CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES

March 25, 2019

Those present at 7:00 p.m.:

Presiding:	Mayor Polly Sierer District 1, Mark Morehead District 2, Jerry Clifton District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn District 6, Stu Markham
Staff Members:	City Manager Tom Coleman Acting City Secretary Tara Schiano City Solicitor Paul Bilodeau HR and Labor Relations Manager Mark Farrall Finance Director David Del Grande Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Planner Michael Fortner Public Works and Water Resources Director Tim Filasky Deputy Director of Public Works and Water Resources Ethan Robinson Director of Electric Bhadresh Patel

---

1. Ms. Sierer called the meeting to order at 7:00 p.m. She asked for a moment of silence and the Pledge of Allegiance.

2. MOTION BY MS. WALLACE, SECONDED BY MR. MOREHEAD: TO AMEND ITEM 3-D ON THE CONSENT AGENDA TO REMOVE THE WORD SPECIFIED IN THE TITLE AND REPLACE IT WILL THE WORD ALL.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: TO MOVE AGENDA ITEM 9 IN ITS ENTIRETY AND ITEM 10 IN ITS ENTIRETY TO FALL AFTER ITEM NUMBER 1 AND BEFORE ITEM 2.

MOTION PASSED. VOTE: 5 to 2.

Aye – Clifton, Lawhorn, Markham, Morehead, Sierer.
Nay – Hamilton, Wallace.

3. **9.** **<u>ORDINANCES FOR SECOND READING AND PUBLIC HEARING:</u>**

A. **Bill 19-07 –** An Ordinance Amending the Comprehensive Development Plan By Changing the Designation of Property at 924 Barksdale Road ***(See Items 9-B and 10-A)***

2:11

Ms. Sierer announced Council would discuss items 9-A, 9-B, and 10-A simultaneously. She asked Council to individually provide their reasons for their votes on items 9-A and 9-B.

Ms. Schiano read items 9-A, 9-B and 10-A into the record.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR ITEMS 9-A, 9-B AND 10-A.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(Secretary's note: The Developer's presentation for items 9-A, 9-B and 10-A is entered into the record as Exhibit 1)

Ms. Gray said the proposal was for a major subdivision and rezoning of 6.95 +/- acres of property located at 924 Barksdale Road from BL (Business Limited) to AC (Adult Community) to construct a three-story, 115 suite/137 bed assisted living and memory care facility. She announced the proposal also required a Comprehensive Development Plan amendment from commercial designation to high-density designation. Substantial information regarding the proposal was included in Exhibit A of Council's subdivision packet. Ms. Gray stated the property was currently an empty lot with a small parking lot which remains as a temporary location of the Newark Charter School. Prior to this, Ms. Gray said a single-family home was located at the property. Ms. Gray announced the proposed project was an allowable use in the AC district. She clarified the proposal did not conform to the Comprehensive Development Plan and would require an amendment. While the proposed use did not match the recommendation in the Comprehensive Plan for the address, Ms. Gray thought the proposal addressed the City's current need for senior housing and fit well with existing development and uses in the area.

Ms. Gray announced a revision was made in the staff report dated February 6, 2019 regarding a crosswalk that currently was in front of the Newark Day Nursery and this proposed project. The report indicated the mid-walk crossing would be eliminated and the existing crosswalk at Colonial Court would be upgraded by the applicant. Ms. Gray announced the request was made by the Subdivision Advisory Committee and DelDOT to eliminate the mid-lot pedestrian crossing. Based on the recommendation from the Planning Commission and follow-up discussions with the Newark Day Nursery and Messrs. Morehead and Hamilton, Ms. Gray expressed the mid-block pedestrian crosswalk would be maintained and updated by the applicant to DelDOT's requirements. These requirements are indicated in Exhibit A. Ms. Gray announced declarations including deed restrictions were signed in March of 2002 when the parcel was rezoned to BL as requested by the neighbors of the property. She stated the deed restrictions were requested by neighbors to protect them from unknown details of the potential BL zone potentially commercial office that was proposed for the site. Ms. Gray said the plan conformed to previous deed restrictions, but the applicant felt some restrictions were unnecessary due to the details of the current development. She stated the subdivision agreement and resolution described the proposed changes of the deed restrictions which include:

1. Retain restrictions on the sale of alcohol;
2. Amend the deed restriction regarding signs to allow instructional signs and
3. Remove the following deed restrictions:
    - Deliveries and pickups – including trash removal − shall be restricted between the hours of 8:00 a.m. and 5:00 p.m.;
    - Noise barriers shall be installed, separating delivery areas from adjoining residential properties and from Barksdale Road and
    - To remove the occupancy of the existing home.

Ms. Gray announced the applicant had two community meetings on March 1, 2018 and September 8, 2018. The Subdivision Advisory Committee's recommendations and recommended conditions of approval were included in Council's meeting materials. Planning Department staff recommends approval of the major subdivision, Comprehensive Development Plan Amendment and Rezoning for this proposal. Ms. Gray said this was based on findings which revealed the proposed plan met the requirements of the Code, should not have a negative impact on the adjacent or nearby properties and met the City's current need for Senior housing.

The Planning Commission recommendation included three motions which passed with a 7-0 vote:

1. For the Comprehensive Development Plan Amendment;
2. The Rezoning, &
3. Major subdivision.

The Planning Commission recommended a condition for the Comprehensive Development Plan Amendment which would add a deed restriction to limit the property to AC use. Ms. Gray read the following recommendations from the Planning Commission into the record:

1. That the existing crosswalk – located in front of the Newark Day Nursery – be retained;
2. The deed restriction on the sale of alcohol be retained;
3. The deed restriction regarding signs to be amended to allow instructional signs (i.e. traffic and parking);

4. The lot is designated design with integral architectural elements of the proposed buildings and other properties be deed restricted to limit it to AC use.

Greg Elmore, partner of e2 Consulting, LLC announced he would make a presentation on the applicant's behalf. He provided background on the joint venture between Columbia Pacific Senior Housing and the Wegman Companies as listed in Exhibit 1. Mr. Elmore said both companies had many years of experience in senior housing. He expressed the proposed project was in reference to assisted living and memory care only. Mr. Elmore said the property was currently zoned BL and believed the building height requirements and setbacks were similar to the AC zoning. He emphasized the proposed change from BL to AC was to allow the proposed use. Mr. Elmore thought the rezoning to the AC district and the development on the project would result in significantly less traffic than currently allowed by right under the existing zoning. He thought some of the current uses permitted in BL zoning would allow more traffic to Barksdale road than the proposed use. Mr. Elmore announced shift changes would take place during off-peak hours which would occur at 5:00 a.m., 2:00 p.m. and 9:00 p.m.

Mr. Elmore stated the property was just under 7.0 acres with current access to Barksdale Road. He noted the minimum required lot area for the project was 93,332 square feet and the proposed lot area was 302,529 square feet. The maximum lot coverage was 30% and the project would cover 14%. Mr. Elmore reiterated the proposed building was 3 stories and was permitted by right in the AC district. He referenced the site-plan layout for the proposed building in Exhibit 1 and highlighted the 125-foot setback per the deed restriction from the back-property line. Mr. Elmore emphasized the 125-foot setback was accounted for; moreover, there was a 50-foot greenspace/easement in the back and a 75-foot additional setback for the buildings. He stated 61% of the site was landscaped or open-space. Mr. Elmore said they did the best they could regarding the preservation of the natural wooded area and limited impervious surface. He stated the required parking by City Code was 63 spaces and the proposal included 69 spaces.

Mr. Elmore announced a deceleration lane would be added on Barksdale Road for a right turn-in only per DelDOT requirements. He expressed they continued to work with City staff regarding the crosswalk and was pleased it would remain in the area. Mr. Elmore believed the crosswalk was beneficial as it would permit the residents to communicate with the day care [Newark Day Nursery]. He thought residents at the proposed facility might be able to volunteer at the Newark Day Nursery and would be able to walk across Barksdale Road safely due to the crosswalk.

Mr. Elmore referred to Exhibit 1 and provided an example of the exterior color board for the proposal. He displayed images of aerial and perspective views from Barksdale Road of the proposed facility. Mr. Elmore said the facility would include sidewalks to loop around the building and residents would be able to walk with their friends and families. He acknowledged recent comments about the proposal's trash enclosure and believed the design would limit problems associated with graffiti. Mr. Elmore referenced images of similar facilities in Silver Spring, Maryland and Farmington, Connecticut in Exhibit 1. Mr. Elmore said the proposal would have a low impact on City services as it would not use the same water as a multi-family might use. He announced less than 3% of the residents at the proposed facility would use a personal vehicle. Mr. Elmore believed most drivers at the facility would be limited and clarified four to eight of the residents in the facility were likely to drive. He announced the facility would be a long-term neighbor in the City and were committed to the seniors in Newark. Mr. Elmore announced the project would provide in-fill development and construction jobs in the area. He estimated full-time and part-time employment would be provided to 50+ staff. Mr. Elmore said the largest staff shift would be about 24-26 employees for the mid-day shift. He emphasized the project was not a non-profit and would pay taxes. Mr. Elmore stated Jim Lober was the firm's local civil engineer and was in attendance and available to answer any questions about the site.

Ms. Sierer opened discussion to the table.

Mr. Morehead announced the property currently was tax-free because it belonged to the International Reading Institute. He believed most people he discussed the project with seemed to support it and thought it would be an additional place where Newark's seniors could live. He asked Mr. Elmore if he was willing to add the deed restriction to amend to the property to AC use. Mr. Elmore confirmed this was the case. Mr. Morehead was concerned regarding how removing the deed restriction for trash pickup would impact the neighbors during the day. He said there was a nearby school in the area who's trash pickup occurred during the day. Mr. Elmore said they typically setup trash pickup with the jurisdiction and service provider between the hours of 7:00 a.m. and 7:00 p.m. He did not have any problem with the current deed restrictions and announced he would be fine keeping them if the City wanted to.

Mr. Elmore stated his residents did not want trash pickup at 4:00 a.m. any more than other neighbors in the area. Mr. Morehead said he would be more comfortable keeping the current deed

restriction for trash pickup rather than removing it as currently stated in the agreement. Mr. Morehead did not see a need for noise barriers if they kept the current deed restrictions for trash pickup. He thought the single-family house on the site was long gone. He asked Mr. Elmore if the wetlands in the area were being treated according to the U.S. Army Corps of Engineers' requirements. Mr. Elmore announced there was a small, isolated wet-land on the property that was created when the parking lot was built. He stated the U.S. Army Corps of Engineers determined the wet-land had no real value. Mr. Elmore said there was another wetland on the property − located by the stream – which would not be touched.

Ms. Wallace asked for clarification regarding the zoning area requirements comparison; specifically, the maximum lot coverage for AC zoning was 30% and applicant requested 16%. She believed the requested lot coverage aligned with the Code's requirements. Ms. Gray reviewed the City Code and confirmed this was the case.

Mr. Clifton thought the project fell under the 2012 International Fire Code and Ms. Gray confirmed this was the case. He asked if the Fire Code was updated since 2012. Ms. Gray expressed the City currently was in the process of revising the Building, Fire Code and Property Maintenance Code to 2018 standards. Mr. Clifton supported the concept of AC zoning. He referenced the City Code's provision for AC zoning which permitted people under 55 years of age to reside there. Mr. Clifton asked how this provision applied to nursing home. Mr. Elmore said the assisted living and memory care facility would be licensed with the State of Delaware. He clarified the assisted living facility was restricted to individuals who were 55 years of age and over; however, most residents moved in to these facilities between 65-70 years old. Mr. Elmore emphasized they would comply with City Code's age restrictions and would discuss the potential of younger residents at the facility with the City on a case by case basis. Mr. Clifton asked Mr. Elmore about the types of barriers that were considered around the delivery area. Mr. Elmore reiterated there was a 125-foot setback and a small retaining wall would be built in the area. He stated preliminary discussions with City staff and neighbors regarding sound barriers indicated they might not be required. Mr. Clifton questioned whether additional plantings would be included by the retaining wall and Mr. Elmore confirmed this was the case.

Mr. Clifton believed there was an issue with trash pickup at a property on Main Street previously where trash was picked up around 5:00 a.m. to 5:30 a.m. Ultimately, Mr. Clifton said the property was cited for violating the City's Noise Ordinance. Mr. Elmore said he was unfamiliar with the City's Noise Ordinance; however, he was willing to work with the City and hold off trash pickup until after 8:00 a.m.

Mr. Markham asked Mr. Elmore to distinguish between the memory care unit and assisted living facility on the renderings in Exhibit 1. Mr. Elmore said the memory care facility was depicted as a donut-shape and the three-story building was separate. He expressed the shape of the memory care unit had an internal, courtyard that was secure for the residents. Mr. Elmore announced there was an external courtyard for the memory care residents with an 8-foot fence for resident's safety. Mr. Markham said the Millcroft Senior Living added outer barriers to protect the residents at the facility's perimeter. Mr. Elmore stated all exit doors from the facility's memory care unit went toward vestibules. He expressed they currently worked with the fire department and there was a delayed egress. Mr. Elmore said the first set of doors would not open immediately unless the building was in a state of alarm. He announced staff would be aware of the alarm and there were staff stations set up around the space. Therefore, if someone was able to get through the first set of doors on a 15-second delay, they would encounter a second set of doors.

Ms. Sierer opened the discussion for public comment.

John Morgan, District 1, addressed the issue of noise related to the proposal. He researched noise concerns several years ago regarding the power plant project. Dr. Morgan said his research indicated trees did not provide much in the reduction of noise. He announced 50-150 feet of trees only reduced noise by a couple of decibels. Dr. Morgan thought a solid barrier was much more effective for noise reduction. If noise was possibly an issue for the proposed development, Dr. Morgan believed it would be best to address it by building a fence that would be six to eight feet in height. If the fence did not look nice, he thought the plantings could be placed in front or on either side of the fence.

Francis Walsh, 922 Kenilworth Avenue, questioned the type of drainage system that would be utilized. Mr. Elmore announced there would be stormwater management facilities onsite that would collect all water before it drained offsite. He stated the existing outlet points off the site would be matched to points on the rear, side, front and DelDOT's drainage network. Mr. Elmore said extensive investigation of the soil was conducted to attempt to infiltrate as much water possible in order to reduce runoff numbers. He believed nine or 10 different test pits were conducted around the site which determined a 0% potential ability of water infiltration into the soil. Mr. Elmore said they designed a number of rain

gardens/fire retention facilities that would be spread throughout the property. He announced each rain garden/fire retention facility would collect roof runoff and parking lot runoff that would infiltrate through planting soil that would be introduced to the area. Mr. Elmore stated the underdrains from the facilities would collect into larger retention facilities/underground pipe arches; moreover, the water would be held back for an extended amount of time and would flow out slowly. He emphasized these aspects would ensure the project would be compliant with the City Code.

Jean White, District 1, asked if the applicant planned to put benches around the walking paths around the facility and questioned whether a pavilion and picnic area was considered. Ms. White thought it was not a good idea for residents to be cooped up inside a building, regardless of how nice the building was. She questioned whether the employees at the facility would be able to take residents in the assisted living section outdoors. Mr. Elmore confirmed the employees would be able to take residents in the assisted living facility outdoors and referenced a sidewalk along the outside of the building in Exhibit 1. He said it was possible to include mile marker posts for residents and said benches would be accessible throughout the walking path. Mr. Elmore stated ample outdoor space was included for residents in the assisted living unit and memory care unit. He clarified the assisted living facility was not a lockdown facility and the residents were free to come and go as they pleased. Mr. Elmore encouraged residents to enjoy the facility and announced there would be a full-time activities director who would handle onsite and offsite events. He said there would be a facility van that would take anywhere from 19-22 people offsite for fieldtrips.

Catherine Ciferni, District 2, thought the project included a side-walk that appeared to be connected to the facility. She asked whether the sidewalk belonged to the community or if it was walkable only for residents. Ms. Ciferni believed there were recommendations for the City's sidewalks in the area needed to be wider than 5-feet to accommodate increased pedestrian traffic and higher density. She was concerned the standard City sidewalk would be too narrow. Mr. Elmore said the facility's internal sidewalk connected to the existing public right of way sidewalk. Ms. Ciferni thought the City needed to consider current standards for sidewalks and quoted the following from the National Association of City Transportation Officials, "Prevailing design guidelines recommend a minimum sidewalk cross section of 5-feet exclusive of other amenities, and large enough for two-people side by side." While she believed the dimension met the minimum ADA accessibility standards, Ms. Ciferni announced many cities adopted wider standards. She thought sidewalk standards should accommodate higher than anticipated pedestrian traffic.

Mary Clare Matsumoto, District 6, understood the facility would be for-profit and questioned whether certain beds would be reserved for residents on Medicaid. Mr. Elmore said it was a private pay facility; however, by Delaware Law, the facility would not require residents to move out if they outlived their funding. He confirmed the facility would work with Medicaid and the families to ensure payments were met. Ms. Matsumoto thought Medicare did not pay for long-term care; however, Medicaid would pay for it. Ms. Matsumoto believed this was an important fact to consider because residents in memory care units could live there for many years. She thought it was important for residents at private, for-profit facilities to have the ability to use Medicaid.

Ms. Sierer brought discussion back to the table.

Mr. Hamilton thanked the applicants for hosting two public meetings and reaching out to the community. He believed the applicants made changes based on the public's suggestions and appreciated this fact. Mr. Hamilton thanked the applicants for their flexibility and willingness to work with the City regarding the crosswalk between the facility and the Newark Day Nursery. He approved of the applicant's promotion of intergenerational cooperation between the facility's residents and children at the Newark Day Nursery.

Mr. Morehead announced Messrs. Fortner and Fruehstorfer from the City's Planning and Development Department lived close to the applicants' property. He thanked the applicants for their interaction with the Newark Day Nursery and funding the upgrades to the crosswalk. Mr. Morehead asked if the applicants' proposal was the first of its type. Mr. Elmore said he worked with the applicant for approximately seven years and announced there were 42 similar facilities of this prototype nationwide.

Ms. Wallace questioned whether the applicants considered an increase in bike parking at the facility. She believed additional bike parking needed to be considered to accommodate University students and others who came to volunteer or visit residents at the facility. Mr. Elmore said there would be exterior bike parking for any guest. He announced the facility had interior storage for residents with bicycles. Mr. Elmore clarified they would be willing to add additional bike parking spaces if needed. Ms. Wallace thanked the applicants for hosting two public meetings about the project and making changes

based on feedback from the public. She believed the project made sense in terms of the Comprehensive Development Plan and Zoning change. Ms. Wallace thought the applicants' agreement to the deed restrictions in AC zoning were appropriate and believed the project benefited both the community of Newark and their neighbors.

Mr. Markham questioned whether the applicants would make a commitment to widen the external sidewalk around Barksdale Road. He believed it would be best to widen the sidewalk to accommodate larger crowds and increased pedestrian traffic. Mr. Elmore questioned whether Mr. Markham wanted him to replace the existing sidewalk with a wider sidewalk and Mr. Markham said he wanted the applicant to widen the sidewalk. Mr. Elmore was unsure if widening the sidewalk by one-foot was a good suggestion because it may cause contrasting dimensions. Ms. Sierer believed the applicant would be unable to simply widen the existing crosswalk and thought it would be necessary to replace the entire sidewalk. Mr. Markham said Millcroft Senior Living replaced an entire section of the sidewalk along Possum Park Road when they built their facility. He announced Millcroft Senior Living took over the sidewalk maintenance and covered the responsibility for their next-door neighbor. There was discussion at the table regarding the recommended width of the facility's external sidewalk along Barksdale Road. Mr. Elmore said he would commit widening the sidewalk to a certain amount; however, there were certain utilities that potentially could conflict. He clarified they already were replacing approximately 1/3 of the sidewalk in the area because of the deceleration lane per DelDOT's requirements. Mr. Elmore believed they could agree to accommodate a six-foot sidewalk across the frontage.

Mr. Markham asked Ms. Gray for the sidewalk width at the reservoir. Ms. Gray said there the street-frontage was 490-feet street and any improvement or widening of the sidewalk required DelDOT's approval. She announced the applicant indicated part of the sidewalk would be redone because of the deceleration lane. Mr. Markham requested the applicant to widen the sidewalk at least in the area to be replaced. He did not believe this was a major request. Ms. Gray asked if this would be done in accordance with DelDOT standards and Mr. Markham confirmed this was the case.

Mr. Markham asked Mr. Bilodeau if the deed restrictions were added to the agreement. Mr. Bilodeau confirmed the motion to amend the deed restrictions needed to include the specific amendments that needed to be made.

MOTION BY MR. MOREHEAD, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 924 BARKSDALE ROAD FROM COMMERCIAL TO RESIDENTIAL HIGH DENSITY.

Ms. Sierer reminded Council to vote on item 9-A individually and to state their reasons why.

Mr. Morehead supported the motion according to the Planning Director's report dated February 15, 2019. He believed the project did not need to be in an area of high-density as it was somewhat undefined. Mr. Morehead described the area as a down-zone and thought it was an improvement to restrict the area to AC from BL. For these reasons, Mr. Morehead voted affirmatively in this matter.

Ms. Wallace voted in favor of the change to the Comprehensive Development Plan and did not believe it would be detrimental to the community.

Mr. Hamilton voted in favor of the motion for the reasons stated by Councilmembers Morehead and Wallace.

Mr. Lawhorn voted in favor of the project because he believed it provided a need for the community and for the reasons previously stated by Ms. Wallace.

Mr. Clifton voted in favor of the project for the reasons previously stated by Councilmembers Morehead and Wallace.

Mr. Markham voted in support of the project because he did not believe it would negatively impact adjacent or nearby properties; additionally, he supported the project as it did not conflict with development in the nearby area.

Ms. Sierer voted in support of the project for the reasons previously stated by Mr. Markham.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(ORDINANCE NO. 19-09)

4. 9-B. BILL 19-08- AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BL (BUSINESS LIMITED) TO AC (ADULT COMMUNITY) 6.95 ACRES LOCATED AT 924 BARKSDALE ROAD (*See Items 9-A and 10-A)*

53:30

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: THAT COUNCIL APPROVE AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BL (BUSINESS LIMITED) TO AC (ADULT COMMUNITY) 6.95 ACRES LOCATED AT 924 BARKSDALE ROAD.

MOTION PASSED. VOTE: 7 to 0.

Mr. Bilodeau reminded Council to provide whether the rezoning was inline with the City's Comprehensive Development Plan.

Mr. Morehead voted in favor of the motion as he believed the project would be good for the neighborhood and thought in was in line with the City's Comprehensive Plan.

Ms. Wallace supported the zoning change for reasons outlined in the Planning and Development Department's report dated January 29, 2019.

Mr. Hamilton supported the rezoning for the reasons stated by Ms. Wallace.

Mr. Lawhorn supported the rezoning for the reasons stated by Ms. Wallace.

Mr. Clifton supported the rezoning for the reasons stated by Ms. Wallace.

Mr. Markham supported the rezoning for the reasons stated by Ms. Wallace.

Ms. Sierer announced her support for the rezoning for the reasons stated by Ms. Wallace.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(ORDINANCE NO. 19-10)

5. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT

A. Request of Columbia Pacific Real Estate Fund III, LP for the Major Subdivision with Site Plan Approval of 6.95 Acres in Order to Construct a 115 Suite/137 Bed Assisted Living and Memory lCare Facility at the Property Located at 924 Barksdale Road ***(Agreement and Resolution Attached) (See Items 9-A and 9-B)***

57:30

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: THAT COUNCIL AMEND ITEM 10-A TO INCLUDE THE DEED RESTRICTION LIMITING THE PROPERTY TO ADULT COMMUNITY USE AND THAT COUNCIL FURTHER AMEND ITEM 10-A BY LEAVING THE DEED RESTRICTION OF DELIVERIES AND PICKUPS OF TRASH SHALL BE RESTRICTED BETWEEN THE HOURS OF 8:00 A.M. AND 5:30 P.M.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT COUNCIL SUPPORT ITEM 10-A AS AMENDED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

(RESOLUTION NO. 19-G)

6. 9-C. BILL 19-09- AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 100, 115, 121 COLLEGE SQUARE (*See Items 10-B and 10-C)*

59:20

Ms. Sierer announced items 9-C, 10-B and 10-C would be discussed simultaneously. She reminded Council to vote individually and to provide their reasoning for their votes.

Ms. Schiano read items 9-C, 10-B and 10-C into the record.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR ITEMS 9-C, 10-B AND 10-C.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Sierer announced paragraph two contained of the project's resolution contained a typographical error where reference was made to AC (Adult Community) zoning classification and should be changed to the BB zoning classification to be consistent with the other documents.

MOTION BY MR. CLIFTON, SECONDED BY MR. MOREHEAD: THAT COUNCIL AMEND THE RESOLUTION FOR THE MAJOR SUBDIVISION OF 110, 115, 121 COLLEGE SQUARE SHOPPING CENTER, SECOND PARAGRAPH THIRD-LINE FROM AC ZONING CLASSIFICATION TO BB ZONING CLASSIFICATION.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Gray said the applicant requested a major subdivision approval by site-plan and a special use permit for 46.18 acres at the property located at 110, 115, and 121 College Square Shopping Center. She announced the applicant proposed to demolish 160,009 square feet of existing shopping center, construct 57,800 square feet of new shopping center buildings and construct 2-four story apartment buildings with 302 apartment units. Ms. Gray stated the applicant requested an amendment to the Comprehensive Development Plan's land-use designation from commercial to mixed-urban. She announced the following materials were provided to Council in advance of the meeting and were available online:

1. The Ordinance amending the Comprehensive Plan Designation;
2. The subdivision agreement and resolution;
3. The Planning and Development Department's summary;
4. The Planning Commission motions;
5. The Planning and Development Department's 15-page staff report dated January 29, 2019 and revised February 13, 2019 with substantive attachments;
6. Verbatim meeting minutes from the Planning Commission's February 5, 2019 meeting [in Council's packet for the March 11, 2019 meeting].

Ms. Gray said the property currently supports a retail shopping center use that dates back to the early 1980s and includes the following:

1. Two in-line retail centers;
2. A variety of retail and food uses;
3. Grocery store;
4. Automotive repair center, &
5. Bank.

She stated the existing structures on the property totaled approximately 373,000 square feet. Ms. Gray announced the property was currently zoned BB (Central Business District) and stated the existing

uses were approved in this district. She emphasized the applicant requested a special use permit (SUP) for the following uses:

1. Drive-in restaurant;
2. Fast-food restaurant;
3. Cafeteria style restaurant, &
4. Apartments.

Ms. Gray expressed the applicant requested a number of variances under the site plan approval provision (i.e. the drive-in restaurant, apartments on the ground floor and set-backs for the fast-food restaurant and others). The recommended changes for the Comprehensive Development Plan include: (1) An extension of Delaware Avenue to Marrows Road and (2) Mixed-use in transit oriented and pedestrian bicycle friendly developments. Ms. Gray announced the proposed changes were articulated in the 2014 Newark Bike Plan. Ms. Gray restated the plan still required a Comprehensive Development Plan amendment for the land use designation from commercial to mixed-urban. She expressed the Subdivision Advisory Committee's comments were provided to Council in their packets. Ms. Gray said the Subdivision Advisory Committee reviewed the plan over a number of meetings. She announced the Planning and Development Department staff recommended approval of the major subdivision, site-plan and special use permit (SUP). Ms. Gray said the Planning and Development Department's recommendation was based on the following:

1. Findings that the proposed plan met the City of Newark's Code through the site-plan approval provision;
2. Conforms to the Comprehensive Development Plan which calls for mixed-urban for this parcel;
3. Should not have a negative impact on adjacent or nearby properties;
4. Revitalizes a declining shopping center, &
5. Meets a need for housing targeted for young professionals and empty nesters.

Ms. Gray said there were three motions for the Planning Commission's recommendations:

1. To change the Comprehensive Development Plan designation from commercial to mixed-urban. The motion passed 7:0;
2. For major subdivision and site-plan approval and SUP with revised condition that additional stormwater facilities be added that incorporate natural environment and landscaping (i.e. green roof, micro-scale stormwater components and bioretention). The motion passed 7:0, &
3. For the SUP for the fast-food restaurant, cafeteria style restaurant, drive-in restaurant and apartments on the first floor. The motion passed 7-0.

Ms. Sierer welcomed Michael Hoffman, Esquire to the dais. Mr. Hoffman announced he represented the applicant and developer and was a partner and attorney with Tarabicos Grosso, LLP. He said the entire project team was at the meeting and were able to answer questions. Mr. Hoffman introduced Frankie Vasalo of Fusco Management as the property owner and developer for the project. He introduced Don Tracy, Cornerstone Tracy, who represented the developer and handled the residential component for the project. Mr. Hoffman proposed a vibrant, walkable, bikeable, active lifestyle center to revitalize the current shopping center. He restated the applicant sought approval for the major subdivision with site-plan approval, SUP and Comprehensive Development Plan amendment as previously outlined by Ms. Gray.

(Secretary's note: The Power Point presentation from Tarabicos Grosso LLP is entered into the record as Exhibit 2)

Mr. Hoffman said the project consisted of approximately 46 acres, bounded by Marrows Road on the east, Marrows Road on the south and Library Avenue on the west. He expressed the current shopping center included about 374,000 square feet of existing retail space. Mr. Hoffman said there were approximately 3.6 acres of open space, which he referred to as a storm water management facility. He stated the property was currently zoned BB (Central Business District) and the zoning was consisted with the proposed use. Mr. Hoffman emphasized the applicant did not request a rezoning. He told the audience the current property used to be a horse track in 1968. In the early 1980s, the property was redeveloped into the current shopping center. While there were some trees in the area, Mr. Hoffman emphasized the area was primarily paved. Mr. Hoffman said Acme Market and WSFS bank, existing tenants in the shopping center, intended to stay with the redevelopment. He announced the current property owner attempted

to make the existing shopping center more aesthetically pleasing and modern by using stucco and stone facades. Mr. Hoffman intended to improve Acme's façade as well.

He restated the Comprehensive Development Plan said the property was planned and promoted for mixed-use and transit oriented, pedestrian and bicycle friendly redevelopment. Mr. Hoffman clarified the project required a Comprehensive Development Plan amendment; specifically, because the future land-use map still showed the area as a commercial use, although the language anticipated a mixed-use redevelopment. He expressed the building where the former K-Mart stood would receive façade treatments, modernizing and improving its appearance. Mr. Hoffman said the applicant proposed approximately 325,000 square feet of total retail – reducing from 50,000 square feet of retail – and adding the residential component for the mixed-use center. He announced the horizontal mixed-use was proposed for the project. Mr. Hoffman said the residential space would include higher-end, Class A redevelopment and space for amenities. He stated the central green would be the central gathering space in the middle of retail and restaurant uses. Mr. Hoffman said a traffic throughway was an added benefit; however, they did not want it to be an expressway and bifurcate the center. The applicant and developer wanted traffic calming measures incorporated into the project.

Mr. Hoffman said the total bedroom count for the residential part of the project was:

1. 181 studio, one-bedroom units;
2. 117 two-bedroom units;
3. 6 three-bedroom units, &
4. 2 guest rooms for guests.

Mr. Hoffman said 60% of the units are one-bedroom units and 98% are one- or two-bedroom units. He emphasized the target market for the residential area was geared towards young professionals and empty nesters. Mr. Hoffman announced the theme and character of the materials used would be consistent throughout the center. He anticipated the net revenue from the proposed redevelopment for the City would be approximately $217,000 per year. Mr. Hoffman clarified this amount did not account for the additional economic benefits, community amenities and net positives for the City. He announced DelDOT reviewed the project and the applicant and developer anticipated to receive final documentation shortly. Mr. Hoffman stated K-Mart and Pep Boys were leaving and would not be on the redeveloped center. He hoped to identify tenants for the empty sites after final approval.

He announced the apartments would be equipped with elevators, multiple stairs in each wing, and multiple ingress and egress. Mr. Hoffman said the units would be unfurnished. He stated some units would be one-bedroom units with dens. He announced the north/south spine of the project would have sidewalks that were 10-feet wide and east/west sidewalks would be 8-feet wide. Mr. Hoffman said the project proposed 10 acres of open space which was more than the current 3.6 acres of open space. He informed the audience bus shelters would be added throughout the site. Mr. Hoffman announced the original site plan showed the WSFS lot as extending down into the community green. He proposed to cut the WSFS lot and believed it had no bearing on the data. Mr. Hoffman said a change was made to the original plan that made it easier to load and unload trucks. This change would be depicted on the final set of plans. Mr. Hoffman said the Planning Commission asked what the garages would look like. He stated the garages would incorporate the same façade and materials throughout the redevelopment. Mr. Hoffman acknowledged concerns regarding potential speed problems in the redevelopment. He restated traffic calming measures were implemented in addition to a raised crosswalk. Mr. Hoffman announced hardscaping would be utilized to map-out and connect certain intersections.

Mr. Hoffman said the Planning Commission recommended more green technology be used to promote storm water management. Because of this recommendation, Mr. Hoffman announced they added a new bioretention facility and expanded the former facility to capture more drainage at the point of impact.

Mr. Hoffman stated sign parameters were included in the design packet in terms of height and width. He announced all signage would follow specific design guidelines.

Ms. Sierer opened discussion to the table.

Mr. Clifton said a public meeting about the project was held at the Newark Senior Center and thought 100 people attended. He questioned whether the drive-in restaurant and fast-food restaurant were two different uses. Mr. Hoffman said there were three areas in the project with three drive-through locations. He announced there was an existing drive-through at the current center with the bank development. Mr. Hoffman said there were many mixed-use projects throughout the country with drive-

throughs. He believed the key for mixed-use was to integrate the uses for a synergy. Mr. Clifton asked for clarification regarding the traffic impact to the area located by the Post Office. Mr. Hoffman said the roads in the area by the post office were DelDOT roads and required entrance permits. He announced they analyzed anticipated trip generation. Mr. Hoffman said the delta between the project – if it were just a retail center – was not that high. He stated the reason for this was due to the fact internal capture could be utilized with mixed-use projects. Mr. Hoffman said the expectation with internal capture was to lessen the trips coming in and out for each individual use. He emphasized this type of development had a traffic benefit regarding the outcome. Mr. Hoffman clarified the project did not require a traffic impact study; however, the applicant and developer paid into an area-wide study fee.

Mr. Clifton announced the applicant's development in West Chester was located in close proximity to West Chester University and was not student housing. He asked Mr. Hoffman to discuss the marketing plan to target young professionals. Mr. Hoffman said they were not allowed to prohibit student renters; however, he emphasized Cornerstone Tracy, LLC was not in the student housing business. He restated Cornerstone Tracy, LLP's products were predominantly rented and utilized by young professionals and empty-nesters. Mr. Hoffman stated Cornerstone Tracy, LLP produced the following Class A items:

1. Residential amenities;
2. Residential product;
3. Unit count, &
4. Unit type.

Mr. Hoffman believed the City of Newark appeared to attempt to offer diversity of housing which would offer more opportunities for young professionals, empty nesters and others. He thought the project and intended market was beneficial for Newark's housing needs. Mr. Clifton thought Cornerstone Tracy, LLP's other locations had onsite managers and questioned whether this would be the case to the project. Mr. Hoffman anticipated there would be an onsite concierge area, a leasing center and other amenities that were similar to other locations. During his tour of Cornerstone Tracy, LLP's West Chester facility, Mr. Clifton noticed the den areas were door-less, wide, open areas and questioned if this would be the case for the proposed project. Mr. Hoffman confirmed this was the case. Mr. Clifton questioned whether it would not be possible to put up doors in the den areas and Mr. Hoffman confirmed this was the case. Mr. Clifton announced he supported The Retreat at Suburban Plaza as he believed it was important to support new urban-style development. He asked Mr. Hoffman what he anticipated for additional employment with the new center. Mr. Hoffman did not have the answer for the current project; however, he believed sufficient employment opportunities would be available as was the case with similar projects. He reiterated the intent for the redevelopment was to bring vibrancy and jobs back to the center.

Mr. Markham asked Mr. Hoffman how they would prevent the guest apartments from turning into full-time leases. Mr. Hoffman said Don Tracy of Cornerstone Tracy, LLP would answer the question. Mr. Tracy said they typically would provide one or two quest suites for residents that had family in town for several nights. He announced guest suites were typically used for several days to a week at most. Mr. Tracy expressed the guest units did not have kitchens and full facilities and operated like hotel rooms. Mr. Markham believed The Retreat was marketed to Council as a young professional development and it did not turn out that way. He asked for clarification regarding how the center would target young professionals in a different manner than The Retreat. Mr. Hoffman said he considered himself part of the young professional crowd and rented a unit in a mixed-use community. If the product was located in College Square, Mr. Hoffman expressed he would look to live there. Mr. Hoffman believed there was a need for young professional housing; moreover, he said there were projects with similar types of rental units in New Castle County (NCC) because of the demand from young professionals.

Mr. Markham said the City experienced a housing crunch of sorts since the University closed dorms and took on other apartment complexes. Mr. Tracy restated they were not permitted by law to prohibit the types of occupants in their apartments; however, he never developed a student housing project. He clarified Cornerstone Tracy, LLP's projects were typically located in quasi-urban centers, often located near universities and systems of higher education. Mr. Tracy announced they would hire a third-party property manager who was not in the student rental business. Mr. Markham questioned whether Mr. Tracy had percentages regarding current renters; specifically, regarding young professionals, professors and retirees. Mr. Tracey said this information was site specific and estimated the West Chester location had 60% young professional residents and 40% empty nesters. Mr. Markham questioned whether the transportation or a shuttle service would be provided to residents so they could travel throughout town without using their cars. Mr. Tracy said they had not spoken specifically for this type of amenity; however, they developed and identified areas where bus shelters were currently or should be located. He

announced the identified shuttles were actual DART bus routes. Mr. Markham believed Mr. Tracy should permit their own shuttle service rather than relying on DART of the City.

Mr. Markham said shopping centers in Newark (i.e. Newark Shopping Center and The Shoppes at Louviers) had vacancies and asked Mr. Tracy how they planned to fill the retail in the new center without taking from other shopping centers in the City. Mr. Tracy restated his confidence regarding the demand for this type of development and the market. He hoped the site would become a destination because it offered benefits and differences that differentiated itself from elsewhere in the City. Mr. Markham thought Council needed to look at the entire City to ensure the redevelopment would not take away from existing retail and other shopping centers in Newark. Frankie Vasalo, Fusco and Associates, believed the redevelopment had excellent architecture and design and would be appropriate for the market. He thought recent trends in shopping centers seemed to be entertainment based and food based, and retail and hard goods were less of a focus. Mr. Fusco described the redevelopment's design as intense as was highly confident they would fill the center quickly. He thought Newark currently did not have a great supply of entertainment, health, fitness and lifestyle type services and believed the redevelopment would address this need. Mr. Markham encouraged Mr. Fusco to make the entertainment available to the public since students indicated there was nothing to do for leisure in the City.

Mr. Morehead was happy to see elevators and extra fire escapes were added to the redevelopment plans.

Ms. Wallace asked if the applicant planned to rent by bedroom or by unit. Mr. Hoffman said they would be rented by unit. She questioned whether there would be onsite security. Mr. Hoffman anticipated the additional people and vibrant nature of the center would be a crime deterrent in and of itself; additionally, he said additional lights would deter crime. Mr. Tracy announced they did not intend to initially have a 24-hour security guard; however, staff would be on the premises in a general 12-18-hour time-frame. He said the entire residential building would be controlled-access only, along with CCTV and other security measures. Ms. Wallace whether the current site had security for parking related issues. She believed a shopping center on Main Street had security to keep people from parking there who were not shopping at the location. Mr. Tracy said they would consider Ms. Wallace's concerns and points as they moved forward with the process. Ms. Wallace questioned whether Mr. Tracy saw DelDOT's final review. Mr. Tracey stated DelDOT asked applicants to submit final sign plans at the end of the comment period. He announced they submitted final sign plans to DelDOT and waited for the final letter of no-objection.
Ms. Wallace questioned whether there would be dedicated bike lanes through the property as she was concerned with traffic speed on Marrows Road. She appreciated redevelopment changed the original crosswalk to a raised crosswalk; however, she thought bike lanes helped traffic calming in addition to making it clear bikes should not be on sidewalks.

Mr. Tracy said it was necessary to weigh all factors during a redevelopment project. He confirmed they discussed the potential to add bike lanes throughout the property; moreover, they met with people from BikeNewark to discuss interconnection and bike-ability. With the parallel parking on either end and the drive aisles, Mr. Tracy determined there was not enough room for a bike lane. Mr. Tracey said a 10-foot wide sidewalk was implemented on the north/south spine to accommodate pedestrians and bikes. Ms. Wallace questioned whether DelDOT would require any improvement to pedestrian crossings at Library Avenue and Marrows or Wyoming Roads. Mr. Hoffman announced they paid into DelDOT's signal revolving fund. She thought it appeared the applicant kept the existing entrances and exits for the site and there were no new points of ingress or egress; additionally, she believed the end result was in the discussion process with DelDOT. Mr. Hoffman confirmed this was the case and said it was necessary to have individual entrance permits in addition to site approval. He expected improvements would be made that would be relevant to the redevelopment's intersections.

Ms. Wallace said the Parks and Recreation Department requested the sidewalks around the apartments be eight-feet wide as part of the Subdivision Advisory Committee's review process. She asked for clarification regarding the sidewalk dimensions around the apartment complex. Mr. Hoffman believed the sidewalks around the apartment complex would be eight-feet wide. Ms. Wallace asked Mr. Bilodeau if Council would vote for one SUP for multiple uses and if they would vote no for the SUP if they disagreed with one of the uses. Mr. Bilodeau believed Council needed to vote individually for each use if they did not approve of all the uses for the SUP.

Mr. Hamilton thanked the applicant for adding green space to the redevelopment. He believed the area where K-Mart and Pep Boys were located was a large space and suggested the applicant consider sharing space with the University and young professionals for office space.

Ms. Sierer opened discussion to the public.

Robert Wittig, 4607 Beechwold Avenue, Wilmington, Delaware spoke in favor of the applicant. Mr. Wittig believed the project would appeal to tenants that were not currently seen in Newark. He thought the development was unique for Newark. Mr. Wittig said the brokerage team observed significant interest in this project and did not believe it would steal business from other areas.

Nick Wasileski, District 3, was concerned about traffic in the redevelopment. Mr. Wasileski estimated 420 cars would be added because of the redevelopment and questioned whether this number was accurate. Mr. Tracy did not have this information. Mr. Wasileski reviewed a map from WILMAPCO on his mobile device regarding level of service for intersections. He said DelDOT graded the level of service on a scale of A through F; moreover, A indicated good traffic flow while F indicated failure. According to the WILMAPCO map, Mr. Wasileski thought the intersection of Library Avenue and East Main Street was rated F (failure) by DelDOT. Additionally, he thought the intersection of East Main Street and Marrows Road was rated F (failure). Mr. Wasileski believed the intersection of Cleveland Avenue and Old Capitol Trail was rated F (failure). He thought it did not have the level of service of Wyoming and Library Avenue; moreover, it did not have the level of service of Wyoming and Marrows Road. Mr. Wasileski believed those intersections would be ranked D or F by DelDOT's standards. He did not understand how DelDOT could pass on a traffic study since the intersections currently were ranked F. Mr. Wasileski believed DelDOT should be contacted to ask what happened to the traffic study.

Chad Kroeger, non-resident, said he lived in Southern California and was a self-described "party enthusiast". He questioned whether the applicant would plant palm trees. Mr. Tracy said he did not have the information regarding specific plant-use and believed Mr. Kroeger needed to address his questions to the dais. Ms. Sierer confirmed this was the case and told the applicant she did not believe palm trees would be planted. Mr. Kroeger questioned whether ellipticals for the older tenants would be included in the apartments' fitness center. Ms. Sierer said they did not have this information at the moment.

Sheila Smith, District 4, was concerned with the sidewalk width along Library Avenue as she believed it was not a comfortable walking place in its current state. She thought the applicant needed to widen the sidewalks in that area. Ms. Smith questioned how much of the new open space – approximately six acres – would be accessible to residents. She asked if there were tenants for the large, empty buildings and questioned whether the applicant considered placing the sidewalk between the trees and the development. Ms. Smith thought this would create a tree buffer between people walking and the busy roads, particularly Library Avenue. She thought the redevelopment had too many parking areas which she claimed created problematic heat sinks for cities. Ms. Smith believed the applicant needed to consider 21st Century Landscaping, using native trees that provided ecological services.

Mr. Hoffman was unsure whether ellipticals would be included in the fitness center. He said they did not have specific tenants lined up for the K-Mart and Pep Boys spaces; however, they could be flexible if they had a larger tenant. Eileen Thorpe, CDA Engineering, said Library Avenue met DelDOT's standards of 5-feet. Mr. Hoffman acknowledged there were existing sidewalks along the perimeter and announced they attempted to add more points to bring connections into the center as well. He emphasized there was active recreation and open space available for use. Mr. Hoffman acknowledged challenges associated with incorporating new-urban, mixed-use principles while recognizing the demand and interest for parking spaces by restaurant uses. He announced a considerable amount of landscaping was added in addition to the open space.

Melanie Milburn, Stafford Avenue, questioned whether the parking for apartments would be around the apartment buildings or if parking would take place in a specific area. Ms. Milburn thought residents would prefer parking underneath the building. She believed the City needed entertainment as two bowling alleys were removed from Newark with a variety of other things. Ms. Milburn also recommended a fitness center for the redevelopment as well. She always believed the parking lot by the Acme in the center was in high demand. Ms. Milburn thought restaurants in that area would take more parking away from the Acme. She was concerned with the traffic created in the area and thought the restaurants should be moved to a different location in the center. Mr. Hoffman believed the benefit of mixed-use development was that it operated as an integrated site with synergy among the uses. He expressed there would be cross-easements for parking throughout the center; moreover, there would not be specific designations for parking.

Mr. Hoffman emphasized the idea was to have a walkable, integrated community, operating as a singular site. While they did not have specific plans for solar opportunities, Mr. Hoffman said they would look into it. He reiterated the center would be actively marketed for entertainment purposes. He stated the redevelopment was designed in a manner that provided traffic calming. Mr. Hoffman reiterated DelDOT did not believe it was necessary to conduct a traffic impact study for the redevelopment.

Paul Tillman, District 1, said he was a regular customer at the current center's Acme and questioned whether the inside of the store would be renovated. He thought the Acme in its current state was fairly dumpy and was concerned it would not be consisted with the redevelopment. Mr. Hoffman understood Mr. Tillman's concerns and discussions were ongoing regarding this matter.

Connie Morlett, District 4, asked for clarification regarding the total number of parking spaces in the center. Mr. Hoffman said there were 1,957 parking spaces on site and believed the City Code required 1,912 parking spaces.

Catherine Ciferni, District 2, did not like to compare the project to similar developments in West Chester or King of Prussia. Ms. Ciferni did not believe the market or mean income was the same in both states and thought businesses located in the property sent a message as to what type of housing would be in the area. She said Acme was vastly different from Wegmans or Trader Joe's and were targeted towards different markets. Ms. Ciferni thought it was difficult to determine the project would be high-end because there were at least four identified drive-throughs on the property. She thought drive-throughs sent a message of quick, fast, easy and cheap.

Jean White, District 1, thanked the applicant for hosting a community meeting for the project. Ms. White hoped the applicant would keep the mound of dirt on Library Avenue, opposite from the Acme. When the current center was built originally, Ms. White said there were trees along the top. Eventually, Ms. White believed the trees disappeared due to erosion and thought there were no trees in the center currently. She was concerned with the drive throughs and fast food restaurants proposed for the project. Ms. White believed some communities out west did not allow drive throughs. She thought drive throughs did not promoted people to drive in and out of the center. Ms. White believed the pool should be covered with a dome so it could be used throughout the year. She thought covering the pool would increase safety in the area and hoped a lifeguard would be on duty at all times. Ms. White hoped the center would include basic shops as well as boutiques.

State Representative John Kowalko was unsure if DelDOT's the minimum traffic impact requirement of 500 cars applied to current intersections. He thought Council should get an answer to this prior before they approved the project. Mr. Hoffman said the question was in reference to a concurrency standard and a level of service standard. He announced the City of Newark did not have a concurrency standard that stopped development based upon existing level of service. Based on DelDOT's warrants, Mr. Hoffman restated the project did not generate the traffic impact to warrant the study; therefore, the study was not required.

John Morgan, District 1, believed there were close to 2,000 parking spaces for the new center and thought it was important to address the issue of heat sinks in the summer. Instead of having only asphalt – which absorbed a lot of heat in the summer – Dr. Morgan suggested the use of sheltered parking with solar panels on the roofs. Dr. Morgan believed solar panels would generate the electricity and could be used onsite during the day for air conditioning in the summer. He acknowledged solar panels would be cheaper over time and provided additional benefits like shelter. Dr. Morgan believed sheltered parking would decrease the amount of snowplowing and urged people to consider the long-term, cost-benefit analysis of this idea.

Steve Hudson, District 5, announced he was a resident of Newark for over 55 years. He was very pleased to see the redevelopment effort and believed the biggest problem was the traffic in the area. Mr. Hudson thought traffic, water and electric were the three biggest problems in the City and believed it was not easy to fix them. He thought the fast-food areas needed to be outside or behind the center because he claimed people who wanted fast-food were not coming to the center for anything else. Mr. Hudson thought the traffic should be permitted to move slowly through the redevelopment, alleviating the pressure on other intersections. He announced he drove around the whole City to get to the Post Office and avoided roads such as Cleveland Avenue and others.

Mary Clare Matsumoto, District 6, questioned whether there would be charging stations for electric vehicles (EVs). Ms. Matsumoto was concerned about the bike lines in the traffic calming areas as she believed it was difficult for cyclists to maneuver around cars and did not provide sufficient space. As a cyclist, Ms. Matsumoto said she would not want to ride on the 10-foot sidewalk unless it was clearly marked for biking.

Mr. Hoffman referenced Ms. White's inquiry regarding the mound of dirt and said it would remain onsite. Additionally, Mr. Hoffman said they planned to have two EV charging stations and more if the need developed. He believed allowing the drive throughs at their proposed locations would position the

redevelopment for the best chance of success. Mr. Hoffman announced the project implemented planning principles that were proven to be successful in other regions.

Brian Dunnigan, District 2, wanted to see three-dimensional models of the project. Mr. Dunnigan thought it would be important to have a three-dimensional model of the Green Mansion Project. He believed three-dimensional models of projects provided accurate renderings of proposed development. Mr. Dunnigan thought Council and staff should demand three-dimensional models or virtual reality for projects.

Frances Walsh, District 1, believed the applicant and developer should consider implementing native plants.

Lillian Grosso, District 4, believed the applicant needed to place signage to indicate bicycles were permitted on sidewalks.

Ms. Sierer brought discussion back to the table for further deliberation from Council.

Mr. Clifton questioned whether the applicant would be required to come to Council for the project if a SUP and apartments were not requested. Mr. Hoffman confirmed this was the case. Mr. Clifton emphasized the redevelopment would improve the quality of the center. In order for the project to work as a horizontal mixed-use, Mr. Hoffman announced one of the SUP's was to add the residential component. Mr. Hoffman stated the other factor of the SUP was to allow the horizontal mixed-use and not the first-floor retail.

Mr. Morehead informed Mses. Smith and Walsh the Parks and Recreation Department asked the developer to consider specific trees because of the various diseases in the area such as Bacterial Leaf Scorch. He believed staff requested the developer to plant Yellow Wood, Washington Hawthorn or Red Cedar trees.

Ms. Wallace thought it was a possibility for the apartments to become only student housing. However, she believed the fact the apartments were predominantly one- or two-bedroom units provided the opportunity for non-student residents to rent them. Ms. Wallace thought the difference between The Retreat and the project was that it [The Retreat] had four- and five-bedroom units. She believed four – and five-bedroom units would not appeal to young professionals or empty-nesters. Ms. Wallace thought the proposed apartment units might work for other types of people besides students. She believed the City needed diverse housing and saw the development as a benefit. Ms. Wallace announced there were things in the project that she liked and did not like. She was concerned with the traffic and thought Council felt held hostage by DelDOT as the people who spoke during public comment. Ms. Wallace understood Council could not force DelDOT to conduct a traffic study and restated Mr. Wasileski's comments regarding failing intersections and acknowledged traffic problems in the area. Ms. Wallace believed having the apartments in the shopping center was beneficial; specifically, she thought the reduction of commercial space in the center would potentially lessen the traffic or change the traffic patterns in the area. Ms. Wallace believed commercial-use and residential use would have different traffic patterns, potentially alleviating some of the traffic in the area.

Ms. Wallace believed there were improvements to stormwater management in the redevelopment and saw it as a benefit. She announced the current property did not have stormwater management. Ms. Wallace liked the fact that the applicant was willing to extend Delaware Avenue and said it would not be a speedway that people would use a shortcut. She thought the extension of Delaware Avenue would make residents' lives easier and thought it would help with traffic in the area. Ms. Wallace had reservations about calling the project mixed-use without the retail on the bottom and would further research horizontal mixed-use development. She thought one of the benefits of having ground floor units was they were more accessible; additionally, she believed ground floor units would be more appealing to older individuals. Ms. Wallace believed the project was an attempt to deal with the current center that she described as an eye-sore. She thought the current center was an underutilized space in the City and believed the redevelopment potentially might add vibrancy to the area.

Ms. Wallace believed the projected needed dedicated bike lanes and did not like the idea of bicycles on the sidewalk. Currently, Ms. Wallace said people were not allowed ride their bikes on sidewalks in the absence of a dedicated bike lane. With the size of the property and applicant's desire to be multi-modal, Ms. Wallace thought it would be confusing for people to understand where they could and could not bike on the sidewalks. She believed people currently were confused and generally understood they could not bicycle down the sidewalks on Main Street. Ms. Wallace acknowledged the development was private property; however, she wanted dedicated bicycle lanes that mirrored what existed in the current

rights-of-way. She encouraged the applicant to speak to Robert Witting to find out what measures were utilized at the Park N Shop location. Ms. Wallace residents looked for retail locations in the redevelopment that were similar to the Park N Shop center. She thought residents wanted something different than a regular chain store or fast-food restaurant. Ms. Wallace suggested entertainment be considered for the redevelopment. She was concerned about the drive-in restaurants as she thought it did not quite fit with everything else in the project.

Mr. Lawhorn thought the overall project was well-received by the majority of residents he spoke to. He agreed with Ms. Wallace's prior comments regarding student housing and believed the residences were correctly designed to be marketed to seniors and young professionals. Mr. Lawhorn was familiar with this type of project and said there was a new and successful development similar to the proposed project on Concord Plaza. He said there were several employees at his workplace in their late 20s and early 30s who lived in the residences at Concord Plaza and enjoyed it. Mr. Lawhorn thought it would be interesting to see how many students ended up living at the new development. Additionally, he believed it would be a good measuring stick to determine how bad the student housing situation was in the City. Mr. Lawhorn acknowledged traffic was a concern in Newark and thought the redevelopment would have an impact on traffic in the area. He believed traffic was a difficult issue in the City and expressed groups like the Transportation Improvement District (TID) would help to provide data about what traffic looked like in Newark. Mr. Lawhorn believed additional data from the TID would allow the City to work more effectively with DelDOT regarding traffic issues in Newark. He echoed the requests for entertainment in the redevelopment and believed it was lacking in the City. Mr. Lawhorn thought the Planning and Development Department should consider using three-dimensional models as it might be helpful to understand complicated projects.

(Secretary's note: Due to technical difficulties, the developer was unable to play a video of the project)

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT COUNCIL REVISE THE COMPREHENSIVE DEVELOPMENT PLAN V – LAND USE OUTLINES – FOR 46.01 ACRE BD ZONED PARCEL AT 100, 115, 121 COLLEGE SQUARE SHOPPING CENTER FROM COMMERCIAL TO MIXED-USE AS SHOWN IN EXHIBIT H (1).

Mr. Clifton voted affirmatively for the change because he thought it conformed with the area and for the reasons stated in the Planning Department's report.

Mr. Markham voted affirmatively for this change for the reasons provided by Mr. Clifton and because he thought it would not have a negative impact on adjacent or nearby properties.

Mr. Morehead voted affirmatively for the reasons stated by Messrs. Clifton and Markham.

Ms. Wallace supported the Comprehensive Development Plan change for reasons previously stated by Messrs. Clifton and Markham.

Mr. Hamilton supported the Comprehensive Development Plan change for reasons previously stated by Messrs. Clifton and Markham.

Mr. Lawhorn voted affirmatively for the reasons previously stated by Messrs. Clifton and Markham.

Ms. Sierer supported the project for reasons stated by Mr. Clifton.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(ORDINANCE NO. 19-11)

7. 10-B. REQUEST OF FUSCO MANAGEMENT FOR THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL FOR 46.18 ACRES IN ORDER TO DEMOLISH 106,009 SQUARE FEET OF EXISTING SHOPPING CENTER, CONSTRUCT 57,800 SQUARE FEET OF NEW SHOPPING CENTER BUILDINGS AND CONSTRUCT TWO APARTMENT BUILDINGS WITH 306 APARTMENT UNITS AT THE PROPERTY LOCATED AT 100, 115 AND 121 COLLEGE SQUARE SHOPPING CENTER *(AGREEMENT AND RESOLUTION ATTACHED) (SEE ITEMS 9-C AND 10-C)*

2:44:41

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE 100, 115, 121 COLLEGE SQUARE SHOPPING CENTER MAJOR SUBDIVISION WITH SITE PLAN APPROVAL AS SHOWN ON THE CDA ENGINEERING, INC. PLAN, SPECIAL USE PERMIT PLAN DATED MAY 21, 2018, REVISED JANUARY 7, 2019 WITH THE SUBDIVISION ADVISORY COMMITTEE ADDITIONS.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(RESOLUTION NO. 19-H)

8. 10-C. REQUEST OF FUSCO MANAGEMENT FOR A SPECIAL USE PERMIT FOR 306 APARTMENT UNITS IN THE BB ZONE AT THE PROPERTY LOCATED AT 100, 115, AND 121 COLLEGE SQUARE SHOPPING CENTER (*SEE ITEMS 9-C AND 10-B)*

2:44:38

There was discussion at the table regarding whether the fast-food, drive-through, cafeteria-style and drive-in restaurant needed to be voted on separately as part of the SUP. Mr. Bilodeau thought members of Council could vote on any items separately from the SUP if they had a problem with it and vote on the remaining items together. Ms. Wallace reiterated her particular concern over the drive-in restaurant.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE 100, 115, AND 121 COLLEGE SQUARE SHOPPING CENTER SPECIAL USE PERMIT FOR A DRIVE IN RESTAURANT.

Mr. Clifton supported the SUP for the drive-in restaurant because he thought it would not harm Newark's economic development, would not depress property values and believed it fit with the Comprehensive Development Plan.

Mr. Markham supported the SUP for the reasons stated by Mr. Clifton and thought it would not have a negative impact on the adjacent and nearby properties.

Mr. Morehead supported the SUP for the reasons stated by Mr. Markham.

Ms. Wallace did not support the SUP because she believed it would adversely affect the health and safety of persons residing or working within the City of Newark's boundaries or within one-mile of the City of Newark boundaries within the State of Delaware.

Mr. Hamilton supported the SUP for the reasons stated by Mr. Markham.

Mr. Lawhorn supported the SUP for the reasons previously stated by Messrs. Clifton and Markham.

Ms. Sierer supported the SUP for the reasons stated by Messrs. Clifton and Markham.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer.
Nay – Wallace.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE 100, 115, AND 121 COLLEGE SQUARE SHOPPING CENTER WITH SPECIAL USE PERMIT FOR FAST-FOOD RESTAURANT, CAFETERIA STYLE RESTAURANT, AND APARTMENTS AT DENSITY REQUESTED AS SHOWN ON THE CDA ENGINEERING MAJOR SUBDIVISION SITE PLAN APPROVAL SPECIAL USE PERMIT PLAN DATED MAY 21, 2018 AND THE REVISED JANUARY 27, 2019 SUBDIVISION ADVISORY COMMITTEE'S RECOMMENDATIONS.

Mr. Clifton voted affirmatively for the SUP because he though it promoted the health and general welfare in the area, did not challenge or create an undue concentration of population, and facilitated adequate provisions of transportation, water, sewage, parks and other public requirements.

Mr. Markham supported the SUP for the reasons previously stated by Mr. Clifton.

Mr. Morehead supported the SUP for the reasons previously state by Mr. Clifton.

Ms. Wallace supported this SUP as she believed it would not adversely affect the health or safety of persons residing or working within the City of Newark boundaries, she believed it would not be detrimental to the public welfare or injurious to property or improvements within the City of Newark, and did not believed it conflicted with the City's Comprehensive Development Plan.

Mr. Hamilton supported the SUP for reasons stated by Ms. Wallace.

Mr. Lawhorn supported the SUP for the reasons stated by Messrs. Clifton and Markham.

Ms. Sierer supported the SUP for reasons stated by Ms. Wallace.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Sierer announced there would be a five-minute break and asked people to return to chambers at 9:55 p.m.

(Secretary's note: The meeting restarted at 9:55 p.m.)

9. 10-D. REQUEST OF 96 EAST MAIN STREET ASSOCIATES, LLC FOR THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL OF 1.15 ACRES IN ORDER TO COMBINE THE PARCELS INTO ONE PARCEL, DEMOLISH THE EXISTING STRUCTURE AT 92 EAST MAIN STREET, PRESERVE AND REHABILITATE PART OF THE HISTORIC PORTION OF THE STRUCTURE AT 96 EAST MAIN STREET AND CONSTRUCT A MIXED USE BUILDING THAT INCLUDES A SEVEN-STORY, 144-ROOM HOTEL, COMMERCIAL SPACE AND 19,500 SQUARE FEET OF OFFICE SPACE WITH ASSOCIATED PARKING, AMENITIES AND ACCESSORY USES AT THE PROPERTY LOCATED AT 92, 94 AND 96 EAST MAIN STREET *(AGREEMENT AND RESOLUTION ATTACHED) (SEE ITEM 10-E)*

2:51:10

Ms. Sierer announced items 10-D and 10-E would be discussed simultaneously. She clarified Council would vote individually on item 10-E.

Ms. Schiano read items 10-D and 10-E into the record.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING FOR ITEMS 10-D AND 10-E.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Secretary's note: The meeting materials for this project are entered into the record as items 10-E and 10-D)

Ms. Gray announced the applicant requested approval for a major subdivision by site-plan approval for 1.15 acres of property located at 92, 94 and 96 East Main Street. The applicant requested approval of plans to replace existing plans retail, professional offices and residential apartments for approximately a 144-room hotel, commercial, retail and 19,500 square feet of office space. Ms. Gray said the applicant also requested a SUP for the hotel in the BB (Central Business Zoning District) as required by the City Code. She announced the applicant also sought and received approval for a 40-space parking dimension waiver from the Planning Commission. The following meeting materials were available for Council in their packets and were available online:

1. Subdivision agreement and resolution for this project;
2. Planning and Development Department summary;
3. Planning Commission Motions;
4. Planning and Development Department's 23-page staff report dated February 26, 2019

and revised March 18, 2019 with substantive attachments, &

5. Draft of the Planning Commission's verbatim meeting minutes from March 25, 2019.

Ms. Gray said the current conditions of the property supported 3,900 square feet of commercial space and three residential apartment units at 92 East Main Street, 4,500 square feet of professional offices and seven residential apartment units at 94 & 96 East Main Street. She announced the parcels include 73 parking spaces of Municipal Lot #3, currently leased to the City and owned by the property owner and parts of non-other spaces. Ms. Gray said the applicant proposed to demolish the structure at 92 East Main Street, formerly Abbott's Shoe Repair, and approximately the back half of 96 East Main Street known as the Green Mansion. The structures would be replaced by 10,500 square feet of commercial space and a hotel lobby on the ground floor – in front with two-floors – with 19,500 square office space above it. Ms. Gray expressed the parcel would include sub-level parking with three-levels of parking and four floors of hotel above. The hotel would include 13,350 square feet of open terrace on the fourth floor and a swimming pool. Ms. Gray announced the parcels were currently zoned BB and the existing uses were approved in the BB zoning district. She clarified there was no change in the zoning as proposed. The proposed hotel was allowed in the BB zoning district; however, it required a SUP.

Ms. Gray said City staff provided a schematic of the bump outs in Exhibit A and additional information in the exhibits regarding a plan in conjunction with the Main Street Rehabilitation Project. She said a bump out was currently planned in front of the Green Mansion building as well as bus lane and others. Ms. Gray expressed approval of the project would require a minor revision of the bump out plans as a result as the relocation of the driveways for this project. She announced DelDOT and the applicant are aware of the potential need for design changes; moreover, if addressed promptly, it would not have a negative impact on the project's schedule for the Main Street bump out project.

Ms. Gray announced the Planning Commission discussed the historic preservation of the City Code related to the applicant's project. 96 East Main Street, commonly known as the Green Mansion, is included in a list of historic buildings and sites pursuant to City Code. The Code indicates a review and approval by the Planning Commission and City Council for a Certificate of Economic Hardship is required if a property owner of a historically listed building is proposing to either demolish the historic building in its entirety or a significant part of the exterior, architectural façade. If the Planning Department − as determined by the Planning Director − find the proposed demolition does not impact a significant part of the exterior architectural façade, then a partial demolition does not need a Certificate of Economic Hardship and the planning can proceed. Ms. Gray said exterior architectural façade is defined in City Code to mean the architectural style, design and general composition of the exterior of a structure that can be seen readily from the street or sidewalk or way open to the public. Ms. Gray said the clause "way open to the public" was inadvertently left out in the staff report. Per City Code, a significant part refers to a substantial change in design and appearance that materially alters the exterior architectural façade and exceeds 50%.

Ms. Gray said the applicant indicates the original 1882 building was a three-story section from the front, extending back about 48-feet. The back 16-feet of the structure was added in 1915. Ms. Gray stated the one-story structure at the front on the east side of the building was added between 1949 and 1961. The National Register of Historic Places nomination of this project – included in Exhibit F of the Planning Department's Staff report – lead to the structure being included in the City of Newark's list of historic buildings and sites in the City Code. Ms. Gray expressed the applicant proposed the removal of the front of a 1950s addition, the rear 1915 addition and the back 18-feet of the original 1882 structure. While the site plan appears to show about 23-feet of the original structure's west wall concealed by the new structure, Ms. Gray clarified only the first floor of the historic structure would be covered. The second and third floor of the original structure would still be exposed and visible from the street. Ms. Gray announced the original bay window with green facing would be removed from the west side of the structure, with another brick bay window removed from the east side of the structure.

She expressed the proposed plan preserves 100% of the original 1882 three-story building façade that faces East Main Street and 54% of the total original building. The color and some design details will be implemented in sections of the new structure to the west. Ms. Gray said the proposed plan complied with this provision [historical preservation] of the City Code.

Ms. Gray said the plan submitted for review by the Planning Commission had four variances listed. Since the Planning Commission's meeting on March 5, 2019, the applicant revised the plan to reduce noncompliance with the zoning requirements. Ms. Gray said the applicant specifically reduced the building height from 82.2 feet to 79 feet, complying with City Code. Additionally, the applicant added two loading spaces and eliminated the projecting sign. Ms. Gray expressed the only remaining City Code requirement not met by this plan was the size and clearance height of one of the loading spaces.

Therefore, the applicant sought a variance of the site plan approval provision of City Code for reduction of the loading area and overhead clearance.

Ms. Gray announced applicants for development of Down Town commercial properties are encouraged to present their designs to the Newark Design Committee. She said the applicant presented the design to the Newark Design Committee for review on February 21, 2019. The Newark Design Committee recommended that City Council approve this project. Ms. Gray announced the Design Committee's comments included the use of contrasting brick stone and cultural stone, good fenestration, pattern of windows and others. She stated the Subdivision Advisory Committee reviewed the project and their comments and recommended conditions of approval are included in Council's staff report and shared with the Planning Commission.

The Planning and Development Department staff recommends approval of the major subdivision with site plan approval and SUP. Ms. Gray said this approval was based on findings that the proposed plan meets the City of Newark's Code, utilizing the site plan approval provision. Additionally, the plan conforms to the Comprehensive Development Plan which calls for mixed-urban use for this parcel, provides a diversity of uses in the Down Town area and should not have a negative impact on the adjacent or nearby properties. Ms. Gray read the Planning Commission's recommendations and decision dated March 5, 2019 into the record.

Mr. Bilodeau said the matter at hand was a proposed building that was within City Code but for on undersized loading dock. He clarified a hotel was allowed in the current zoning with a SUP. Mr. Bilodeau announced there was a three-pronged test which which must be met in order to grant a SUP:

1. The hotel must not adversely affect the health or safety of persons;
2. The hotel must not be detrimental to the public welfare or injurious to property or improvements in the City, &
3. The hotel must not conflict with the purposes of the Comprehensive Development Plan.

Mr. Bilodeau clarified the hotel did not conflict with the purposes of the Comprehensive Development Plan; therefore, it was not an issue for the current project. He announced Council needed to determine whether the hotel would adversely affect the health or safety of persons in Newark or if it would be detrimental to the public welfare.

Ms. Sierer opened discussion to Council.

Mr. Clifton asked Ms. Gray for clarification regarding the revised copy and original copy of the agreement in items 10-D and 10-E. Ms. Gray deferred to Ms. Schiano for this question. Ms. Schiano clarified the City's different department heads submitted changes that were included in the revision.

(Secretary's note: The developer's presentation for this project is entered into the record as Exhibit 3)

Jeff Lang, 29 West Park Place, announced he was the developer for the project. Mr. Lang said he would cover some of the same points mentioned by Ms. Gray and Mr. Bilodeau. He announced the design focused on maintaining the majority of the existing historic structure and carrying many of its features to the new portion of the building. Mr. Lang clarified the project would preserve the entire front of the Green Manson and expressed more than half of each side of the historic structure would be preserved. He announced Lang Development worked with Dr. Erin Coxe, a dentist with a former office in the Green Mansion, and relocated her dentistry practice to an adjacent site on Center Street in the City. Mr. Lang considered the historic structure of the Green Mansion and how important it was to incorporate it into any design moving forward. He worked with developer Chris Locke on projects in the City for over 20 years and developed and preserved many buildings (see Exhibit 3).

Mr. Lang expressed he looked at the components of the hotel; specifically, the amount of rooms necessary to make a hotel economically viable and the parking requirements associated with it. Because they acquired the adjoining 50-foot wide parcel next door [Abbott's Shoe Repair], Mr. Lang said they were able to build a parking structure. He stated another three-story building would be added to the west side of the site to give the same scale on the street. Mr. Lang announced a large portion of the four-story building was approximately 60-feet back from the street. Mr. Lang announced they modified the plan based on the Planning Commission's recommendations from the March 5, 2019 meeting (see Exhibit 3).

Mr. Lang expressed they met with Bill Sullivan with the University's Courtyard Marriott, who believed it was a great idea to build a hotel on Main Street. The developer met with the University's Hotel and Restaurant Management group who supported the idea and welcomed the opportunity. Mr. Lang announced the HVS feasibility study showed a strong demand for a hotel on Main Street. According to HVS, surrounding hotels in the local market are in the 75% occupancy range and all exceed 120 rooms. Mr. Lang thought the hotel would accommodate the University's growth and anticipated demand from events in nearby Cecil County and New Castle County.

Mr. Lang listed the partners for the project:

1. Lang Development Group,
2. GG&A Construction,
3. TKO Hospitality,
4. Hyatt Corporation,
5. The City of Newark, &
6. Local business Community.

(See Exhibit 3).

Mr. Lang announced the Hyatt brand was selected for the hotel and received the second-best brand ranking in the world by Trip Advisor. He announced Hyatt's traveler profile has an average income of $106,000, averaging nine business trips per year. Mr. Lang said Hyatt was a top-rated employer of diversity according to Forbes. He believed the Hyatt brand would help draw people to Newark because of their worldwide reservation system and performance history.

Mr. Lang provided the project attributes as follows:

1. Ideal location for a hotel,
2. Excellent architectural design,
3. High quality hotel brand – Hyatt,
4. Economic driver for Newark's down town;
5. Parking facility for the benefit of the project and the public;
6. Potential collaboration with the arts community, &
7. Environmentally sensitive design meeting LEED requirements.

Mr. Lang considered concerns on East Main Street and stated the north side of the street was constantly sunny. Conversely, he said the south side of the street did not experience a lot of sun. Mr. Lang stated a shadow analysis was performed and determined the following: (1) No impact on Main Street due to the buildings' northern location on the street and (2) Little exposure from adjoining roads due to location on the north side of the street. He announced the parking garage was 120-feet wide and the hotel was 65-feet wide. Mr. Lang said the outdoor area included a pool, outside seating for potential visitors and gave the hotel an opportunity to showcase Newark.

Mr. Lang intended to make the parking garage more appealing and environmentally sensitive; therefore, he proposed to incorporate an Ivy wall around three sides of the garage. Electric charging stations would be added to the facility. Mr. Lang worked with the builder to utilize sustainable building materials wherever possible. He said parking lots had many bad storm water management practices and announced the project basically would be built on top of a parking lot. Mr. Lang clarified the parking lot would be completely covered, the water would be removed and would be released over time. Additionally, some of the water would be reused to irrigate the project's landscaping. Mr. Lang described it as a three-tiered, positive event by simply covering the parking lot. He saw an opportunity to put solar panels on the hotel's roof because it was flat. Mr. Lang hoped the incorporation of solar power on the hotel's roof would encourage solar throughout the University, City and private owners.

Mr. Lang said the parking garage originally was designed to be three-stories with originally designed the parking garage to be three-stories with 180 parking spaces. The new parking facility would have 244 spaces, exceeding the City Code requirement. Mr. Lang described the benefit for the public and the breakdown of parking spaces for hotel guests/employees and tenants (See Exhibit 3). He emphasized the new parking facility would provide 84 spaces for public use. Mr. Lang displayed site plans and aerial photos of the project in Exhibit 3. He announced the parking for the project was segmented into three spots, improving traffic flow since people no longer would enter or exit at the same spot.

Mr. Lang anticipated the hotel would generate over 200 new construction jobs during its 15-month build period with many contractors from the local area. Once the hotel was open, Mr. Lang

projected the Hyatt would generate many full and part-time employment opportunities with an estimated annual payroll in excess of $1 million. Mr. Lang estimated the Hyatt would generate 75 additional service jobs in the local economy as well as 10 new employees in related capital investment income.

Mr. Lang listed the following economic benefits from the project to the community:

1. Annual room nights in excess of 40,000;
2. Local community impact in excess of $2.4 million annually ($60-$65 per room night);
3. Potential for many new retailers;
4. Annual city and state lodging tax in excess of $450,000;
5. New Property tax and utility revenues in excess of $550,000;
6. Overall annual net economic gain to the City in excess of $375,000, &
7. Office space created other new businesses for Newark's downtown area.

Mr. Lang listed the following site plan considerations:

1. Building height of 3.2 feet has been eliminated;
2. Front yard setback of 3.7 feet has been eliminated;
3. Signage request has been eliminated, &
4. Third loading bay for height and area is still needed.

He believed the project did not conflict with the City's Comprehensive Development Plan and did not believe it was detrimental to the public welfare. Mr. Lang announced the project did not adversely affect the health or safety or persons residing in the City. He believed the hotel was a benefit to the community of Newark. Mr. Lang projected the hotel would generate over $25 million over the next 10 years for the community through additional spending. Additionally, he predicted the project would bring a $4 million benefit in revenue to the City over the next 10 years.

Ms. Sierer opened discussion to the public.

Mr. Markham believed the issue in question pertained to whether the hotel was good or bad for Main Street in the particular area. He was concerned with traffic and timing of the project and visited hotel at Route 273 and Route 72. Mr. Markham went to the hotel when it was fully occupied and observed almost no traffic going in and out; additionally, half the parking spaces for the hotel were available. He did not foresee overcrowding would be an issue. Mr. Markham asked whether there would be three entrances to the hotel that would control parking. He questioned if the City would have a different exit to deal with. Mr. Lang spoke with City staff to relocate the booth on the present property to provide and egress. He expressed Center Street would have its own in and out. Mr. Markham asked Mr. Lang what time he anticipated people would come in and out of the hotel.

Kostas Kalogeropoulos with TKO Hospitality said a typical hotel guest had a check-in window from 7:00 p.m. – 11:00 p.m. Mr. Kalogeropoulos stated morning check out typically occurred between 5:30 a.m. – 8:00 a.m. He believed it was necessary to compare the dynamics of hotel parkers versus community parkers. Mr. Kalogeropoulos thought the hotel would provide the perfect synergy between hotel parkers and community parkers. Mr. Markham asked Mr. Kalogeropoulos for how long he was in the hotel business. Mr. Kalogeropoulos first job on a hotel was in Amsterdam, Holland in 1968. Mr. Markham questioned whether Mr. Kalogeropoulos ran the hotel in 1968 and he confirmed this was the case. Mr. Markham believed Mr. Kalogeropoulos' experience and background were sufficient to successfully run a hotel and would help with decision making for the SUP. Mr. Markham asked for clarification regarding the hotel's City lodging tax. The Planning Department's conservative City lodging tax estimate from the hotel would be close to $216,000; additionally, the City property tax upon the hotel's completion to be approximately $166,000. Mr. Locke said 90.97% went towards public school taxes.

Mr. Markham questioned whether the hotel parking garage would be available to the public at all times. Mr. Lang said parking would be available if spaces were available. Based on current information, Mr. Lang anticipated the parking garage would be available 24 hours for the public. Mr. Markham questioned whether the applicant considered leasing the rooftop to the City for the solar project. Mr. Lang discussed this possibility with an individual in charge of the project and believed it would be considered based on certain economic ramifications. Mr. Markham questioned whether the applicant considered to match the City's parking rate for the hotel parking garage. Mr. Lang thought it would be beneficial to look at the parking lots in the area to work with the City's parking structure. He believed the parking garage would be within $0.25 – $0.50 of the City's rates.

Mr. Locke said he was a member of the City's Parking Subcommittee where the economics of parking in Newark's down town area would be discussed. He thought New parking needed to be treated as a product and priced according to demand.

Mr. Clifton thought collaborative efforts between the City and the applicant were necessary regarding parking as they moved forward. He asked how the public would know they were allowed to park in the parking garage. Mr. Locke agreed to put up signage for the public to know they could park in the parking garage. He discussed the potential to utilize a sign count similar to the type used in the City's lots with City staff. Mr. Clifton questioned whether City Code or State Code took precedence or if they were stacked codes. Mr. Lang submitted the proposed design back in October and did not hear about this concern until it went before the Planning Commission. He thought the issue regarding City Code or State Code precedence should have been mentioned earlier in the process to address it; however, Mr. Lang emphasized they were committed to historic preservation efforts in and around town. Mr. Clifton questioned how risky it would be to preserve the Green Mansion while building around it. Mr. Locke did not foresee issues in preserving the Green Mansion as they were experienced in this type of development. Mr. Clifton questioned whether the area between M&T bank and Caffe Gelato had an egress or exit point and Mr. Lang confirmed this was the case.

Ms. Gray clarified City staff spoke at length on the issue with the applicant and met with M&T bank. She expressed the timing would be timed to the project and the applicant – as stated in the subdivision agreement – agreed to pay for any of the renovations that needed to be done to Lot #3 west. Ms. Gray said the plan current intent was to change the Dairy Queen's entrance to an exit and move the parking attendant booth from Center Street. She mentioned the potential for items such as parking kiosks that would be discussed over the next month. Ms. Gray said the current agreement was for the City to continue management of the M&T parking lot and work reconfiguring it. Mr. Clifton asked for clarification regarding why people would enter as opposed to exit a parking lot at a signalized intersection. Mr. Locke said entrance at the signalized intersection would minimize congestion at the area where people exited to Academy Street. He told Mr. Clifton he believed the City of Newark had one of the strictest historical preservation ordinances and the State's ordinance would not apply here.

Mr. Morehead questioned whether it was necessary to negotiate a permanent fire lane access easement. Ms. Gray said the plan showed a fire lane access off of Center Street and the subdivision agreement expressed any applicable easements needed to be negotiated during the CIP process. Mr. Morehead asked Ms. Gray if she agreed with the 220-parking space requirement and she believed the calculations were correct. He questioned whether the 220-parking space requirement might increase to 280+ parking spaces if a restaurant was included. Ms. Gray confirmed this was the case and stated the City's parking requirements for restaurants depended on the number of seats [in a restaurant]. If a restaurant became a tenant after the property and the parking lot was built with 244-parking spaces. Ms. Gray said this would not be in City Code and the applicant would be required to come back to the Planning Commission – and possibly Council – for a parking waiver. Mr. Morehead questioned whether Council looked at parking waivers and Ms. Gray clarified Council did not take a look at them.

Mr. Morehead believed it was up to Ms. Gray and the Planning and Development Department's discretion to decide changes that were classified as significant. He had a different perspective on what was significant for the historical preservation provision. Mr. Morehead asked for clarification regarding the distance of the building from the property line as it related to an enclosed parking garage design. Ms. Gray said the enclosed garage design was a requirement of the City's Building Code; moreover, the Code required a 10-foot setback from the building line to the property line for the garage to be an open design. Mr. Lang told Mr. Morehead they designed a garage that had more than 25% open on one side; specifically, 40% of parking spaces were in the garage with 25% in the hotel component. According to Mr. Lang, the Planning and Development Department asked them to reduce the amount. Mr. Lang emphasized the language in the subdivision agreement said, "The developer agrees to design a parking garage to comply with the Building Code as it pertains to open penetrations of no more than 25% on the 102 East Main Street property." Mr. Lang believed the word "enclosed" was not understood correctly and clarified the issue with Ms. Gray.

Mr. Morehead was concerned with the entrance and exit point to the parking lots. He believed the plan showed Lot #3 was a collection of privately-owned property that was leased to the City for many years. Mr. Morehead said Lot #1 was completely under the City's ownership. Mr. Morehead wished for a more distinct parking plan from the applicant as to how it would affect the City's parking lots. He believed pedestrian safety was an issue currently with the one exit and did not believe the entrances were the main problem. Mr. Morehead was concerned with the project's multiple exit points.

Ms. Wallace questioned whether all outstanding agreement items were resolved and if the agreement before Council this evening was the final version and Mr. Lang confirmed this was the case. She asked the applicant to provide information regarding efforts to coordinate with DelDOT as far as the rehab of Main Street and timing of construction. Mr. Locke said construction would begin on Monday (April 4, 2019) and would coordinate with them soon. He announced preliminary discussions on this matter occurred during public workshops and would continue.

Ms. Sierer opened discussion for public comment.

Dave Hanich, District 5, expressed support for the project. Mr. Hanich announced he constantly drove his kids to and from sports practices and various other events throughout Newark. He said they lived just north of the University in Fairfield Crest. Some of the sporting events Mr. Hanich's kids participated in took place at the Little Bob (Carpenter Sports Building). At a recent swim meet at the Little Bob, Mr. Hanich said a large percentage of families traveled from New York and New Jersey. According to Mr. Hanich, most of the families stayed overnight at hotels in the area. Mr. Hanich thought traffic often was congested at the area of New London Road approaching Cleveland Avenue. Adding a swim meet to this equation worsened traffic because several thousand people came to the City and stayed there for the weekend. Mr. Hanich spoke to people at the swim meet who indicated they would like to stay at a hotel on Main Street. He believed the hotel on Main Street would decrease traffic and promote a walkable environment.

Representative John Kowalko, District 4, was concerned with the Green Mansion's historic preservation. He believed there were many problems with traffic on Main Street already and thought the project's parking spaces were insufficient. Representative Kowalko expressed concern over the egress points and thought the Planning Commission did not approve the project. He thought a seven-story structure was out of character for Main Street and did not fit with the surroundings in the area. Representative Kowalko described the applicant's preservation as laughable. Representative Kowalko believed the City was not a Monopoly board; furthermore, he believed people should not be allowed to buy up any available property and build monolithic structures where they desired. He thought Newark's charm and history would be forfeit by the developer. Representative Kowalko believed Newark operated by a certain standard of dignity and should continue to do so. He believed Council's purpose was to cast a vote on this project for the City's betterment. Representative Kowalko thought it was time for Council members to take their responsibility to Newark's residents seriously. He believed Council should oppose the project and oppose the special interest a few over the rights and interests of many.

Ms. Sierer reminded the audience to refrain from shouting and applause to maintain decorum of the public meeting.

Connie Moore, District 4, lived at 14 Kells Avenue and was impressed by the sheer number of properties the developer owned in the City of Newark. Ms. Moore loved her street and house. She expressed her home previously was a student rental property and she spent six years renovating it. Ms. Moore supported the 924 Barksdale project and College Square project as she believed those areas needed responsible development. She opposed the Green Mansion project as she thought Main Street was already over-developed. Ms. Moore believed Main Street's over-development resulted in constant discussions regarding parking and traffic. She thought people could not get around Newark well and were unable to go from east to west in the City. Ms. Moore believed the Green Mansion project would exacerbate traffic. She thought the City of Newark did nothing over the last 10-years to successfully address parking; furthermore, she believed the City favored bigger, taller development. Ms. Moore believed the Green Mansion project would decimate a historic building and was an example of bigger and taller development. She thought other developers would come back to Council to request bigger and taller development if the Green Mansion project was approved.

Ms. Moore described Main Street as a lost cause due to traffic on the sidewalks and crowding. She believed this was not the case at other university towns. Ms. Moore believed Council would not be able to say no to other projects if they approved the Green Mansion project. She thought the City needed to redo the Comprehensive Development Plan to reflect the needs of the City and residents as opposed to the financial gains of developers. Ms. Moore believed Council should place a moratorium on additional development until they fixed the Comprehensive Development Plan. She described the City Code's provision for preserving national historic buildings as absurd. She was not convinced City Council had residents' best interests in mind. Ms. Moore believed the Green Mansion project did not promote the health, safety and wellbeing of the City or its residents.

Pamela Bobbs, District 2, thought the proposed hotel's size was overpowering and was disappointed that the Green Mansion would be torn down. Ms. Bobbs was most concerned with

preserving the Green Mansion's historical significance and thought it was an architectural treasure on Main Street. She ceded her remaining time to Dr. Michael Chajes.

Michael Chajes, District 2, announced both he and Ms. Dobbs lived down town and saw the Green Mansion his apartment. Dr. Chajes' believed the project should maintain the Green Mansion as a focal point. He thanked Messrs. Lang and Locke for the opportunity to meet with them and discuss concerns related to the project's historic preservation. Dr. Chajes said he was assured the developer would look at the Green Mansion's façade to ensure it remained a focal point. He thought the hotel would provide a great benefit and believed it posed a great economic opportunity for many businesses and retail. Dr. Chajes believed Lang Development followed all the rules and regulations for the project; however, he was dismayed at the rules and regulations. He echoed Representative Kowalko's comments regarding the City's rules and regulations; however, he did not think the Green Mansion project should be prohibited from moving forward as it complied with the City's current rules and regulations.

Dr. Chajes questioned whether Council was aware of the Green Mansion's historical significance. He interpreted the Comprehensive Development Plan to be fairly generic and believed it needed more direction. Dr. Chajes appreciated Messrs. Lang and Locke's leadership regarding solar and thought it would be a great partnership between the City, University and Lang Development.

Ed Burke, District 3, supported the proposed hotel and office development as he believed it would be beneficial to the restaurants and retail on Main Street. A recent study of 724 guests in 33 hotels was conducted by Boston University's School of Hospitality and Administration and titled, *"A Detailed Study of Expected and Natural Uses of Hotel Amenities".* He believed the hotel would increase revenue for restaurants and businesses within the area. Mr. Burke thought the hotel would diversify Main Street's businesses and retail choices.

Catherine Johnston, 937 Rahway Drive, adamantly opposed the project and stated she submitted a letter of opposition to Council. Ms. Johnston thanked Representative Kowalko for his comments on the project and echoed his concerns. As a citizen, she found it difficult to figure out the status or receive updates about the project. Ms. Johnston thought she did not have a way to review the meeting materials or plans like Council was able to and did not know where she should go to ask questions. She was frustrated with the communication and wished she had the chance to look at the plan before it went to the Planning Commission. Ms. Johnston thought the project moved quickly through the City's processes and thought it was unfair for the public.

Michael McGrath, non-resident, resided in Smyrna, Delaware. He informed the audience he was the current serving president of Preservation Delaware Incorporated (PDI) and was a member of the American Institute of Certified Planners. Mr. McGrath said PDI is a statewide, nonprofit organization and was concerned with the preservation of Delaware's historic buildings, landscapes and archeological treasures. He hoped to gain Council's support in preserving the building known as the Green Mansion. Mr. McGrath urged Council to use the subdivision approval process to preserve the entire building known as the Green Mansion. He announced the Green Mansion was one of approximately six buildings in Delaware built from green serpentine stone. Mr. McGrath said the Green Mansion was listed on the National Register of Historic Places. He believed historic buildings were a key component of the history and quality of life in small towns and cities like Newark.

Mr. McGrath thought America's future economy would be driven by technological and information industries and knowledge workers of the future. He announced studies have shown valuable job generators as very mobile; furthermore, they would be located in places with a high quality of life attractive to employees. Mr. McGrath thought young professionals employed by technological and information industries sought to live and work in places that are attractive. Furthermore, he believed people wanted to experience a quality of life that includes a sense of history, place and quality experiences. Mr. McGrath thought retirees and senior citizens sought out small towns and cities like Newark. He thought places like Newark are ideally positioned to take advantage of these future opportunities. Mr. McGrath announced PDI urged Council to be careful in preserving features of the City which gave it a sense of real place and history. He thought the Green Mansion was a great example of how the decisions made today would influence the future prosperity of Newark and the rest of Delaware. Mr. McGrath said PDI believed Newark's future economic prosperity and quality of life depended on today's decisions for historic preservation. He welcomed the chance to work with Newark in the future for steps to protect its historic heritage.

Robin Billey, District 3, was born and raised in Newark and attended Newark Highschool and the University. She expressed interest in the City and restated Mr. Bilodeau's prior statements regarding the standards by which the plan would be judged. Ms. Billey opposed the plan and hoped Council would vote

against it. She said the residents of Newark were Council's constituents, not the people who came out of town for a day or night. Ms. Billey thought traffic, parking and historical preservation were the main issues with the project. She believed it was obvious the residents did not want the building and thought it was oversized. Ms. Billey thought the hotel would be more appropriate in areas such as College Square or Star Campus. She believed the Planning Commission did not fully support the project and thought Council should not proceed with approval at this time.

Kevin Moore, District 6, commended Representative Kowalko for his passion and prior comments. He thought Council should consider a moratorium for development in the Main Street area. While he appreciated Lang Development's revised proposal, Mr. Moore thought it was evident they did the bare minimum to comply with City Code requirements. Mr. Moore believed the City's Comprehensive Development Plan and City Code needed to be revamped. He did not believe the egress onto Main Street from the project's lots would improve traffic and thought it would make it worse. Mr. Moore claimed it was difficult to drive or walk down Main Street between 3:00 p.m. – 6:00 p.m. He thought the proposed parking in the area was insufficient.

Michael Emmons, non-resident and architectural historian at the University of Delaware, came to the meeting to speak about the Green Mansion's historical significance. He did not believe anyone – even the applicant – contested the Green Mansion's historical and architectural significance. However, Mr. Emmons was troubled by the fact he believed the project appeared to go through a process that was not a process. As he was aware, Mr. Emmons thought the Historic Building Code was ignored; furthermore, he said an entire building – not a portion of a building – would be listed on the National Register of Historic Places. Mr. Emmons referenced Chapter 7, section 19 (b) of the City Code and thought it defined exterior architectural façade as, "The architectural style, design, and general composition of the exterior of a structure that could be seen readily from a street sidewalk or way open to the public." He did not oppose a hotel being built on Main Street or behind it; however, he supported historic preservation and thought the Historic Preservation Ordinance was ignored for the current project. Mr. Emmons believed the project's high level of alteration should have triggered the Historic Preservation Technical Advisory Committee to advise and assist on the application process. He emphasized the University's Center for Historic Preservation and Design was not contacted regarding the project. Mr. Emmons adamantly believed the approval process needed to be reviewed since the Green Mansion was one of the most historic buildings in the City and did not trigger a historical review.

Jean White, District 1, said she had six minutes as Anita Rush ceded her time. Ms. White was very upset and strongly opposed to the seven-story hotel plan which incorporated approximately 50% of the Green Mansion and demolished the back half. She restated the Green Mansion was on the National Register of Historic Places and was on the City's Historic Building Register. Ms. White thought the Green Mansion was a Victorian Jewel. She believed the project would engulf and overpower what would remain of the Green Mansion building. Ms. White thought the hotel would dominate the street and would be out of scale and out of character with the rest of Main Street. She believed the project removed key features of the Green Mansion. *(Secretary's note: Ms. White provided Council with pictures of the Green Mansion at the dais)* Ms. White said the Green Mansion could be viewed not only from Main Street and the Sidewalk, but from the walkway to Lot #3. She thought the Green Mansion had four facades. Ms. White questioned the developer's calculations regarding removed versus remaining façade. She believed 54% of the Green Mansion's façade would be removed with 46% remaining. Ms. White said the entire Green Mansion was on the National Historic Register.

Ms. White referenced Appendix 13 of the Newark City Code, "The Design Review for Down Town Commercial Projects." She restated the proposed seven story hotel complex distorted the streetscape and thought it would set a precedent for other historical buildings. Ms. White thought the present exit from Lot #3 onto Main Street was beneficial as one could exit with a traffic light. She believed the proposal would reverse the exit lane and would become an entrance only to the proposed hotel. Ms. White expressed concern regarding parking and thought people would be required to circle around Main Street. She believed Council needed to vote against the proposed plan.

Patricia Fogg, District 1, had been a City resident for almost 40 years. Ms. Fogg retired from employment with the City in 2013 as the City Secretary after a 34-year career. She supported the proposed hotel. Ms. Fogg witnessed the City's growth and evolution of Main Street. She acknowledged hearing previous concerns from residents − who lived side by side with students – about the problems that occurred on weekends. Ms. Fogg said concerns were addressed through creating incentives to developers to bring students down town. As a result, she explained developers' projects were approved that placed the students in apartments above [Main Street's] businesses. Ms. Fogg believed Main Street was welcoming and inviting to Newark's visitors. She thought people in the past wished to have a hotel down town and believed Lang Development was willing to invest their time and dollars to complete a

hotel. Ms. Fogg thought the hotel would have a significant positive impact on Newark's down town businesses. She believed the hotel would limit Main Street traffic by bringing overnight visitors within walking distance of what Newark has to offer.

Ms. Fogg believed the Green Mansion's historic facades and character would be saved because of the City's Historic Preservation Ordinance. She announced preservation of historic buildings cost money. Additionally, Ms. Fogg thought the best way to ensure historic structures lived on was to promote their reuse in ways that provide adequate funds for current and future owners. She acknowledged concerns regarding the hotel's size and stated hotels did their research to determine whether it would be successful at a specific location. Ms. Fogg liked that the hotel parking would be available to the public. She encouraged Council to support the project. She thanked Ms. Sierer for her service to the City of Newark and congratulated Mr. Coleman on his promotion to City Manager.

Charles Hughes, District 5, moved his family to Newark from Minneapolis, Minnesota in 1989. For He enjoyed the City for over 30-years and thought it was a great community to live in. Mr. Hughes supported the proposed hotel on Main Street. He thought the proposal would enhance the work being done in Newark and would make Main Street a better location. Mr. Hughes thought increasing guests and visitors to the City was a benefit for the community. He believed a hotel provided the City with the chance to bring and entertain guests. Mr. Hughes thought the hotel embraced the concept of Stay and Play, where guests could stay at the hotel and walk to various destinations. He believed the hotel fit in with the concept of Stay and Ride, where people could stay at the hotel and commute by bike to their destinations. Mr. Hughes hoped Council would support the project.

Sheila Smith, District 4, lived in Newark since 1980 and observed significant change in Newark as well as the loss of historic buildings. Ms. Smith thought the character of Main Street changed dramatically. While she was not opposed to a hotel on Main Street, Ms. Smith thought the project seemed entirely out of scale to the City. She believed Newark was not a big town and thought the proposed hotel would feel imposing. Ms. Smith thought a smaller hotel would be more appropriate that incorporated the charm of the Green Mansion and believed it would be a positive addition to Newark. She was concerned whether the amenities in the hotel competed with existing restaurants and businesses. Ms. Smith thought it was unclear if the plan was compliant with the City's Historic Preservation Ordinance. She was concerned if the proposed hotel would compete with the other hotels in the City of Newark. Ms. Smith thought there was significant empty space in other parts of Newark that would be appropriate for the project. She believed the developers should come back to Council with a better idea. Ms. Smith hoped the developer would not use ivy on the parking garage as it was an invasive species.

Robert Wittig, 4607 Beechwold Avenue, Wilmington, Delaware supported the project. He understood the passion of the people opposed to the project; however, he thought a great deal of insight and ingenuity went into the plan. Mr. Wittig traveled throughout the country to many university towns and believed the project was an amenity that Newark could benefit from. He believed the design on the hotel aligned with the principles of walkability and embodied what he thought Main Street should be. Mr. Wittig thought the hotel would help out businesses on Main Street and believed commerce should take place. He believed it was often economically impossible and functionally obsolescent to conform historic buildings to the City Code's standards. Mr. Wittig thought Council should support the project.

Mike Monigle, non-resident, owned a business on Newark's Main Street and several businesses in the State of Delaware. As a retailer, he looked to become a part of the community. Mr. Monigle believed a project like this would help Newark evolve and continue to thrive. He supported this project and hoped Council would vote in favor of it.

Ed Klima announced he was 28-year resident of Newark and was a Safety Officer for AETNA Hook, Hose and Ladder. He remembered a similar conversation many years ago about the Washington House on Main Street. Mr. Klima said AETNA had been a neighbor of Washington House for many years and thought the proposed project had the potential to be a great neighbor as well. When looking at college towns across the country with AETNA, Mr. Klima said the proposed project fit in well. Additionally, Mr. Klima thought the hotel provided the opportunity to increase the City's tax base. He appreciated historic structures and announced AETNA operated from two such buildings on Academy Street. Mr. Klima announced historical buildings often reached a point where they were target hazards from a fire safety perspective. He believed the existing Green Mansion as it stood was a target hazard and concerned AETNA because of long hose stretches and other items. Mr. Klima said developers who came to the City and proposed Type 1 or Type 2 construction – noncombustible fire-resistant construction – benefitted AETNA as a fire service because it reduced their risk.

Eric Palm, General Manager of Capital Environmental Services (CES), said CES was a nationwide provider of hazardous and non-hazardous waste contracting services with offices throughout the U.S. and Puerto Rico. Mr. Palm announced CES closed their corporate office in northern Virginia and moved it to Newark, Delaware. The Newark office employs eight people, with five paid internships to University students. Mr. Palm said CES was the first employer for several recent University graduates. He described CES as a small business in an extremely competitive market dominated by large firms. Mr. Palm announced CES business grows through unique relationships with clients and employees. He announced CES entertained potential or existing clients on Main Street and would continue to do so. CES always wished for a hotel in Newark's down town area. Mr. Palm believed a Main Street hotel would serve as a hub for CES's lodging, meeting and entertaining needs for years to come; additionally, he thought other businesses would benefit from the hotel.

Aedan Locke, District 1, announced he grew up on Main Street and lived in Newark for all 17-years of his life. As he grew up, Mr. Locke wondered about the purpose of the Green Mansion. Mr. Locke believed the project would make the Green Mansion serve a purpose as it would be the centerpiece of a beautiful new hotel. He thought Newark was a great City and believed it was not always given the credit it was due. Mr. Locke thought the City's hotels greatly impacted visitors' opinions of Newark as a whole. He announced the Super 8 motel was the only hotel on Main Street at the moment which he thought looked worn-down. Mr. Locke believed the proposed hotel would greatly benefit Main Street and thought it would positively impact views towards the City of Newark. He thought parents of University students would like to stay at the hotel over Parent's Weekend. Mr. Locke thought the hotel's central location would reduce DUIs in the City of Newark by providing intoxicated people with a place to stay.

Steve Hudson, District 5, commended Mr. Lang for his expertise in building. Since he had been in the construction industry for all of his life, Mr. Hudson questioned whether Mr. Lang had comprehensive demolition and construction plan. Mr. Hudson announced the developer would build the project in a compact area. To remove of build the hotel, Mr. Hudson said the developer would build it from the inside out or outside in. He questioned the available footprint for the project.

John Morgan, District 1, asked for clarification regarding the project's timeline and if there would be complications with the two-years' worth of work on Main Street to improve the roadway. Dr. Morgan echoed Ms. Johnston's prior comments to the effect he thought it would have been beneficial to provide the public with more advanced notice. He believed the developer should have held at least one public meeting like the two previous applicants did. Dr. Morgan attended the majority of the Parking Subcommittee's meetings in the fall of 2017 which focused on the issue of whether there was a real problem with parking on Main Street or it is was a perception. He adamantly believed further development projects on Main Street should not decrease the availability of public parking. Dr. Morgan was not concerned whether a set-back was 8.2 feet or 10 feet; moreover, he was not concerned with the building's height. He encouraged the developers to take a step back and review their plans and thought the developer could consider to adding an extra level of parking. Dr. Morgan thought it would be a real plus if the developer could preserve even more of the Green Mansion.

Lillian Grosso, District 4, thought the plan's parking entrance and exits would detrimental to the public's health and safety. Ms. Grosso believed the shadow study was conducted in June and thought the shadow would be greater during other times of the year. Additionally, she was concerned with the affect the hotel's shadow might have on surrounding buildings. Ms. Grosso believed the Historical Building Technical Advisory Committee should have been called and thought the entire plan was a detriment to Main Street's character.

Sheila Anderson, District 1, supported Representative Kowalko's comments regarding the project. Ms. Anderson suggested the developer needed to present three-dimensional models. She thought City needed to constructively change the way they interacted with residents when it came to development of large construction projects like the Green Mansion. Ms. Anderson believed the hotel project was in a highly traveled area which affected the City's ambience and its residents. She stated the Lang Development group did not hold any community meetings regarding the plan for the hotel. Ms. Lang thought residents needed a chance to express their concerns about the project and thought it was oversized.

Mike Hardy said he was a 27-year resident of Newark who traveled Main Street on his way home from work. He thought people should take in the beauty of the Green Mansion and appreciate the many amenities offered in the City. Mr. Hardy thought people should understand the parking situation on Main Street and believed people should remember it takes time to find parking spots. He personally did not have trouble with traffic when he drove on Main Street. Mr. Hardy believed people would still be able to see the Green Mansion from the street with the new project and supported the plan. He thought close to

$1 billion was spent on STAR campus for researchers and believed the hotel should be built because it would provide a first-class amenity for the City.

Catherine Ciferni, District 1, thought the developer's parking accommodations sounded like parking by Tetris; specifically, regarding the assembly of parking lots. Ms. Ciferni was concerned with the new exit points on Main Street and said they needed to be ADA accommodative. She thought it was not a standard sidewalk and believed the exit points on Main Street were hard to discern. Ms. Ciferni said she worked in one of Mr. Lang's buildings and was told years ago that it would be ADA accessible. When the building she worked in was finally built, Ms. Ciferni stated it was ADA accessible only from the parking lot. Ms. Ciferni went to https://www.ada.gov/ and found a seven-page ADA compliance checklist for new lodging facilities. She was unsure if the developer's plans were ADA compliant. Ms. Ciferni believed there were several issues with the plan and announced other states had ADA advisors on their Planning Commissions. She believed Newark's Planning Commission did not have an ADA advisor.

Chad Kroeger, non-resident, said he lived in Southern California and was a self-described "party enthusiast". He questioned whether the applicant would plant palm trees and if there would be ellipticals in the hotel fitness center.

Ms. Sierer invited Mr. Locke to provide his closing remarks.

Mr. Locke said it was a historic day in the City of Newark; moreover, he expressed both he and Mr. Lang lived in the City of Newark for over 40 years. Messrs. Locke and Lang believed they were part of the fabric of Newark's community. Through past projects, Mr. Locke thought they clearly showed their dedication to historic preservation. Moreover, Mr. Locke announced historic preservation would be a focal point for the Green Mansion project. Mr. Locke thought it was remarkable that the three development projects had nothing to do with student apartments. Even more amazing to Mr. Locke was that each project provided tremendous, unique benefits to the City. Mr. Locke believed the Green Mansion project brought a unique and needed service to Newark's down town area. He recently walked down Main Street and spoke with local businesses. Mr. Locke said every single business he spoke to – except for one – expressed support for the project. As testament of support, Mr. Locke said over 50 local businesses signed a petition in support of the project. Mr. Locke believed towns changed and evolved and thought Newark was no different. In the 1990s, Mr. Locke said City staff and developers started to talk about mixed-use development. As a result, Mr. Locke believed it changed Newark's downtown for the better.

Mr. Locke believed Main Street was about to enter a difficult time due to the beginning of an 18-22-month construction project. He believed this would impact the mom and pop businesses on Main Street. Mr. Locke thought the hotel provided the City with the opportunity to deal with this difficult time. He expressed the hotel was planned to open around the same time DelDOT's project would be complete. Mr. Locke said the STAR Campus and the College Square projects would threaten Newark's down town because they would bring retailers to those sites. He believed the hotel would allow Main Street to keep stores occupied; additionally, it would allow Newark to minimize the vacancy in the down town area. Mr. Locke restated the hotel would bring millions of dollars to businesses in the City through taxes, utilities and gross receipts.

Mr. Locke firmly believed the hotel met the guidelines for the SUP and thought it should be granted according to measures in the City Code as stated earlier by Mr. Bilodeau. He requested Council to approve the project.

Ms. Sierer brought discussion back to the table for further deliberation from Council.

Mr. Hamilton thought the public seemed divided about the project. He questioned whether the developer was set on having the entrance at the red light or if it would be switched back. Mr. Lang said the entrance was at the red light because it was required to have a certain amount of queuing for hotel drop-off. He said the current design of the entrance was such that people could pull-in, drop-off or drive by. Mr. Lang thought putting the entrance at the other side of the building would not provide sufficient distance. He believed the distance provided by the design allowed cars to rotate efficiently through the lot and enter the hotel. Mr. Lang thought the proposed traffic pattern would be an improvement and was safer than the current setup.

Mr. Hamilton referenced remarks made in public comment to the effect the Comprehensive Development Plan was a mess. He understood the comments and thought Council needed to seriously take a look at the Comprehensive Development Plan. Mr. Hamilton thought the City's parking situation was a mess and said it was one of the first items he addressed when appointed to Council. He found it

difficult to say no to the developers' plan since they [the developers] used their own land and leased it to the City for parking. Mr. Hamilton thought it would not be appropriate to hold up the project based on the claim the developer took away the City's parking spaces; specifically, the parking spaces in question were not owned by the City. He thought the City's guidelines regarding what defined historic properties needed to be more defined. Mr. Hamilton believed it was embarrassing that a developer was not made aware about historic preservation information. He put this issue on City staff and hoped it would not occur again. Mr. Hamilton believed the developers also were partly at fault as they did not hold public meetings. Mr. Hamilton emphasized the developer followed the rules; however, he believed the public needed the opportunity to express their opinions.

Mr. Hamilton announced both he and Ms. Wallace worked with the Planning Commission to place every single public project on the City's website. He encouraged the public to visit the City's website to familiarize themselves with the development projects in Newark. Mr. Hamilton believed Council and the City attempted to increase transparency and hoped it would permit better decisions through additional information. He thanked Messrs. Locke and Lang for providing him with a list of Newark's businesses who supported the project. Mr. Hamilton believed the hotel would serve a need Newark's down town area and thought the matter at hand pertained mainly to the size of the proposed hotel. He believed the hotel would benefit Newark's down town businesses. Mr. Hamilton understood people wanted to preserve the past; however, he thought it was necessary to balance moving forward.

Ms. Wallace thanked the public for their comments. According to Ms. Wallace, her neighbors that opposed the project were concerned with Main Street's character. She thought there was a reason hotels were required to seek a SUP and was unsure if the developer proved their case. Ms. Wallace said Council was not required to grant the SUP for the project and personally did not believe a hotel was a good fit for Main Street. She believed the Green Mansion and other historic buildings made Main Street unique. Ms. Wallace thought the hotel was generic and did not believe Newark needed this type of project going forward. She thought hotels were transient in nature and did not believe the project was best for the character of Main Street. Ms. Wallace was concerned with how the historic structure was being handled and was disappointed that they bay windows on the Green Mansion would be destroyed. She thought the hotel was out of balance and said she would not support the SUP for the project. Ms. Wallace restated Mr. Hamilton's comments about the developer's lack of community meetings. She asked the developer to consider having public community meetings ahead of time.

Mr. Morehead echoed Mr. Hamilton's statements regarding the ambiguity of the City's Comprehensive Development Plan and various laws. He believed Newark compared itself to West Chester, Pennsylvania because of the university. Mr. Morehead thought the City's laws promoted historic buildings to be knocked down and replaced. He said West Chester maintained their historic buildings downtown that were reused. Mr. Morehead thought West Chester's law was written in a manner that showed the importance of historic preservation and believed it was different from Newark. He expressed Newark changed over the years and Main Street used to have many empty buildings. Mr. Morehead believed many historic buildings in the City were gone and thought it was necessary to change the law for preservation. He was concerned with traffic flow due to the hotel on Main Street and thought it would negatively impact Newark's future. Mr. Morehead thought Lot #3 would be negatively affected.

Mr. Lawhorn thought residents were bound to be disappointed regardless of the project's outcome. He believed the items Council would vote on were not the issues that some residents were mainly concerned about. Mr. Lawhorn thought most people agreed that a hotel would be beneficial for down town Newark. He believed some decisions made by Council (e.g. the parking waiver) – although good reasoning was behind them − hurt Newark's down town businesses. Mr. Lawhorn thought some mom and pop businesses would struggle as a result of the construction on Main Street. He thought the hotel would provide stability for Newark's down town area in the face of competitive threats. Although Mr. Lawhorn thought the STAR Campus development would provide huge economic development for the City, he thought it also was a competitive threat for down town Main Street.

Mr. Lawhorn wished the entire City of Newark would benefit Main Street's growth. While there was a perception of parking issues, Mr. Lawhorn did not believe they were as severe as people made them out to be. He did not think it was good City policy to think people that owned private lots were required to give the City below market leases on valuable property. Mr. Lawhorn thought compromise was needed regarding historic preservation and expressed there were significant safety concerns with the current state of the Green Mansion. He believed the project kept the majority of the Green Mansion's façade and thought it did an excellent job preserving the structure while restoring it. Mr. Lawhorn reiterated the financial benefits from the hotel for the City.

Mr. Clifton thought the system for development approval was slightly flawed. He was a strong proponent of public meetings for development projects. Mr. Clifton believed the Comprehensive Development Plan needed to be revamped and expressed frustration regarding current zoning guidelines. Mr. Clifton said Council members were constitutionally sworn officers and were required to follow the rule of law. He thought a strong argument was made regarding the need for the hotel and believed it complied with Newark's legal standards. Mr. Clifton announced the Comprehensive Development Plan, although flawed, was the standard by which Council needed to deal with whether they liked it or not. Mr. Clifton wished to offer an amendment to the subdivision plan at the appropriate time.

Mr. Markham appreciated the passion about the City from the audience. He expressed every development plan was listed on the City's website and encouraged the public to get information there. Mr. Markham said Council was required to follow the City Code and announced the City's laws were derived from the State laws. He announced there would be new Council members shortly and thought the revision of the Comprehensive Development Plan was something that could be addressed. Mr. Markham encouraged the public to attend Council meetings during the Comprehensive Development Plan review process in order to provide feedback and express concerns. He agreed Council should revisit the City's historic property plan. Mr. Markham emphasized the matter at hand was for the hotel's SUP; therefore, he had to determine whether the hotel would cause any detriment.

Ms. Sierer closed discussion to the public.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE A SPECIAL USE PERMIT FOR A HOTEL FOR THE SUBJECT'S APPLICATION AT THE REQUEST OF 96 EAST MAIN STREET ASSOCIATES, LLC, SPECIAL USE PERMIT FOR A 144-ROOM HOTEL IN THE BB ZONING DISTRICT AT THE PROPERTY LOCATED AT 92, 94, 96 EAST MAIN STREET.

Mr. Markham supported the SUP for the hotel based on the reasons stated by the Planning Department and Ms. Gray in the report dated February 26, 2019, revised March 18, 2019.

Mr. Clifton voted in favor of the SUP for the aforementioned reasons stated by Mr. Markham.

Mr. Lawhorn voted in favor of the SUP for reasons previously stated by Mr. Markham.

Mr. Morehead voted against the SUP because he believed it had the potential to adversely affect peoples' safety.

Ms. Wallace voted against the SUP because she thought it would be detrimental to public welfare, injurious to property or improvements within the City of Newark's boundaries; moreover, she thought it would detrimentally affect the character of Main Street.

Mr. Hamilton voted in favor of the SUP for the reasons previously stated by Mr. Markham.

Ms. Sierer voted in favor of the SUP for the Green Mansion Hotel project for reasons previously stated by Mr. Markham.

MOTION PASSED. VOTE: 5 to 2.

Aye – Clifton, Lawhorn, Hamilton, Markham, Sierer.
Nay – Morehead, Wallace.

10. 10-E. REQUEST OF 96 EAST MAIN STREET ASSOCIATES, LLC FOR A SPECIAL USE PERMIT FOR A 144-ROOM HOTEL IN THE BB ZONING DISTRICT AT THE PROPERTY LOCATED AT 92, 94 AND 96 EAST MAIN STREET *(SEE ITEM 10-D)*

5:58:20

Mr. Clifton wished to make an amendment to address concerns regarding making the Green Mansion more of a focal point.

MOTION BY MR. CLIFTON, SECONDED BY MR. HAMILTON: THE DEVELOPER AGREES TO ANALYZE POSSIBLE EXTERIOR MODIFICATION TO THE NEW WHITE BUILDING, WHICH IS LOCATED TO THE WEST SIDE OF THE GREEN MANSION; ANY MODIFICATION WOULD BE TO EXENTUATE THE APPEARANCE OF THE HISTORIC VALUE OF THE GREEN MANSION AND ANY MODIFICATION TO THE EXTERIOR WOULD NOT NEED COUNCIL'S APPROVAL SO LONG AS THE MODIFICATION DOES NOT INCREASE THE TOTAL SQUARE FOOTAGE OR HEIGHT OF THE BUILDING.

Mr. Morehead questioned whether the amendment defined substantive change as only related to height and size. Mr. Bilodeau said dramatic changes warranted the developer to come back to Council; however, he did not believe the proposed change was substantial.

MOTION PASSED. VOTE: 5 to 2.

Aye – Clifton, Lawhorn, Hamilton, Markham, Sierer.
Nay – Morehead, Wallace.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO APPROVE THE REQUEST OF 96 EAST MAIN STREET ASSOCIATES, LLC, FOR THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL OF 1.15 ACRES IN ORDER TO COMBINE THE PARCELS INTO ONE PARCEL, DEMOLISH THE EXISTING STRUCTURE AT 92 EAST MAIN STREET, PRESERVE AND REHABILITATE PART OF THE HISTORIC PORTION OF THE STRUCTURE AT 96 EAST MAIN STREET AND CONSTRUCT A MIXED USE BUILDING THAT INCLUDES A SEVEN-STORY, 144-ROOM HOTEL COMMERICAL SPACE, 19,500 SQUARE FEET OF OFFICE SPACE WITH ASSOCIATED PARKING, AMENITIES AND ACCESSORY USES AT THE PROPERTY LOCATED AT 92, 94, AND 96 EAST MAIN STREET AS AMENDED.

MOTION PASSED. VOTE: 5 to 2.

Aye – Clifton, Lawhorn, Hamilton, Markham, Sierer.
Nay – Morehead, Wallace.

Ms. Sierer announced it was 1:15 a.m. and there were items on the agenda that needed to be discussed.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: TO EXTEND THE MEETING.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

11. **PUBLIC PRESENTATIONS:** None.

12. **2.** **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers: None.

13. **2-B.** **UNIVERSITY**

(1) Administration

6:07:12

Ms. Olsen said the University's Spring Break was scheduled from March 29, 2019 – April 8, 2019. UDance broke a record and raised $2.25 million in support of families affected by pediatric cancer. She thanked Ms. Sierer for her service to the City of Newark and wished her well in future endeavors.

14. **2-B-2.** **STUDENT BODY REPRESENTATIVE:**

6:07:59

Meghan Mullennix, Student Government Representative, announced students continued to be upset by the Unruly Gathering Ordinance. She had many ideas for future opportunities both in terms of helping students become more engaged and effective self-advocates during the government decision making process. Ms. Mullennix thought there were many opportunities for students to be involved in the community with The Newark Partnership and hoped the Town and Gown Committee would be reconvened. She announced SGA elections were forthcoming and they considered hosting a town hall and many City officials would be invited to attend. Ms. Mullennix thought a town hall would provide students and residents to share their viewpoints about the Unruly Gathering Ordinance and reduce some of the existing tension. She acknowledged government was not legally obligated to pursue populations that are typically disengaged; however, she thought students needed to experience civic engagement. Ms. Mullennix encouraged Council to reach out to students at the beginning of the year and invite them to attend Council meetings.

15. **2-C.** **CITY MANAGER**:

6:10:06

Mr. Coleman received notification from DelDOT last week that their contractor would start the water main project in the first week of April. He announced the City was able to get DelDOT to agree to perform some portion of the work over spring break; however, it gave the City very little time to send out notice. Mr. Coleman stated the City would send out notice over the next few days.

16. 2-D. COUNCIL MEMBERS:

6:10:56

Mr. Markham:

- Met with University students from various organizations in order to discuss how to communicate better.

Mr. Morehead:

- Welcomed Mr. Coleman as the new City Manager and reported Mr. Coleman was sworn in last week.

Mr. Hamilton:

- Announced he reached out to students to improve communication and would continue to do so.

17. 2-E. PUBLIC COMMENT:

6:11:47

Brian Dunigan, District 2, referenced photos he provided to Council that depicted various views of Main Street, Academy Street and various buildings in the area. He did not support the Green Mansion Hotel project and thought it was too large. Mr. Dunigan thanked Ms. Sierer for her service to the community of Newark and congratulated Mr. Coleman on his promotion to City Manager.

Chad Kroeger, non-resident, said he lived in Southern California and was a self-described "party enthusiast". Mr. Kroeger's comments were meant to support the University students and thought the Unruly Gathering Ordinance violated student's Constitutional rights. He thought Council needed to reconsider the Ordinance and believed partying was a right of passage for students.

J.T. Parr, non-resident, said he lived in Southern California and was a self-described "party enthusiast". He echoed Mr. Kroeger's comments and did not approve of the recently passed Unruly Gathering Ordinance.

Amy Roe, District 4, asked for the minutes to reflect that Public Comment did not begin until 1:20 a.m. Dr. Roe asked City Council to think about time management. She thought there were two many development projects on the agenda and was disappointed they occurred before public comment. Dr. Roe had a book report and notes for Council which she planned to share with them and expected them to read the information. She referenced the book, "Party School: Crime, Campus and Community" written by Professor Karen Weiss of West Virginia University. Dr. Roe thought the book provided a sociological profile of a party school. She announced the book stated there were conditions created by a community and university which created party schools. Dr. Roe thought the book demonstrated the fact that universities profit from a party school reputation; specifically, she believed party schools created future alumni donors. Additionally, Dr. Roe thought party schools marketed universities so that they had a competitive edge on other universities. Dr. Roe believed the University's silence regarding the extreme party subculture made sense to her.

Dr. Roe said the book mentioned party schools were created in towns that did not have a way for students at universities to get out on the weekends.

Al Porach, District 2, was disappointed that Messrs. Kroeger and Pratt left the meeting as he held the University of Delaware's Student Code of Conduct in his hand. Mr. Porach said students were not permitted to disobey or violate any provision of the University's Student Code of Conduct or any applicable rule. He referenced the section of the Code of Conduct regarding alcohol to the effect students were supposed to use alcohol responsibly. Mr. Porach believed the University prohibited intoxication by alcohol, regardless of age. He referenced comments made by Messrs. Kroeger and Pratt regarding activities that were prohibited in the University's Student Code of Conduct. Mr. Porach questioned what type of people would come to the City of Newark and engage in behaviors that so openly violated the University's Code of Conduct. He was ashamed with this type of behavior and objected Messrs. Kroeger and Pratt's protest to Council.

John Morgan, District 1, agreed with Dr. Roe's comment to the effect he thought it was a mistake for Council to place three development projects on the agenda on one night. He believed it was obvious

to determine whether a development project was controversial; specifically, when a project did not receive unanimous or at least overwhelming support from the Planning Commission. Dr. Morgan thought a controversial development project should take place at a Special Council Meeting on a Monday between Council's regularly scheduled meetings. He recommended for Council to purchase the book "Party School: Crime, Campus and Community" written by Professor Karen Weiss of West Virginia University. Dr. Morgan believed the problems at West Virginia University were more severe than the current problems with the University of Delaware. He announced Dr. Weiss's book made it clear to him that law enforcement could not solve the problem as there needed to be a change of culture. Dr. Morgan believed a change in culture needed to start with the University's leadership and Board of Trustees. He questioned how controversial members were appointed to the University's Board of Trustees. Dr. Morgan thought Council should invite John Cochran to a Council meeting to publicly address this question.

Catherine Ciferni, District 2, believed there was discussion about signage when the new University bookstore was built. Ms. Ciferni was aware there had been substantial change at the City and University.

Sharon Hughes, District 2, thanked Ms. Sierer for her service to the City of Newark. She thanked Messrs. Clifton and Morehead for their dedicated efforts on City Council.

18. 3. <u>APPROVAL OF CONSENT AGENDA</u>:

6:31:34

A. Approval of Council Minutes – March 11, 2019

B. Receipt of Alderman's Report – March 8, 2019

C. ***First Reading* – Bill 19-10** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Prohibiting Right Turn on Red Traffic Signal from East Cleveland Avenue to Capitol Trail and Removing References to the Chrysler Facility – ***Second Reading* – April 22, 2019**

D. ***First Reading* – Bill 19-11** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, Regarding the Provision of Workers Compensation Insurance for All City Full Time Employees and Specified City Part Time Employees – ***Second Reading* – April 22, 2019**

E. ***First Reading* – Bill 19-12** – An Ordinance Amending the Comprehensive Development Plan By Changing the Designation of Property at 20 and 22 Benny Street – ***Second Reading* – April 22, 2019**

F. ***First Reading* – Bill 19-13** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware By Rezoning from RD (One Family Semidetached Residential) to RM (Multifamily Dwellings – Garden Apartments) 0.448 Acres Located at 20 and 22 Benny Street – ***Second Reading* – April 22, 2019**

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

19. 4. <u>ITEMS NOT FINISHED AT PREVIOUS MEETING:</u> None.

20. 5. <u>APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:</u> None.

21. 6. <u>SPECIAL DEPARTMENT REPORTS</u>

A. General Assembly Update and Associated Requests for Council Direction – Lobbyist

6:34:12

Mr. Armitage thanked Ms. Sierer for her service as Mayor to the City of Newark. He provided Council with copies of proposed legislation pertaining to charter changes. He thought the bill in its current draft would permit foreign nationals to vote in referendums. Mr. Armitage requested guidance from Council on this matter. Based on discussions around the Rehoboth Charter bill, he did not think the legislature would like it if non-U.S. citizens were permitted to vote. Mr. Armitage said attorneys in Dover were to add the word U.S. citizen to make it clear in the charter change that only U.S. citizens were allowed to vote in referendums. Discussion at the table commenced and Council said they approved of the wording to the effect only U.S. citizens were allowed to vote in referendums.

Senate Bill (SB) 43, Alcohol legislation, had yet to be introduced and currently circulated for sponsorships. Mr. Armitage said SB 43 would decriminalize underage drinking and possession of alcohol from the state-level down. He requested Council and staff about the bill before Council's next meeting on April 22, 2019. Mr. Coleman spoke with DC Farrall about SB 43 and he was concerned as he felt the bill was duplicative; specifically, considering probation before judgement was available for first time offenders. Mr. Coleman thought making it a civil offense would lessen the City's ability to enforce laws. Ms. Wallace and Mr. Hamilton were not in favor of this as they wanted to support NPD. Mr. Armitage currently waited for feedback from the Trooper's Association, Fraternal Order of Police (F.O.P) regarding this bill and said they opposed the decriminalization of marijuana. Mr. Bilodeau announced the decriminalization of marijuana for people 18-years of age or older would give them one "free" civil violation. He announced subsequent marijuana violations would result in criminal charges. Ms. Sierer asked if the purpose of SB 43 was for the offense not to show on someone's record and Mr. Armitage confirmed this was the case.

Mr. Armitage said there were approximately 18 bills on the books that pertained to criminal justice reform; specifically, regarding fines, victim-offender mediation and others. Mr. Morehead believed Council needed to proceed with caution on this matter as it pertained to the expungement process. Ms. Wallace appreciated efforts made towards criminal justice reform; however, she thought alcohol and underage consumption were sensitive issues.

Mr. Armitage announced there was an opening on the Water Infrastructure Advisory Council and thought someone from Newark should be appointed. Mr. Coleman said the City would consider appointing a staff member, likely Mr. Filasky, to the board.

Mr. Armitage said the Bond Committee would begin to meet next week (week of April 1, 2019). He asked Council if they wanted him to testify on the City's behalf to increase the MSA funding and Council confirmed this was the case. Mr. Markham questioned whether the MSA funding went to the State legislators who would disburse it. Mr. Armitage said there were community transportation funds (divided among 62 members) and the remaining $6 or $7 million went to municipalities.

Mr. Armitage said he supported open space as previously directed by Council.

Mr. Armitage announced HB 89 passed unanimously in the House and said it re-energized the Lead Paint Advisory Committee that existed in the State. HB 89 recreates membership for the committee and gave it tasks. Mr. Armitage said the committee was directed to look at municipal water supplies to see if any were in jeopardy due to lead contamination. Council agreed that Mr. Armitage should support HB 89.

Ms. Sierer opened discussion to the public.

John Morgan, District 1, questioned whether the bill pertaining to revising Newark's Charter would eliminate LLC voting my representatives of LLCs. Mr. Armitage confirmed this was the case. Dr. Morgan questioned if the bill would eliminate voting by representatives of corporations and Mr. Morehead confirmed this was the case. Dr. Morgan questioned whether only living human beings were allowed to vote and Mr. Bilodeau confirmed this was the case.

Amy Roe, District 4, appreciated Council's support of HB 89. Regarding Newark's Charter change, Dr. Roe said property owners who lived in the City were qualified voters. She expressed concern regarding Council's procedure as she thought it was necessary to make a resolution. Dr. Roe thought Council was discussing U.S. citizen's voting rights at 2:00 a.m. on a non-noticed agenda item and firmly objected to it. Dr. Roe thought this item should be added to Council's next agenda for the meeting on April 22, 2019.

22. 6-B. <u>RESOLUTION 19-_ : APPOINTMENT OF TARA SCHIANO AS ACTING CITY SECRETARY</u>
6:49:38

Ms. Schiano read the resolution into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE APPOINTMENT OF TARA SCHIANO AS ACTING CITY SECRETARY BASED ON THE RESOLUTION PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

There was no public comment.

(Resolution No. 19-J)

23. **7.** **RECOMMENDATIONS ON CONTRACTS & BIDS:**

A. Recommendation to Award Contract No. 19-04 – Furnishing Labor and Equipment for Aerial Line and Underground Cable Relocation

6:50:39

Mr. Patel read the recommendation into the record.

There was no discussion from Council or the public.

MOTION BY MR. MOREHEAD, SECONDED BY MR. LAWHORN: THAT COUNCIL AWARD CONTRACT 19-04 – FURNISHING LABOR AND EQUIPMENT FOR AERIAL LINE AND UNDERGROUND CABLE RELOCATION BE AWARDED TO AUI INCORPORATED OF ELKTON, MARYLAND IN THE AMOUNT OF $736,136.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

24. **8.** **FINANCIAL STATEMENT:** None.

25. **11.** **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. **Council Members:** None.

26. **11-B.** **Others:** None.

27. **Meeting adjourned at 2:05 a.m., March 26, 2019.**

Tara A. Schiano
Acting City Secretary

/wcp