that extra oh gee, I've got to look to the left for the bicyclist.

294 Mr. Locke: That's the truth. We have a building at 132 East Delaware, and I park there all the time, you're
 295 used to looking this way, and there's always people so yeah, you're absolutely right, a good point thank
 296 you.

297 Commissioner Silverman: It's like a pedestrian crossing...ok I like the site design; I think it's a good use. It
 298 is a clean look from Delaware Avenue with respect to peering across the building that's on the old
 299 Newark Lumber site. And the existing building, as I said before, is in harmony with the rest of the
 300 buildings in the area. Thank you.

301 Mr. Locke: Thank you.

302 Chair Hurd: All right, Commissioner Cloonan?

303 Commissioner Cloonan: I agree with a lot of these comments, I like the architecture, I love the large
 304 windows, I love the balconies, I like the way you're activating the ground floor, all great. I like the
 305 electrical vehicle parking stations, the ADA access in the parking, very thoughtful, thank you. The native
 306 plants, all excellent, thank you, thank you, thank you, thank you, thank you, and of course you know
 307 there's a "but" coming.

308 Mr. Locke: Oh no.

309 Commissioner Cloonan: So, no, here are my questions. What is the size of those two electric transformer
 310 boxes, they look like they're 8 by 8 square but how tall are they? Are we talking about something you
 311 can't see over? To Alan's point.

312 Mr. Locke: No transformers are usually about 3.5 to 4 feet.

313 Commissioner Cloonan: They're 4. Ok. Just wanted to make sure, they seemed unusually large so I
 314 couldn't quite figure out the scale. In Building A, which is the larger one, these spots here, I assume
 315 people won't be able to back out into the fire lane right?

316 Mr. Locke: That's correct.

317 Commissioner Cloonan: So, there's going to be just back in parking spaces, and there'll be no
 318 pedestrians, there's a walk. Ok. Thank you. I had the same questions about Delaware Avenue, but I
 319 would go one step further and put up a sign for the vehicle just saying look both ways because he's right,
 320 I'm still not used to this, and I ride a bike. So, it's very confusing to do that on a one-way road, especially
 321 on a one-way road. I did have a question about the location of your EV charging stations only because if
 322 someone wants to use them, they're driving in here and then going all the way to the end and then if
 323 they're filled are they going around the block again to come back to the site, are they backing up?

324 Mr. Locke: The EV charging stations are full? Yeah, they would have to, we're kind of limited on where
325 we can put them too because you can't put them under the building's anymore because they're a fire
326 hazard, so fire marshals don't allow it anymore.

327 Commissioner Cloonan: Well, why not here where you can see them when you come in?

328 Mr. Locke: It's probably because that's close to where the transformers are so it's less expensive to, if I
329 had to guess. Because I'm looking...for the exact location the transformers are...

330 Mr. Nasseh: So, the transformers are here over to the right but the electric, so they're closer to the
331 electric room so definitely one of the details but I think, and I don't know, correct me if I'm wrong Chris,
332 are these EV chargers for public use or will they be strictly for the tenants?

333 Mr. Locke: Strictly for the tenants.

334 Mr. Nasseh: They would probably be rented to or assigned to a person that rents a unit with an EV.

335 Commissioner Cloonan: Ok, so somebody would rent.

336 Mr. Locke: Yes, you can't just pull up and use it.

337 Commissioner Cloonan: Thank you, ok.

338 Chair Hurd: Chris, could you identify your associate for the record?

339 Mr. Locke: That's Zach Nasseh, sorry.

340 Commissioner Cloonan: Ok, well thank you for all the native plants but I do have a few questions, on
341 drawing 5 you show a Red Maple located right in front of the entrance to the parking garage? This one
342 here...that's a mistake.

343 Mr. Locke: Yeah, that's obviously a mistake which I'm surprised neither we nor the Parks and Rec
344 Department caught. Clearly, we will not have a tree inside the parking garage.

345 Commissioner Cloonan: I saw it was on the schedule, but I couldn't find it. So, I don't know where you
346 plan on putting it, maybe you don't have a place for it yet.

347 Mr. Locke: We'll find a place, I'll find out. Red Maple in the garage, can't be done.

348 Commissioner Silverman: Well, we're trying to go green.

349 Commissioner Cloonan: As long as we're on the subject of symbols you used two different symbols for
350 your yellowwood tree, one was small and one was big, is that denoting?

351 Mr. Locke: So, none of us here are landscape architects who grew up in Brooklyn. I know nothing about
352 trees, but I can find out for you.

353 Commissioner Cloonan: And I do love yellowwoods so thank you.

354 Mr. Locke: No one picked up my reference, Aa Tree Grows in Brooklyn, no one picked up on that.

355 Commissioner Silverman: We'll leave that alone.

356 Mr. Locke: Thank you.

357 Commissioner Cloonan: For your landscape architect again, I will ask him if he thinks Crepe Myrtles are
358 going to thrive without direct sun. Because they're kind of buried in there. And this is a personal
359 request I guess, the serviceberries that are planted on Chapel Street, we show 20 feet on site. And they
360 won't get more than a 15-foot spread. So having given up the idea of a large, street tree I was
361 wondering if you'd at least consider planting the serviceberries 15 feet in the center so we could have a
362 continuous albeit low canopy and shade.

363 Mr. Locke: Ok.

364 Commissioner Cloonan: You only need to add a couple more in and it would just give you some of that
365 effect of a continuous canopy to repeat myself.

366 Mr. Locke: I can't agree to it, but I'll take your comments and see what the landscape architect says.

367 Commissioner Cloonan: Ok, and I really like serviceberries, so kudos to your architect. The fire access
368 pavers, I know they aren't required, but do you know what those are going to be?

369 Mr. Locke: I don't at this point, but obviously it's going to be whatever the fire marshal says is applicable
370 to their concerns.

371 Commissioner Cloonan: All right. In the report on line 252, you mentioned 80 electric meters but there
372 was no location shown for those.

373 Mr. Locke: Right so each unit under the code, has to have their individual unit so we'll have a bank of 44
374 meters in Building A and then a bank of 36 in.

375 Commissioner Cloonan: And when you say in, do you mean there's an electrical room, not on the
376 outside?

377 Mr. Locke: In the electrical room, no, it has to be in the electric room, we have a key to the utility room.

378 Commissioner Cloonan: Ok. Is there any roof access?

379 Mr. Locke: Yes, you have to have roof access to get up there, so we'll have that on the top floor of the
380 building.

381 Commissioner Cloonan: But no penthouse or anything?

382 Mr. Locke: Nope.

383 Commissioner Cloonan: So, is it just a hatch?

384 Mr. Locke: Just a hatch, yes. A ladder that goes up the hatch, secured so no one can go up there except
385 for maintenance guys.

386 Commissioner Cloonan: Ok, and then all the mechanical units will be inset 10 feet from the exterior curb,
387 so we won't see them?

388 Mr. Locke: You won't see them, no.

389 Commissioner Cloonan: All right, I just want to reiterate that I think it's a good use of the site, it's a well
390 thought out plan, my only complaint is with the Planning Department and the City of Newark, and that
391 is, you know if you don't have a plan to bury or relocate electrical lines along back lot lines we are not
392 going to have the beautiful walkable streets we keep envisioning. You know we have to add fire lanes,
393 that's a whole new, you call them permeable pavers, but we all know that they're semi permeable at
394 best, and we can't have real size street trees which I remember from the 70s, being sycamore trees
395 down there in front of Burger King. And they were beautifying and now we get 15 foot high...

396 Mr. Locke: So, I'll come to the Planning Department's defense. It's not a Planning Department issue, it's a
397 City Council issue, and it's a budgetary issue and I totally agree with you. I am an advocate for burying
398 the wires on both East Delaware as well as Main Street. If Rehoboth can do it, if other towns can do it,
399 we can do it as well. But I think we have to have the political fortitude at Council to get it done.

400 Commissioner Cloonan: But even putting them on the back property line would have been better than
401 this.

402 Mr. Locke: Agreed, I think we're all in agreement, but it is what it is unfortunately.

403 Commissioner Cloonan: All right well...that's my soapbox.

404 Mr. Locke: Thank you.

405 Chair Hurd: Commissioner Kadar.

406 Commissioner Kadar: Damn, I miss a Whopper. But not so much that I feel about what's coming. I just
407 pray that you promise me that this is the last time we have to talk about this development.

408 Mr. Locke: I hope so, I was a young man when this thing started. Yeah, no this has been a journey.

409 Commissioner Kadar: So was I. No, I tend to agree with everything that has been said. The original
410 project was approved with 7 stories at least at the Planning Commission level now that you've basically
411 done nothing but lop two floors off the top and build another building next door. It was fine then, it's
412 fine now, I have absolutely no complaints or arguments. The design is nice, it's a great use of the
413 property and let's all remember that when Burger King used to be there was a lot of traffic coming in and
414 out. When Burger King shut down, the traffic shut down, let's just be prepared for the fact that when
415 the building comes up, the traffic level is going to go up a little, but nowhere near where it was.

416 Mr. Locke: That's right.

417 Commissioner Kadar: Well, given that, I intend to support this project and I'm happy you're doing it.

418 Mr. Locke: Thank you.

419 Chair Hurd: Thank you. Commissioner Bradley?

420 Commissioner Bradley: Thank you, just to kind of defer away from what we've been talking about a little
421 bit, what are your thoughts on overall student housing needs...

422 Mr. Locke: Didn't see that curveball coming.

423 Commissioner Bradley: Where we are, where we need to be, and are we there? Are we at a balance
424 now, do we need more, do we need less?

425 Mr. Locke: Yeah, so we're not there yet, I think probably in 5 years we will be, based on the projects that
426 I know we have coming down the pipeline as well as some of our friends and competitors. So, I think in
427 about 5 years we may be there but we're not there yet, I mean we still are 100% rented every single
428 year, have been for 21 consecutive years. So that tells me there's still a long way to go. A healthy real
429 estate market they'd perceive to be about 3-5% and we're nowhere near that. I mean we still have
430 people calling us today trying to get apartments and they just cannot find it. But I do think based on
431 what I know is coming down the pipeline, we may be there in 5 years, and you know, Zach and I were
432 actually talking about this at lunch today, what is higher education going to look like in 5 to 10 years? I
433 think that's a conversation, but the University of Delaware has pretty much insulated themselves well
434 better than some of the Division II and Division III schools, you know they had 40,000 applicants, they've
435 increased their application process every single year for the past decade, that doesn't tend to be the
436 case at the Division II and Division III. But there's still a high demand on that. I serve on the Parents'
437 Council at the University of Delaware, my daughter is a freshman, and what they're saying is, it's a very
438 robust freshman class. So I think, well ask me that question 5 years from now when I'm an even older
439 man I might have a different answer, but we're not there yet. And I think the indicator for that is when
440 we start seeing single-family homes, not renting, and when we start seeing students not living in what I
441 consider a residential community, Fairfield, Fairfield Crest, Nottingham, that sort of thing. But we still
442 have that going on, so.

443 Commissioner Bradley: Thank you. And I'll echo a lot of what the other Commissioners have said. I like
444 that plan, I like the fact that you separated the buildings, I think that adds a nice touch. It doesn't look as
445 massive, it's just one big building half there. Are all the units going to be on the rooftop?

446 Mr. Locke: I believe so.

447 Commissioner Bradley: I know the Commissioner said they would be set back.

448 Mr. Locke: Yeah, we always set them back.

449 Commissioner Bradley: Any thoughts on solar on the rooftop?

450 Mr. Locke: No, not at this point.

451 Commissioner Bradley: Is that for any particular reason?

452 Mr. Locke: A couple of reasons; it's cost prohibitive, second the tenants pay the utilities so it's not an
453 expense to the landlord, so it'll be difficult to motivate the tenants that's a good idea.

454 Commissioner Bradley: Fire marshal stuff – you have a 15-foot perimeter access along the east side of
455 the building, I know you've made some accommodations to offset these issues. What about if there's an
456 issue on the back side of the building? How do you intend to?

457 Mr. Locke: Well, they can get through to the majority of the back of the building, it is fully sprinklered as
458 well, and you know as we said with the fire marshal, if fire trucks need to go somewhere, they go. You
459 know, so they'll figure out how to access it and do what they need to do, and we've talked to the state
460 fire marshal, the city fire marshal, outside fire marshal, we've had like, 7 fire marshals look at this thing.
461 So, this thing is pretty good.

462 Commissioner Bradley: So, there's no major plantings between the two buildings along South Chapel?

463 Mr. Locke: There is not, no. You're talking about in the front of the building? No. There are some tables
 464 and chairs I think and everything we decided to put there had to be so the trucks could move it out of
 465 the way if they needed to.

466 Solicitor Bilodeau: No maple trees?

467 Commissioner Silverman: Only in the parking garage.

468 Mr. Locke: Only in the parking garage, I'll have to look at that I can't believe we missed it as well as Parks
 469 and Rec.

470 Commissioner Bradley: And there's no fence separating your building from the parking lot on the east
 471 side?

472 Mr. Locke: No, they have required us to put a fence there.

473 Commissioner Bradley: So, there will be a fence there, ok. And with that, I think that answers all of my
 474 questions. Thank you for your time.

475 Mr. Locke: Thank you.

476 Chair Hurd: Thank you. Commissioner Williamson.

477 Commissioner Williamson: Thank you, I once had a project in front of Planning Commission, and I was
 478 presenting, and it was a Taco Bell remodel and the exhibit said "Taco Hell"

479 Mr. Locke: Well, it could have been worse.

480 Commissioner Kadar: Any rogue drafts...

481 Commissioner Williamson: Just a couple of questions, I like the project as well. In Building B, there's I
 482 think 6 spaces inside, and it looks pretty tight in there to get your car in and out, because the spaces go
 483 right up against walls, but I guess you're used to doing that.

484 Mr. Locke: Yeah, we're used to doing that, we have that at a bunch of our buildings, so it's never been an
 485 issue. We have it at 287 East Main, Molly's Place, exactly the same design.

486 Commissioner Williamson: Now, I'm not familiar with the landmark tree, is that off?

487 Mr. Locke: Yeah, it's off to the left of the property.

488 Commissioner Williamson: What species do we know?

489 Commissioner Cloonan: It says oak on the plan.

490 Mr. Locke: Thank you. It's ah, George Washington planted that oak tree...

491 Commissioner Williamson: Is it healthy?

492 Mr. Locke: It is healthy, yes, we had Parks and Rec go out, when Tom Zaleski was still at the city, we had
 493 him look at the tree, so it's still a good tree, and we do try to keep as many of the original trees as
 494 possible when we're doing a project and it's worthy of keeping.

495 Commissioner Williamson: The parkway and this open space between the curb and the building is great,
 496 I mean I'm fine with some open space around part of the building and the residents.

497 Mr. Locke: Well credit goes to you guys for making the changes to the architectural guidelines, I mean
 498 that, I was at those meetings and as a developer it was kind of a pain in the neck, but truth be told it
 499 does make the property look a lot better and it's going to be a much better benefit to the residents.

500 Commissioner Williamson: I'm guessing that will be a popular dog walking area and you might want to
 501 consider...accommodating the dogs with proper bags.

502 Mr. Locke: Proper bags, yeah. Tenants have dogs and we try to put those bags up and it's amazing how
 503 they just ignore them. We'll do it here as well.

504 Commissioner Williamson: Do the windows open?

505 Mr. Locke: The windows, you know we haven't gotten into those details, but I would say probably not,
 506 because of the height of the building and I don't think buildings allow that so.

507 Commissioner Williamson: I mean the balconies.

508 Mr. Locke: The balconies of course, the sliding doors will open so.

509 Commissioner Williamson: How does trash and recycling work here?

510 Mr. Locke: So, we have a location somewhere in there my eyes are failing me. Upper left there. So, we'll
511 do it like we do it everywhere else. You'll have a recycle can, you'll have a trash can, the size of this
512 property we'll do frequency of 6 times a week Monday through Saturday. That's what we do at the Plaza
513 and Christopher Court, that area. And even with that there's a challenge some days because of the
514 number of restaurants that we have. But the good news is, you know we only have 3400 square feet of
515 retail and you're not going to have a tremendous amount of restaurant waste, if there's even a
516 restaurant. I'm hoping some retail stores go in there but yeah.

517 Commissioner Williamson: Ok, and how does the stormwater runoff work?

518 Mr. Locke: We have John Mascari on – he can answer all engineering questions. I became a lawyer
519 because I can't do science and math. So, John, can you give us a thumb sketch on stormwater
520 management?

521 Mr. Mascari: This is John Mascari, can you hear me, ok?

522 Mr. Locke: Yep.

523 Mr. Mascari: So, stormwater management is addressed on this project by one facility located between
524 the two buildings, and the reduction of impervious area from the existing conditions so we've increased
525 the green space around the buildings compared to what was at this location previously. So that and
526 water runs the same direction that it has been going, it'll just be to the existing catch basins within
527 Delaware Avenue.

528 Mr. Locke: Ok, thank you John.

529 Commissioner Williamson: Last comment and this are just a personal thing, I know everybody likes the
530 architecture and architectural styles tend to have a run you know of about 10 years or so, and I don't
531 know if there's a name for this, blocky modern or what. But someday I wish somebody would do a
532 Greek revival or Roman style.

533 Mr. Locke: Well, send me some pictures, we've got other projects, if you like it, we can look at it, but
534 we're always open for suggestions.

535 Commissioner Williamson: Maybe a statue of Athena.

536 Mr. Locke: You can talk to Ryan German I think he has some of those statues in Café Gelato so...I'm
537 always amazed when I come home and show my wife, she says that's nice. That's all I get. Thank you.

538 Chair Hurd: Thank you. I do concur with a lot of the comments, and I will note for Commissioner
539 Cloonan, Public Works does require several signs at the exit including one special look both ways sign. I
540 think it is similar to the one coming out of Lot #1.

541 Commissioner Cloonan: Thanks.

542 Chair Hurd: So yeah, and I think people are starting to learn and I would agree that turn, especially if
543 you're coming basically what I call up Delaware Avenue, there's a fence, there's a building, there's the
544 transformer, you know they're going to come around that corner and kind of be blind.

545 Mr. Locke: Right. And there are not as many cyclists in that area as say where 132 East Delaware is,
546 there's a lot of cyclists there.

547 Chair Hurd: All right. So, convince me that 3,400 square feet is enough for this pivotal Newark
548 crossroads.

549 Mr. Locke: Well, it is because that's what we can do. You have to start somewhere, all of these
550 requirements we have to meet, and we did want to have some commercial space, so we were able to do
551 it which was an enhancement of what we had shown in our seven-story building, so we have ten times
552 that now, so it's just a design initiative we have to meet.

553 Chair Hurd: And I'll admit I was the first going "that's so tiny" but now I'm looking at it just going, oh,
554 that's bigger than Burger King.

555 Mr. Locke: Right, and we're finding, you know, and Alicia can attest, she runs our commercial
556 department, we're seeing a demand for 1,000 square feet spaces, no more than 1,200. Back in the day,
557 a restaurant would take 6,000 now they want 3,500 or 3,800 at the max. And we can maybe divide this
558 up so we can put three retail tenants in those 3,400 square feet.

559 Chair Hurd: That would be lovely because I think you're, like you agree that as we're coming off Main
560 Street, we can start sort of getting those introductory businesses, those 1,000 square feet you can't find
561 on Main Street because it's booked up. And you can't afford the rent. All right, thank you all. Do we
562 have any submitted public comments?

563 Ms. Dinsmore: No, Mr. Chairman.

564 Chair Hurd: Anyone present who wishes to give public comment? Is there anyone online who wishes to
565 give public comment? All right seeing none I'm closing public comment and bringing it back to the
566 daises. Are there any further comments or questions from the Commissioners before we move to the
567 motions?

568 Commissioner Bradley: Chairman? Two quick questions and possibly a comment. You said there's 2- and
569 3-bedroom units, do you know the breakdown of that?

570 Mr. Locke: I do not yet and that's really going to depend on where we put the elevators, and stairs and all
571 that, but I can tell you it will be no more than 3 bedrooms and it will be a mix depending on what the
572 market wants.

573 Commissioner Bradley: Here's a generalized question, what is Lang's policy going to be regarding
574 marijuana? When becoming legal, with your rental units, do you have a policy on that?

575 Mr. Locke: So, yes, we do have a policy. You know, I think it comes down to how to enforce the policy. So,
576 we have a no smoking policy in our apartments. But can I enforce it?

577 Commissioner Bradley: Enough said, thank you. So, my comment would be to the Planning staff on the
578 Development Density data's comparison chart under this project for 30 South Chapel, you have it
579 categorized as 80 3-bedroom units, so whenever they get a breakdown of the three bedrooms and the
580 two bedrooms, so that doesn't get carried on for future comparisons. That's it, thank you.

581 Chair Hurd: Thank you, anyone else? All right, Secretary Kadar, we're ready for the motion.

582 Commissioner Kadar: **Because the proposed use does not conflict with the development pattern in the**
583 **nearby area, Planning Commission recommends that City Council revise the Comprehensive**
584 **Development Plan V 2.0 Land Use Guidelines for 30 South Chapel Street from "Commercial" to "Mixed**
585 **urban" as shown in the Planning and Development Report dated April 30th, 2024.**

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

587 Commissioner Bradley: Second.

588 Chair Hurd: Any discussion to the motion? All right, seeing none we'll move to the vote. Katie, are they
589 coming through if they don't use the microphone for voting or do we need to pass the mic?

590 Ms. Dinsmore: I would prefer it if you passed the mic, please.

591 Chair Hurd: Ok, absolutely fine. Ok, to the motion. Commissioner Tauginas?

592 Commissioner Tauginas: Aye.

593 Chair Hurd: And your reasons for the vote?

594 Commissioner Tauginas: Because of all the reasons...Planning Commission...I don't know, what am I
595 supposed to say? All the reasons Planning Department stated previously. In the report, that works.

596 Chair Hurd: Got most of the words in there. Thank you. Commissioner Silverman?

597 Commissioner Silverman: I vote aye for all the reasons cited in the Planning Department's report and the
598 fact that it's harmonious with the surrounding building environment.

599 Chair Hurd: Thank you, Commissioner Cloonan.

600 Commissioner Cloonan: I vote aye because the proposed use does not conflict with the development
601 pattern in the nearby area.

602 Chair Hurd: Thank you. Commissioner Kadar.

603 Commissioner Kadar: I vote aye for the reasons stated in the Planning and Development Department's
604 report dated April 30th, 2024.

605 Chair Hurd: Thank you. Commissioner Bradley?

606 Commissioner Bradley: I vote aye for the reasons stated in the Planning and Development report.

607 Chair Hurd: Thank you, Commissioner Williamson.

608 Commissioner Williamson: I vote aye for the administrative record.

609 Chair Hurd: Thank you. I vote aye for the reasons stated by the previous commissioners. Motion carries.

610 **Aye: Tauginas, Silverman, Cloonan, Kadar, Bradley, Williamson, Hurd**
611 **Nay: None**
612 **Abstain: None**
613 **MOTION PASSED**

614 Commissioner Tauginas: So, you understand where my confusion comes from...

615 Commissioner Kadar: You have all the important words man, it's ok.

616 Mr. Locke: Thank you so much for your time.

617 Chair Hurd: We're not done!

618 Solicitor Bilodeau: Two more votes.

619 Mr. Locke: Ah that's right, I always do that.

620 Chair Hurd: If you just want the Comp Plan...

621 Commissioner Silverman: If he just wants the zoning, we can...

622 Mr. Locke: Nah, I want it all.

623 Chair Hurd: All right, Secretary Kadar.

624 Commissioner Kadar: **Because it should not have a negative impact on adjacent and nearby properties,**
625 **Planning Commission recommends that City Council approve the rezoning of 1.33 acres at 30 South**
626 **Chapel Street from the current BC (general business) zoning to BB (central business district) zoning as**
627 **shown on the Planning and Development Report dated April 30th, 2024.**

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

629 Commissioner Bradley: Second.

630 Chair Hurd: Thank you, any discussion to the motion? All right seeing none we'll move to the vote-

631 Solicitor Bilodeau: Hold on, I'll just, when you're doing a revoting it's a little less, so you can say it's
632 consistent with reasons stated in the report but also say that it's now consistent with the Comprehensive
633 Plan as amended.

634 Commissioner Tauginas: And the Comprehensive Plan.

635 Solicitor Bilodeau: Yes, as amended.

636 Commissioner Tauginas: Thank you for making it more complicated.

637 Chair Hurd: Commissioner Tauginas, you're up.

638 Commissioner Tauginas: Ok, I vote aye because it's consistent with the Planning Department report and
639 the updated Comprehensive Plan.

640 Chair Hurd: Thank you, Commissioner Silverman.

641 Commissioner Silverman: I vote aye because it's consistent with the department's report and the
642 updated Comprehensive Plan.

643 Chair Hurd: Thank you. Commissioner Cloonan.

644 Commissioner Cloonan: I vote aye because it should not have a negative impact on adjacent and nearby
645 properties and it's consistent with the Comprehensive Plan.

646 Chair Hurd: Thank you, Commissioner Kadar.

647 Commissioner Kadar: I vote aye because it's consistent with the reasons noted in the Planning and
648 Development Department report dated April 30th, 2024, and the recently revised Comprehensive Plan
649 version 2.0.

650 Chair Hurd: Thank you, Commissioner Bradley.

651 Commissioner Bradley: I vote aye based on the other commissioners comments.

652 Chair Hurd: Thank you. Commissioner Williamson.

653 Commissioner Williamson: I vote aye based on the administrative record and the hearing this evening.

654 Chair Hurd: Thank you and I vote aye for all the reasons stated previously.

655 **Aye: Tauginas, Silverman, Cloonan, Kadar, Bradley, Williamson, Hurd**
656 **Nay: None**
657 **Abstain: None**
658 **MOTION PASSED**

659 Chair Hurd: Motion carries. All right, last one. Commissioner Kadar: **Because it fully complies with the**
660 **subdivision ordinances, the building code, the zoning code and all other applicable ordinances of the**
661 **city and the laws and regulations of the State of Delaware, Planning Commission recommends that the**
662 **City Council approve the 30 South Chapel Street major subdivision as shown on the Karins and**
663 **Associates Major Subdivision, Rezoning & Comprehensive Development Plan Amendment (Site Plan)**
664 **for 30 South Chapel Street dated December 13, 2022, and revised through April 12, 2024, with the**
665 **Subdivision Advisory Committee conditions as described in the April 30, 2024 Planning and**
666 **Development Report.**

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

668 Commissioner Bradley: Second.

669 Chair Hurd: Thank you, any discussion, to the motion? All right seeing none we'll move to the vote.

670 Solicitor Bilodeau: Just an aye vote will be good on the subdivision or a nay.

671 Commissioner Tauginas: Thank you!

672 Chair Hurd: Commissioner Tauginas?

673 Commissioner Tauginas: I vote aye.

674 Chair Hurd: Thank you, Commissioner Silverman.

675 Commissioner Silverman: I vote aye.

676 Chair Hurd: Thank you, Commissioner Cloonan.

677 Commissioner Cloonan: Aye.

678 Chair Hurd: Thank you, Commissioner Kadar.

679 Commissioner Kadar: I vote aye.

680 Chair Hurd: Commissioner Bradley.

681 Commissioner Bradley: Aye.

682 Chair Hurd: Thank you. Commissioner Williamson.

683 Commissioner Williamson: Aye.

684 Chair Hurd: And I vote aye as well, all right now you can go.

685 **Aye: Tauginas, Silverman, Cloonan, Kadar, Bradley, Williamson, Hurd**
686 **Nay: None**
687 **Abstain: None**

MOTION PASSED

Mr. Locke: Thank you! And thank you for the AC here, it's very nice.

4. Presentation and discussion on proposed amendments to Chapter 32, Zoning, regarding zoning regulations related to adult use marijuana.

Chair Hurd: All right that takes us to item 4, presentation and discussion on proposed amendments to Chapter 32, Zoning, regarding zoning regulations related to adult use marijuana. And I see Planner Fortner.

Planner Fortner: Thank you, Mr. Chairman and Planning Commissioners. This is a follow up to the Planning Commission's December 5th, 2023 meeting where the Planning Department presented a report, which is in your Exhibit A, which discussed the Delaware Marijuana Control Act and also gave four policy options for zoning code to adjust to the new ordinance. We also had that same conversation with the City Council at their March 25th meeting and the minutes are in your packet as Exhibit B. We took all of the feedback and put together kind of a first initial ordinance draft. This is not for voting today this is just a, I guess further discussion and we'll have the same discussion with Council and bring it back revised possibly for a more final vote with the idea of having it in the books by around August time. The feedback from City Council, they had a robust discussion as well and they were probably more, leaning towards more restrictions than the Planning Commission, they were more skeptical of this act so we tried to find some sort of consensus, some were outright opposed in the beginning, but they had a discussion, and we found some consensus where maybe we think we can get 4 votes.

So, the bullet points, one thing was that a strong majority of Council did not want to see this in downtown, so we're designing an ordinance that would not allow this downtown or in the densely populated areas, so that was one thing we did. The second thing is that the City Council liked the Fresh Delaware that's off of Ogletown Road, they really liked that business and thought it was beneficial and they're probably going to seek to do a conversion. Once you legalize adult use marijuana, the medical marijuana use dries up. They're still going to provide that service, but they also want to get into the adult market because a lot of use will just transfer to the adult market. They won't have to go through the process of getting the medical marijuana license. Even though that would allow them to pay less and not have to pay the taxes. So, there's a lot of interest in allowing them to do that change. And we even had a tour of that facility, so not only do they sell it there they have a production of, they produce it there and grow it, there's an indoor growing and it was a very impressive operation that they have there and again it's been a very positive business at least from the point of view of Council members and the community.

Another thing, the Council members were more ok with the idea of indoor cultivation and indoor production in industrial areas so they, it was mostly the retail they had a lot of trouble with. And they were definitely ok with the medical marijuana testing facilities, they thought that should just be allowed without a special use permit. And then generally there was some general concerns that they didn't want to prohibit marijuana use, or marijuana zoning altogether like some communities have, because they were concerned it could undercut their position with the state as they make adjustments to the law or if they seek funding revenues, they want to transfer that back to the communities. We feel like we're in a better position if we permit marijuana use on some sort of scale in the city. I say use, but I mean the land use.

So, I gave some of my methodologies on page 2, and then going onto page 3 for the ordinance that we designed. So, I'm just going to walk you through this really quick. The first thing we did, in terms of Option 3 and Option 4. Option 3 is to make it a special use permit. So, to do that, you have to add definitions to create these new business uses and classifications and also adjust your retail use to make sure that it excludes marijuana so no retail store can do marijuana. And so, in part 1, 73.1, we had medical marijuana establishments, and it includes the types listed in the State of Delaware code. Under that, more or less, it's like what they wrote in state code except we added for example 73.1(a), "only indoor cultivation is permitted in the City of Newark" which is something, it's just not appropriate to have outdoor growth. So only indoor growth is going to be permitted in Newark for this ordinance. But most of it is more or less like they say in the state code.

If you go to part 2 that's where we clarify the retail stores. They do not include medical marijuana stores. Part 3, this is where we start adding to our zoning districts. So, as I said, no BB because we want to keep it out of downtown. So, we allow it in BC zoning, which is very general business, so we put that

743 under Section b which means it requires a Council approved special use permit. Then we added, for
744 Option 4, additional conditions onto it. And so, we didn't want to open it up to BC zoning districts,
745 because there's BC downtown, so we didn't want it in a downtown district, and there's populations too,
746 we wanted it more on the outskirts. So, we created a map, this is Exhibit C, we created, it's limited to
747 areas in the zoning district east of Library Avenue, Capitol Trail, and Route 72 or west and south at
748 Suburban Drive, Christiana Parkway, and East Chestnut Hill Road. So, if you look at Exhibit C, you see the
749 BC zoning areas that are included in that. So, it keeps it mostly to the east side of town where Ogletown
750 Road is and past what we now call The Grove. And we'll keep it south more towards the I-95 interchange
751 area and it keeps it towards the Elkton borderline too on the west end of town. We also put a minimum
752 distance from public and private schools. That was to push it. On the south part of town, there's BC that
753 abuts McVey Elementary School and we wanted to keep it down. It also takes some out of the Newark
754 Charter School, that's on the west side of town. So, we thought that it could make sense in some of
755 those areas, so we created a supermajority clause. So, if you were within 300 feet of a school you would
756 have to get a supermajority of Council and that adds some flexibility. So, it might technically fall within
757 that 300-foot range.

758 And finally, we allowed a provision...in the beginning the state had all these uses separated but now
759 they're looking to revise that and kind of combine it more. So, like I said, this Fresh facility not only do
760 they sell it there, but they grow it there and produce it there. So, the state is considering an amendment
761 that would change and allow those things to happen. And it creates sort of like, I remember from the
762 microbrewery, you have a producer, but you can go and do samples. So, this would allow Fresh to stay in
763 business if they were to get those licenses and operate the way they are now. They're a retail store but
764 also allowed to produce their own product and sell that at their site. So, we've created that provision in
765 there to allow that.

766 When you go to part 5, we added this in the MI and MOR zoning district, we created item 1, under
767 normal manufacturing, we exclude marijuana production and cultivation within that. And then we add
768 13 to Section A which allows testing facilities. Testing facilities don't have to get a special use permit, no
769 one had a concern about the medical testing facilities. We put that in MOR and MI industrial districts
770 because I didn't think we were appropriating commercial districts because there's no customer interface
771 with that, they're just a facility that's doing testing, so you don't really want that in commercial areas, so
772 I just put them in the industrial zoning districts just without a special use permit.

773 And then Section B, which would require a special use permit we put "medical cultivation facilities"
774 indoor only and marijuana production manufacturing facilities as 11 under section B, requiring a special
775 use permit. And then we create a provision that's allowed in MI and MOR zoning, industrial zoning, to
776 have subsidiary sales so that's allowed in there and we create that. So, we don't want a medical
777 marijuana store to open up in an industrial area, however if there's a production facility that had a small
778 portion of it where you could buy the product that they're producing on site similar to what we're doing
779 with microbreweries, then that would be allowed, you could go to that facility, buy the products they're
780 making on site, maybe they'd do a tour, that could be interesting if you're into that kind of stuff. But
781 anyway, you would be able to buy the product that they make there.

782 And the same thing is done with MOR and MI. And that concludes the presentation...I'm sorry there's
783 some red text in there those were editor notes. Oh, go ahead Renee.

784 Director Bensley: Unfortunately, the incorrect version was printed for the packets, so this was the version
785 Paul sent us with his comments, so just to address the changes. On page 2 line 66, what you see there,
786 that is the testing facility are going to be in MI and MOR so that is the final result of that. As far as lines
787 166 through 168, that has been changed to read 6 of 7 Council members in those sections and that has
788 been changed in each section where the final, or that relates to a retail use. So that has been added to
789 the sections in all three districts related to that. And then as to the question at the end regarding the
790 smell issue we are looking at the state code regulations for that as well as if additional regulations
791 around that need to be made adding that to the Property Maintenance Code as part of that which is not
792 technically under the jurisdiction for the Planning Commission.

793 Planner Fortner: And the idea is that you wouldn't be able to smell it, a reasonable person wouldn't be
794 able to smell it off site. That concludes my presentation.

795 Chair Hurd: Thank you. We will begin with Commissioner Tauginas.

796 Commissioner Tauginas: I saw through the minutes that the Council did have a concern about the smell,
797 right. But with Fresh Delaware, has there been any concern about marijuana scent coming from that
798 facility at all?

799 Planner Fortner: No, I don't think there's been any current complaints. When we were there, I certainly
800 didn't smell anything noticeable outside of the parcel and even near the store I didn't smell anything, so
801 it was contained within.

802 Commissioner Tauginas: Right, so they have a standard that they follow?

803 Planner Fortner: They have some excellent equipment that absorbs all of that and there's a lot of
804 equipment in there for all kinds of stuff but yeah, the smell doesn't go off the site.

805 Commissioner Tauginas: So, they're basically an example of, a facility like that is what we would look like.
806 Granted they're like a gold standard essentially?

807 Planner Fortner: Yes.

808 Commissioner Tauginas: It's good that we actually have an example of a business that's already
809 operating and operating successfully and not negatively impacting in any way that we've noticed thus far.
810 So how long has Fresh Delaware been open?

811 Planner Fortner: Several years now. But I don't know, almost 3 or 4 years, I think. It was when they
812 changed the law to allow medical marijuana.

813 Commissioner Tauginas: Ok, no I mean, there's still a bit to think about. I understand the need to kind of
814 keep it on the outskirts, I mean if we're going to be treating it the same way as drinking, I'm just thinking
815 further down the line, like. I visited Manhattan two weeks ago, and Manhattan's new scent isn't garbage
816 anymore, it's marijuana. Every block you go to you can smell it and that's because people are actually
817 walking around smoking on the streets, they're taking breaks from work and smoking on the street, so I
818 know that my thing is depending on how everything plays out, and how City Council and any ordinances
819 go into place, that we don't put ourselves in the position. Like, just you know, if it's illegal for you to walk
820 through a public area and smoke it, right, then that creates more touch points with law enforcement
821 potentially, which is not what we want. So, I think that keeping it in these specific areas, using Fresh
822 Delaware as an example, that's not really a, where it's located, I think that's a great location for it. You
823 know because you're not impeding anybody and if you give them a large enough facility where they can
824 grow and operate a full range of the business instead of just plopping down like a storefront or whatever.
825 Anyway, I'm rambling.

826 Planner Fortner: Sounds like it's going to be tightly controlled here and in the state. You will smell
827 marijuana. People use it in their backyard so you're going to smell the stuff more, so it's just a cultural
828 change.

829 Director Bensley: Commissioner Tauginas, in addition just to be clear, with the state you know Fresh
830 Delaware was an integrated facility as far as from production to sale. In order for another facility like
831 that to be in Newark, they would have to basically win the lottery for each of the different portions of
832 the business that they're using. So, the state is only allowing so many cultivators, so many processors, so
833 many testing facilities, and so many retail stores. And they are doing that through a lottery process with
834 the state. So, in talking to the Office of the Marijuana Commissioner, they have said other integrated
835 facilities like that are possible, but that they would have to win the lottery in each of the categories in
836 order to be able to have those on the same site.

837 Commissioner Tauginas: I got it, so it's basically not duplicatable, so it's duplicatable but it's not because
838 of the lottery system. So, the probability of someone hitting all of those markers.

839 Director Bensley: I mean you can win the Powerball too, but yeah. I think the, what we tried to do was
840 make that possible, but I don't know if full integration on one site is going to be probable.

841 Commissioner Tauginas: At least how it's currently set up.

842 Director Bensley: Right. And so, there's also, there's more cultivation licenses then there are retail
843 licenses and only so many testing and production licenses, so you know we also in looking at this wanted
844 to and just purely from the business side of it, Fresh Delaware uses about 40 houses of electricity and 10
845 houses worth of water every year. So, from a utility revenue side of it, it's good business for Newark to
846 be on that side of things.

847 Commissioner Tauginas: And that's the cultivation side of it.

848 Director Bensley: Right, when we went in there, there's lights everywhere, filters everywhere, you know.
849 I think from the perspective of keeping the cultivation limited to indoor, keeping the cultivation and
850 production and testing to the MI and MOR districts those are appropriate places for that but also giving
851 the opportunity where if they do get the license for retail as well, they would be able to have that as a
852 subsidiary portion in those areas too. And then looking at BC with limitations for only the retail portion
853 of things.

854 Commissioner Tauginas: Got it.

855 Chair Hurd: Thank you. Commissioner Silverman?

856 Commissioner Silverman: I'm learning as we get along here and I have a question that may pertain to this
857 group or may not be. You mentioned microbrewery as an example, and this is a serious question. Is
858 tasting allowed? Sampling per our code?

859 Planner Fortner: For microbreweries certainly it is, but not a marijuana facility, it wouldn't be like that,
860 like a tasting, but you would be able to buy the product. The idea is that you go to a place where they
861 grow it and buy, they would have a shop and you could buy the product they were selling there. It will
862 help us and open up a little more retail area. And we want to show that there's possibilities for retail
863 here, so it opens up some areas. But it was also so cool, this Fresh what they were doing, and they put
864 out a good product if you're into that kind of stuff and so yeah you go there and it's very high quality
865 what they're doing. But no, you would not taste it on site, you would have to take it home.

866 Commissioner Silverman: So, there would be no on site?

867 Planner Frontier: No on site.

868 Commissioner Silverman: Thank you, and you've done a good job pulling this together; a lot of moving
869 parts.

870 Planner Fortner: Thank you.

871 Chair Hurd: Thank you. Commissioner Cloonan?

872 Commissioner Cloonan: Yeah, I agree with Alan, that this was nicely considered and great compromising,
873 I like the final plan.

874 Planner Fortner: That's a Josh product.

875 Commissioner Cloonan: Very easy to understand, thank you.

876 Chair Hurd: Thank you. Commissioner Kadar?

877 Commissioner Kadar: A little clarification.

878 Planner Fortner: Ok.

879 Commissioner Kadar: Let's focus lines 114 to 132.

880 Commissioner Silverman: Which exhibit.

881 Commissioner Kadar: On the Planning Department April 30th, 2024, report.

882 Planner Fortner: Sorry could you say that line again?

883 Commissioner Kadar: Line 114 to line 132 where we're breaking it down into cultivation facilities,
884 manufacturing, production facilities, testing facilities, and the marijuana store. That is as confusing as all
885 get out. I just, I just drew a little flow chart on there, everything goes everywhere almost. I mean that's
886 not a great supply chain.

887 Planner Fortner: I'll have to take a look; I mean that chart's confusing but...

888 Commissioner Kadar: No, basically, let's go down. You say that's what's on here. The marijuana
889 cultivation facility prepares and packages marijuana and sells it to the retail marijuana stores. To the
890 marijuana product manufacturing facilities, and to other cultivation facilities. So, you've got cultivation
891 facilities potentially selling to cultivation facilities, selling to manufacturing, and then selling to the
892 production facilities. The production facilities can purchase it, and manufacture, prepare and package

893 marijuana products? And sell marijuana products to marijuana product manufacturing facilities so they
894 can sell to each other. And then they can sell it to the retail stores. The testing facilities are clear, I don't
895 have a problem with that. The retail store buys it from either the cultivation facilities or the product
896 manufacturing facilities and then sells it directly to the consumer. Ok? Does the marijuana product
897 manufacturing in facility restrict it to processed products, not marijuana itself?

898 Planner Fortner: They process marijuana. The marijuana production manufacturing facilities, they take
899 the marijuana cultivated product and then they process it into various forms. Usually, it's like some sort
900 of edible or vape product. They can grow it by themselves or buy other people's products.

901 Commissioner Kadar: So, the product manufacturing facilities just process marijuana into other
902 products?

903 Planner Fortner: To marijuana products yes.

904 Commissioner Kadar: Ok, so the cultivation facility is the one that sells the bulk.

905 Commissioner Silverman: The raw material.

906 Commissioner Kadar: The raw material to the retail store and to the product manufacturing facilities.

907 Planner Fortner: Yeah, they could sell to both, I guess. This is all through the state, I mean that's how
908 Congress works, it's all over the place.

909 Commissioner Kadar: I understand that. I mean, I'm just asking you to take a look at this and figure out a
910 way to make it a little more logical.

911 Planner Fortner: Streamline the definition.

912 Commissioner Kadar: And a flow chart isn't complicated, if you clean it up. Right, I mean I just did that
913 off the top of my head. Now, more basic than that. The state has approved marijuana, I mean I get it.
914 We're past that point, it's too late to do anything about that. My question is, what's in this for Newark?
915 So, we have a marijuana cultivation facility, or a product manufacturing facility, or retail location,
916 assuming that they're going to take over existing buildings, taxes will be paid, utilities and the like, which
917 thank God is a lot better than what we're getting from the University of Delaware. However, the state
918 gets 15% tax. We get nothing. And yet, we're expected through our police force and our public works
919 facilities and all of our enforcement to make sure that they're on the up and up. The state's not going to
920 come in and do that for us. And I know there's rumblings out there about well how much is the city
921 going to get from the state revenue, until that's in writing, I'm not interested in any of this stuff. Because
922 it's not doing a thing for the City of Newark. So...

923 Planner Fortner: Do you want a response?

924 Commissioner Kadar: No, no I'm not asking for a response, those are my comments.

925 Planner Fortner: Yeah, it's been brought up before and I understand, I mean you could say the same
926 thing about alcohol. I mean alcohol causes lots of problems and we don't get any benefit from the sale
927 of it, it's regulated by the state. But yet we want alcohol. I mean I do.

928 Commissioner Kadar: Ok, so some people would say that's a bad thing, so we should replicate a bad
929 thing and make it bigger?

930 Planner Fortner: Some people might want the product. Thank you.

931 Commissioner Bradley: So based on Director Bensley's comment about the lottery. Would that mean
932 Fresh would have to enter the lottery to become a non-medical retail establishment?

933 Director Bensley: No. So what the state is looking to do at this time or what's been proposed is a new
934 category of license called a conversion license that would, they would only issue I think it's 13 of those
935 for the 13 existing medical marijuana businesses that are in the State of Delaware and if and when that
936 passes the state legislature then those particular businesses would be the only ones eligible for those
937 conversion licenses. They wouldn't go into the general lottery with everyone else.

938 Commissioner Bradley: So, they wouldn't get shut out from getting the retail as long as that passes?

939 Director Bensley: Correct.

940 Commissioner Bradley: Ok, good. As far as just a comment for the other commissioner. Some of these,
 941 like Fresh and there's another company called The Farm that's in New Castle, they also manufacture and
 942 produce marijuana. And they buy and sell each other's brands. So, it's almost like a brand thing. This
 943 cultivation facility can sell to this facility, and they can market it through their retail establishment. So, it
 944 opens them up to not just sell like a microbrewery, they can only sell their own beer, they can sell other
 945 microbrewery beers, that's what I think your kind of getting at here with the facility selling to another
 946 facility, is that correct?

947 Planner Fortner: Yeah, they do, and the state allows for that to happen and I'm just kind of, putting in the
 948 definition that they're allowed to do that kind of stuff. And maybe you're right we can streamline it, so
 949 we don't have to include how the whole enterprise system works. And we can look into that. But that's
 950 exactly true. Different agriculture producers might be growing it different ways, they might have
 951 different flavors or impacts depending on how they engineer it. So.

952 Commissioner Bradley: Now, excuse me, would all of these facilities require a special use permit
 953 including the retail?

954 Planner Fortner: So, all of them except testing, Council was kind of explicit, they don't think they need to
 955 have special use for testing facilities.

956 Commissioner Bradley: So even the retail based on your map that's shown in the three locations where
 957 retail is eligible, they would still need it?

958 Planner Fortner: They would still need a special use permit. And other restrictions like 300 feet from a
 959 school and the supermajority.

960 Commissioner Bradley: I would like to comment on the one down 896 and I-95 not just because that's
 961 my district but, it is close to a residential area that's not in the City of Newark, it's, what's that Robscott
 962 there?

963 Planner Fortner: Yeah so...

964 Commissioner Bradley: I mean there's a lot of residential around that facility or around where you have it
 965 highlighted in orange compared to the other two which are mainly, I guess commercial and industrial.

966 Planner Fortner: That's true, so mainly because there's a school there, I tried to push it down to some of
 967 the commercial closer to Robscott is not going to be, adjacent to that, those properties would not be
 968 permitted, or at least they would need a supermajority to do that.

969 Commissioner Bradley: Well, the orange there is basically in front of Robscott.

970 Planner Fortner: Can I see that?

971 Commissioner Bradley: Sure.

972 Planner Fortner: The orange ones...Robscott

973 Commissioner Bradley: If you come out the back side of that shopping center, you're in the...

974 Planner Fortner: I was thinking (inaudible) but then Cooches Bridge neighborhood's there.

975 Commissioner Bradley: That's further down there, yeah. So, it would be nice to see maybe more
 976 interspersed throughout the city as opposed to just these three areas. It seems like you said you're
 977 pushing them towards the outskirts of the city, but there's people that live on the outskirts of the city.

978 Planner Fortner: So, they won't be concentrated there, there's other rules in state law that keep them
 979 1,000 feet apart for example. So once Delaware Fresh gets, that'll probably be the only one in that area.
 980 And the neighborhood where you live, there'd maybe be room for one, but I don't know where they'd go
 981 because all of that's redeveloping with the new gas stations in town. So maybe there would be one
 982 somewhere near the interstate, but there probably wouldn't be two ever there. So, you wouldn't have
 983 to worry about concentration there because they're going to be spaced apart.

984 Commissioner Bradley: The interstate brings up another concern. Being that it's an interstate, it's a quick
 985 on and off to buy legal marijuana and you can just take it down the road into Maryland. Well, it's legal
 986 there too, but are there any concerns that we're bringing traffic from out of state to pop into Newark,
 987 get marijuana and pop out?

988 Planner Fortner: Well right now, we're going to Maryland I understand, and so that might stop them.
 989 Presumably you're not allowed to take it across state lines, but I don't know if there's going to be any
 990 real. They kind of want to be near traffic areas, they think that's their customer base, and that people,
 991 well not necessarily 95 but 896 going across, and people going home, coming home from work, want to
 992 get something, so it's a location they kind of want to be in.

993 Commissioner Bradley: So why aren't there more circles towards the northern parts of Newark?

994 Planner Fortner: Well, there isn't that kind of auto oriented commercial in the northern parts of Newark.
 995 And there's not a really good area for it, so we just didn't.

996 Commissioner Bradley: So, you're basing it on traffic also?

997 Planner Fortner: Not necessarily, we're not trying to regulate traffic but we're keeping it on outskirt areas
 998 where, there's roadways where we'll have traffic as opposed to lots of cars going by as opposed to going
 999 through town and trying to get to some place in the northern part.

1000 Commissioner Bradley: Should there be any distance regulation from a library? Can that be included in
 1001 your list?

1002 Planner Fortner: So that's something we can do, if you think that's important, I mean we only have one.
 1003 And the places wouldn't be, because I looked at Newark High School and the library, it wouldn't be close
 1004 to that the industrial area's pretty far, at least 300 feet it would exceed that. So, it wouldn't impact the
 1005 current boundaries.

1006 Commissioner Bradley: And that's on the same side of the road, right? You can be 300 feet if you're on
 1007 the other side.

1008 Planner Fortner: It's 300 feet from the parcel used to the marijuana, so it wouldn't impact that map at all
 1009 if we put the Newark Library on it. So, I don't know if we need to do it but if you feel like we should have
 1010 it on there.

1011 Commissioner Bradley: With the way Fresh operates, I don't know if that's a state requirement or if it
 1012 would be a city requirement where you're buzzed in, they've always got an off-duty police officer,
 1013 security guard there. Is that a state requirement or is that? Would that be required in any new facilities
 1014 that pop up in Newark?

1015 Planner Fortner: Well, it wouldn't be in our ordinance necessarily, it's not written in our zoning code, but
 1016 the state would have those things. I know at Fresh they do have security, they've got cameras
 1017 everywhere, and I don't know if you want to elaborate, but they're a heavily guarded facility so.

1018 Commissioner Bradley: I understand that I'm just wondering if that's a requirement or if it's something
 1019 they choose to do on their own.

1020 Planner Fortner: I don't know that it's a requirement that there's a guard there 24/7.

1021 Commissioner Silverman: I think because it's a cash business. It's an anti-robbery security as opposed to
 1022 a controlled...

1023 Commissioner Bradley: Ok, but still not a requirement, it's just a business...

1024 Director Bensley: I'd ask that everyone uses the microphones please.

1025 Solicitor Bilodeau: The first thing is, we're still waiting for the regulations from the state so I would think
 1026 that the state was going to build in, if you're going to get a license to sell retail marijuana, I'm sure
 1027 they're going to spell out a lot of different hoops you have to go through to do it.

1028 Director Bensley: And I would say the commentary that we received on our tour with Fresh, because we
 1029 did also have folks from the Office of State Marijuana Commissioner with us, was that, and the owner of
 1030 Fresh has worked in other states, but that Delaware's regulations are some of the most stringent that
 1031 they've seen out of the states they've operated in. So, you know for example Delaware, everything has
 1032 to be grown from seed so they're not transporting plants across state lines, so it's a seed to store model
 1033 in Delaware. It all has to be organically grown so, or a lot of it is organically grown, so there was talk
 1034 about should Delaware be promoting themselves as the destination for organic product as opposed to
 1035 the surrounding neighbors. But I think it's, once, we are in kind of an awkward spot right now in that
 1036 we're trying to get our regulations complete before the lottery starts, or before they start taking
 1037 applications for the lottery so we're not having folks who are entering wanting a certain location then

1038 find out that it's not somewhere they can be. But we're also right now, since the state hasn't finished
1039 their regulations yet, not able to speak entirely as to what is being covered by them versus what's being
1040 covered by us. So, our goal right now is to get the zoning regulations in place so people know where
1041 they can go, but the lottery for the state starts on September 1st, so that's our goal for getting the zoning
1042 regulations portion done. We're probably looking at about 6 months before anyone is actually able to
1043 open a facility so other types of regulations as far as odor control and other regulations we're looking to
1044 have in place before those opening dates so that way we can make sure that one, we're not doing
1045 anything that's in conflict with state regulations, and two that we're not necessarily creating regulations
1046 that we don't need because they're covered by state regulations.

1047 Commissioner Bradley: When do you anticipate the state regulations?

1048 Director Bensley: They're issuing them piecemeal. So, we're seeing drafts of portions of it as they go
1049 along but we do not know when the complete regulations are coming.

1050 Commissioner Bradley: Will it be before the lottery starts do you think?

1051 Director Bensley: I hope so.

1052 Commissioner Bradley: Thank you, good job.

1053 Planner Fortner: Thank you.

1054 Commissioner Williamson: Thank you, I'm struggling with this after seeing the map and wanted to ask a
1055 few questions. The target market is largely students I'm assuming.

1056 Commissioner Cloonan: Really?

1057 Commissioner Silverman: No, it's over 65.

1058 Commissioner Williamson: You manage to find product now, so we know that. A lot of them don't have
1059 cars, we're forcing people to drive across town to go to a store while we're encouraging them not to
1060 have cars. I mean that's kind of a backwards thing. I also just find it a bit nanny-ish that people who can
1061 go to war, vote, drive, smoke, and drink, we treat them like, oh no you can't touch this we're going to
1062 make it harder for you. And in fact, if you don't have a car, you'll just end up buying from someone
1063 illegally. We're almost encouraging the illegal market to continue in the downtown area. That's one
1064 comment. And the other comment is, as someone who lives on the outskirts, like your comment, there's
1065 a lot of houses all around, and these people, they just happen to be outside the city, so they have no
1066 voice in this. That's a bit disturbing. I doubt my comment will ever be approved but you know, I would
1067 want to see an even distribution of sites all around the city including downtown, off of New London, on
1068 the west side, just make it fair. What's wrong with Kirkwood Highway too? Any, no one's guaranteed a
1069 lease, right? Owners can always say no. And we won't have more than you were saying two or three
1070 licenses in the whole town?

1071 Planner Fortner: Probably not.

1072 Commissioner Williamson: Probably not. So, for example on 896, there's a smoke shop down there, you
1073 know I could see them wanting to sell, and that means that everybody's going to drive down South
1074 College for a pot run and increase the traffic, just because we told them we don't trust you, you're not
1075 old enough or whatever, go somewhere nearby and (inaudible). So, I don't plan to support this, I know
1076 it's not a vote, but I wish there was a fairer distribution, I think it's a fairness issue.

1077 Planner Fortner: Well, I certainly understand that. Well, you can always make it more restrictive and
1078 then loosen restrictions and open them up. And that's what we did with microbreweries for example,
1079 we didn't want that downtown, and I think we ended up changing the ordinance and allowing
1080 microbreweries downtown. As these things become more common and become more integrated in the
1081 culture perhaps, we start opening up and allowing it downtown, it's harder to do the reverse though.
1082 Deciding you've gone too far, letting them downtown and then deciding you don't want them
1083 downtown. There was a lot of dissonance, we're trying to put together an ordinance that will pass
1084 Council to get the votes, to have a broad consensus. And keeping it out of downtown, at least for now,
1085 was essential. And even the south on 896, I don't think that's, there's some stuff out of town but there's
1086 a lot in town stuff in there too. So, we tried to put in some protections to keep it far away from the
1087 residential. There's some floodplain that divide up some of neighborhoods, especially the Newark
1088 neighborhoods. But we've moved it past, and on the west end of town some of those properties will be

1089 eligible with a supermajority. But in terms of the center of town that just seemed to be a non-negotiable
1090 right now with the downtown, Main Street, and Shops at Louviers, things like that.

1091 Commissioner Bradley: On the north side, you know you're jamming everything on the south side of
1092 town...

1093 Planner Fortner: South side and the East side for the most side, yeah. And then industry is already in the
1094 south side, it's only because we have industrial. But you know, we've got to get a little bit past, and, if
1095 the sky doesn't fall then maybe we revisit the ordinances and open up shops, once people see what
1096 they're like and that they're not hazardous places, because if you see Fresh you certainly don't get an
1097 impression that it's a bad or dangerous site, or that there's bad people there or anything. So little by
1098 little...but if we don't approve the zoning ordinance, then we can't pass Council, then we have nothing
1099 and we don't have any uses. Kirkwood Highway, there's no commercial in Newark for Kirkwood Highway
1100 until you get outside of town there could very well be stuff just past the city.

1101 Commissioner Bradley: What about across from Fairfield and that area, 896, that shopping center.

1102 Planner Fortner: So that's a BC shopping center but we won't put it there, I mean that's too, it's close to
1103 residential and we wanted to keep it, those are the areas where we thought we could maybe get it.

1104 Commissioner Silverman: Plus, it's within 1000 feet of the school.

1105 Commissioner Bradley: This is too, with those 300 feet, this is within 1000 feet I bet.

1106 Planner Fortner: Yeah.

1107 Commissioner Williamson: Another question, was there ever any consideration of parks, you know, you
1108 buy it and then want to go somewhere and smoke it, is there a distance requirement from any parks?

1109 Planner Fortner: You want it more integrated, but no we didn't, we don't think, if you put parks in there
1110 it won't change the ordinance as written so we didn't consider parks because there's nothing that would
1111 impact it there.

1112 Commissioner Bradley: So, what is your reason again for not Fairfield? Just...

1113 Planner Fortner: It's a very small BC, it's surrounded by high density residential and we're trying to keep
1114 it out of densely populated residential areas.

1115 Commissioner Bradley: Why?

1116 Planner Fortner: Why? That's because-

1117 Director Bensley: Mike, I'll throw you a bone and take this one. In the conversation with Council,
1118 Fairfield Shopping Center was specifically mentioned as a location they did not want to see it located.

1119 Commissioner Williamson: I understand that Council has its reasons which are different than ours
1120 perhaps but that doesn't mean we can't disagree with them. Respectfully. Thank you.

1121 Chair Hurd: Thank you Mike and I agree, trying to reconcile, there's conversations in Council and the
1122 difficulty of the different options and trying to pull everything together. Under the definitions, would it
1123 make sense to reference the state definitions in terms of keeping it simpler? Or just say you know just
1124 keep the top line and say, "a marijuana cultivation facility, marijuana testing facility, marijuana
1125 manufacturing facility, or retail marijuana store as licensed by the state of Delaware"? Because that gets
1126 all of the titles and the definitions so we can say there it is, we've talked about a marijuana testing
1127 facility, it's in our definitions, it's in the state code, now we can say you're a marijuana testing facility and
1128 we don't have to actually define it. So, I think that we might get into some trouble at some point if the
1129 state either expands or contracts the definition we've got a conflict. Commissioner Kadar, yes?

1130 Commissioner Kadar: Let me attempt to try and clarify. I think there's only one place that causes a
1131 problem with all this. If you look at line 129 when it talks about retail establishments, it says it's an
1132 "entity that's licensed to purchase marijuana from marijuana cultivation facilities" and "to purchase
1133 marijuana and marijuana products from marijuana product manufacturing facilities" and yet the
1134 marijuana product manufacturing facilities the definition doesn't include anything about selling
1135 marijuana to the retail establishments, it talks about marijuana products.

1136 Commissioner Silverman: Well, the plant material is still a marijuana product.

1137 Chair Hurd: It does talk about packaging.

1138 Commissioner Kadar: But it's the retailer, can purchase marijuana from a marijuana product
 1139 manufacturing facility. I think what needs to be said is just what they have, it talks about you can
 1140 purchase marijuana from the marijuana cultivation facility and the marijuana products from the
 1141 marijuana product manufacturer. And once you say that, the ambiguity between marijuana and
 1142 marijuana products disappears.

1143 Planner Fortner: Ok, to Will's point perhaps we could just say that. One little thing is due to the
 1144 definition we add a little Newark into this, so only indoor recreation for example, we can find a way of
 1145 sticking that in there but as long as, because if you go into the use sections it'll say "marijuana cultivation
 1146 facility" or retail store so that's what it'll say. So as long as it references that, I was just wondering would
 1147 someone be looking for that in the definitions like, but I think it could work and then you'd cut a lot of
 1148 lines out.

1149 Chair Hurd: Well I do agree you'd need to figure out how to get the cultivation in there and I think
 1150 Commissioner Kadar's right, got a point that the product manufacturing facility talks about preparing
 1151 and manufacturing products or selling products so it's just talking about products it's not talking about
 1152 bulk, or, anything they've purchased has now become a product because it came through the product
 1153 manufacturing facility, got packaged and now it's a product. So, if we kept this, I would say you can cut
 1154 that piece out so they're not technically buying marijuana, they're buying marijuana products. So that's
 1155 that. I think the challenge is going to be, for you, to write the code so that the circle of places that the
 1156 Council has kind of said we're comfortable with being there show up in the code as defined areas.
 1157 Because as you said, there's BC elsewhere, and someone might come along and go, "that's a BC use" this
 1158 is BC and I want to be there. So, we need to figure out, either this map becomes part of the code or
 1159 reference in the code just to say, these are approved areas, or we figure some other way to get it...well
 1160 that doesn't define it well enough...I don't think that takes (inaudible).

1161 Planner Fortner: Well, it should take Fairfield out of that because if we go east of Library Avenue, yadda,
 1162 yadda.

1163 Chair Hurd: West and south...yeah, I'm not 100% sure that brief sentence excludes and maybe, but we
 1164 can put...

1165 Planner Fortner: Ok.

1166 Chair Hurd: You want to kind of make sure, like say, they're only along these roads, so it's only along
 1167 Elkton and South Main, something, some way to sort of set those in place. I think the language is fine, I
 1168 think we've got the intention in there of how to put it in the different zoning districts and then we've just
 1169 got to hope that as the years go on, Council gets a little more relaxed about things. All right, do we have
 1170 any public comment submitted for this?

1171 Ms. Dinsmore: No Mr. Chairman.

1172 Chair Hurd: Anyone present wishing to give public comment? Anyone online wishing to give public
 1173 comment? Anyone wants to take any last hits at Michael?

1174 Commissioner Tauginas: Really quick, so it's still based on what I've read, you're not publicly allowed to
 1175 use the product, right? That's my understanding, just like leave the store, roll a blunt and go smoke in a
 1176 park that's technically illegal, so right now from the state that would explain why we're not concerned
 1177 about distance to park because it's still illegal to do it publicly. Or any public place.

1178 Planner Fortner: They shouldn't do it in a park.

1179 Commissioner Tauginas: Or any public place, essentially, it's private, not even on site, it's not even like a
 1180 hash bar where you can just light up and hang out. Not even a bar, it's private use only, so based on that
 1181 being the situation, we don't have to make accommodations for that particular restriction. That's all.

1182 Chair Hurd: Anything else folks, are you good? Mike?

1183 Planner Fortner: Me? No, I'm fine.

1184 Chair Hurd: All right thank you everyone I'm going to close item 4.

1185 **5. Informational Items**

1186 Chair Hurd: That takes us to item 5 informational items. And we have the director's report.

1187 Director Bensley: Ok thank you everybody. It's not been that long since our last meeting, so our report is
1188 short. There've been no Council meetings since the last Planning Commission meeting, our next Council
1189 meeting will be on Monday, May 13th. The related items to Planning on that agenda, we have the second
1190 reading for some clean up items related to EPL implementation for Chapters 7, 13, and 14, those are
1191 mostly Code Enforcement and Fire related. We do have the Cider Mill subdivision agreement
1192 amendment in which they are asking to raise the occupancy limit from 71 total for the development to
1193 either 1 per bedroom or 102 individuals for the entire development, whichever is smaller. The 65 South
1194 Chapel Street, they're coming back for a small subdivision agreement amendment to change the
1195 bedroom configuration for their units which also resulted in a need to change to change their parking
1196 requirements, the parking they had on site already was more than what they were required to have so
1197 they changed the configuration of the bedrooms for the units while they do require more parking spaces
1198 they do have that available so it is not, so they're not short on any of the changes. We have several
1199 special use permits coming, two are for a new business, Lefty's Alley and Eats which is a commercial
1200 indoor recreation and restaurant with alcohol special use permit they are looking to go into half of the
1201 former Kmart site at The Grove. They also have one for 300 Vassar Drive, requesting a home occupation
1202 for an in-home prenatal massage therapist, and one for 19 Amstel Avenue for a fraternity special use
1203 permit for Kappa Alpha.

1204 Also, at that meeting is going to be a follow-up discussion on the Council's prioritization exercise for 2024
1205 so we will see what comes out of that.

1206 Chair Hurd: What's that date again?

1207 Director Bensley: May 13th, Monday. And then the May 20th we're targeting that for the first reading for
1208 the adoption of the 2021 International Property Maintenance Code, on that agenda, the bulk of that
1209 agenda is going to be related to discussing some potential revenue items for the upcoming budget year.
1210 So, there are not a lot of other items on that agenda. Other happenings in the department, staff will be
1211 attending the virtual 2024 National Planning Conference from tomorrow through Friday so most of my
1212 Planners will be in that. For EPL and EnerGov, we've begun testing of the initial configured processes and
1213 we're working on preparing the items for the reports we want to be able to generate out of the new
1214 system. Next Planning Commission meeting is June 4th, and we have on that agenda, 515 Capitol Trail
1215 which is a Comp Plan amendment, rezoning, minor subdivision, and special use permit to construct 2
1216 about 2,500 square feet two story office buildings in the front of the property and for each of those
1217 buildings to have an accessory storage building in the back. One's about 4,800 square feet and the
1218 other's about 3,600 square feet. We're looking at having a potential second plan on that agenda, but
1219 we're working to determine which one's ready to go. July 2nd we are going to have 1110 South College
1220 Avenue which is the rezoning, minor subdivision, and related special use permits to construct a Dash In
1221 gas station, convenience store, and car wash on that site. We're also looking at a potential second plan
1222 on that agenda and we will have the final marijuana zoning regulations to you guys for review and
1223 recommendation to Council at that meeting. I did want to also inquire about quorum for that meeting
1224 since it is a holiday week, I wanted to make sure if anyone has any plans to be out of town or anything
1225 like that where we might not be able to have a meeting that we know that sooner rather than later so if
1226 we need to reschedule we can.

1227 And Jessy only had two items for tonight so I'm going to go ahead and give her report as well. So as far
1228 as comments that have gone out, we had the 1110 South College most recent SAC comment letter go
1229 out on April 29th and then we did have final approval for the administrative subdivision for 750 Library
1230 Avenue which consolidates those three parcels into one for the upcoming Library project. And that is all
1231 I have for this evening, thank you.

1232 Chair Hurd: All right. Also in your packets are our quarterly reports from October to December, and
1233 January to March and some news articles.

1234 **6. New Business**

1235 Chair Hurd: Taking us to new business, items for discussion for city staff or planning commissioners.
1236 Anything on people's minds? I will just mention I've started reading the most recent book by Strong
1237 Towns, about the housing crisis, I've just gotten to the section about how housing holds up the entire
1238 financial economy of the United States and how because of that the prices can never go down and can
1239 only go up so there's no way the bubble can burst, so that's scary. I can't wait to see the second part
1240 where they talk about how they get out from under that. But I would recommend going out and finding

1241 that, I think it’s going to be a good read, hopefully going to have some useful stuff for us as we wrestle
1242 with that.

1243 **7. General Public Comment**

1244 Chair Hurd: That takes us to general public comment, anyone present online or present who wishes to
1245 give general public comment? Seeing none having reached the end of the agenda we are adjourned,
1246 thank you everyone.

1247 **The meeting was adjourned at 8:56 P.M.**

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1250 Respectfully submitted,
1251
1252 Karl Kadar, Secretary
1253 As transcribed by Katelyn Dinsmore
1254 Planning and Development Department Administrative Professional I