

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**August 9, 2021**

Those present at 6:15 p.m.:

Presiding: Mayor Jerry Clifton  
District 2, Sharon Hughes  
District 3, Jay Bancroft  
District 4, Dwendolyn Creecy  
District 5, Jason Lawhorn  
Deputy Mayor, District 6, Travis McDermott

Staff Members: City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Purchasing & Personnel Officer Jeff Martindale  
Chief Communications Officer Jayme Gravell  
Finance Director David Del Grande  
Deputy Police Chief Mark Farrell  
Lieutenant Chris Jones  
Planning and Development Director Mary Ellen Gray

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1. Mr. Clifton called the meeting to order at 6:15 p.m.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (6) for the purposes of strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussion of the content of documents, excluded from the definition of “public record” in § 10002 of this title where such discussion may disclose the contents of such documents.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (6) FOR THE PURPOSES OF STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY AND DISCUSSION OF THE CONTENT OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF “PUBLIC RECORD” IN § 10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS.

MOTION PASSED. VOTE 5 TO 0.

Aye – Clifton, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.  
Absent – Hughes.

3. **RETURN TO PUBLIC SESSION**

A. Potential vote regarding direction to the City Solicitor

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL DIRECT THE CITY SOLICITOR TO PROCEED WITH LITIGATION AS DISCUSSED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

4. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**

Mr. Clifton asked for a moment of silence and the Pledge of Allegiance.

Mr. Clifton informed that the room was equipped with four HEPA air purifiers and the City was doing all it could to keep everyone safe. He thanked those participating for doing their part and added that Representative Paul Baumbach would be late to the meeting.

**5. 1-B. UNIVERSITY**

**(1) Administration (5 minutes per speaker) (10 minutes):**

**3:17**

Caitlin Olsen, UD Administration, shared that UD's mask mandate for the fall semester had been issued the previous week and required the universal wearing of masks for all individuals, regardless of vaccination status, in common spaces with limited exceptions. The mandate stated that masks should be worn inside all campus buildings including classrooms, hallways, laboratories, residence halls, and offices. In dining areas, masks should be worn except when eating or drinking and were not required in individual dorm rooms but were required elsewhere in the residence halls. All individuals, regardless of vaccination status, should wear a mask while outdoors or maintain physical distancing of at least three feet from others.

Ms. Olsen did not have information on athletic events but would share when it was available. She continued that effective August 15, 2021, all UD employees accessing UD facilities were required to either provide proof of full vaccination or comply with regular testing protocols. She emphasized that UD would continue with regular testing and vaccination events on campus which were currently done on Wednesdays at Clayton Hall. She explained that "students" were described as undergraduate, graduate, and professional students who would be on campus, and must be fully immunized against COVID-19 prior to arrival and by August 15<sup>th</sup> to allow a grace period prior to coming on campus.

Ms. Olsen explained that first year students would move in on Thursday and Friday, August 26 and 27, and the upper division students would begin move in on August 28. She noted that some groups, such as the marching band and sports, would arrive earlier and the first day of classes would be Wednesday, August 31<sup>st</sup>. She reported that in New Student Orientation, UD staff encouraged students to visit Main Street and broke up the groups into morning and afternoon sessions. She partnered with The Newark Partnership to provide restaurant flyers and coupons to parents and reported that 3,006 students and 3,900 parents participated. She hoped that the measure helped to boost the local economy and hoped it would become a new tradition.

The Mayor opened the table to questions from Council.

Mr. McDermott asked if "students on campus" were students living on campus or any student attending classes. Ms. Olsen confirmed that any student who came onto campus for a class or lab should be vaccinated, with obvious exceptions.

Ms. Creedy asked how masking would be handled with student gatherings of more than fifteen people inside apartments. Ms. Olsen clarified that masks off in residences meant UD's residence halls and dorms. Off-campus scenarios would rely on the City's rules and regulations on gatherings and UD would promote any changes the City made over the next few weeks. She reminded that if students were coming to campus for classes, they were supposed to be vaccinated.

Ms. Olsen shared that she would go on maternity leave in October and she would ensure that everyone had Evan Park's information so that Council could still connect to the University.

**6. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None**

**7. 1-C. CITY MANAGER (10 minutes):**

**10:08**

Mr. Del Grande informed Council that the official 2022 Budget Season would begin on Monday in Council Chambers with the Budget Overview. All department budget hearings would continue over the next thirty days and staff would consider Council and public feedback to help staff create the official budget request on October 4<sup>th</sup>. He reported that due to the heat indexes, staff canceled Alfresco dining on Wednesday evening. Mr. Clifton reminded that patrons could still visit restaurants and eat indoors, and Mr. Del Grande agreed.

**8. 1-D. COUNCIL MEMBERS (5 minutes):**

**11:06**

**Mr. Clifton:**

- Wanted to present three action items to Council
- Noted that everyone was provided with pie charts
- Stated that he met with Claire DeMatteis of the Governor's office, Mr. Coleman, and Mr. Del Grande
- Reported that the Governor's office wanted the Delaware League of Local Governments to monitor the \$18.1 million in ARPA funding
- The Delaware League Board unanimously decided that the bandwidth was unavailable as there was only one full-time director and a part-time intern
- The Governor's plan was that each town would pay 1% of its ARPA funding to hire each legal and/or financial assistance for dispersing ARPA funds
- Mr. Clifton, Mr. Coleman, and Mr. Del Grande thought it was unnecessary for the City to contribute \$18,000 for another attorney
- Believed the City's finance team was capable to dispense the ARPA funds
- Asked Council if they were comfortable with Mr. Clifton responding to the Delaware League Board that the City did not want to participate

Mr. Del Grande corrected that the amount of funds the City was requested to pay was \$180,000, not \$18,000.

- Reminded that he was working with the NAACP with Mr. Spadafino and Chrissy Holubinka
- Commended Mr. Spadafino for gathering teams to consider what types of displays were needed at the George Wilson Center to continue Mr. Wilson's legacy
- Reported that the Parks staff created a five-point program where people would serve on different committees and share the effort
- Noted that Mr. Wilson was born on August 15, 1912
- Wanted a resolution to create a Day of Remembrance for Mr. Wilson every August 15<sup>th</sup>
- Shared that the George Wilson Center opened September 2, 1922
- Informed there were plans to hold a School Hill reunion over Labor Day weekend (September 3)
- Asked if Council supported the resolution
- Was contacted by Bob McBride from BikeNewark with concerns that the bike lane on Casho Mill Road from Nottingham Road to the school was being used as parking
- Said that children biking to school would be forced to enter traffic
- Asked if Council was willing to change the area to limited or no parking along Nottingham Road

**Mr. Lawhorn:**

- Agreed that contributing \$180,000 towards the ARPA Funding Oversight Committee would not benefit the City and did not want to participate
- Supported a resolution for George Wilson Day
- Agreed with making the area along Nottingham Road a safer pedestrian area
- Wanted to inform DelDOT that the City wanted committed bike lanes in all major traffic roads
- Wanted a higher vetting of considering for future projects in Newark
- Was pleased to return to normal operations in City business

**Dr. Bancroft:**

- Agreed to save the \$180,000
- Was unaware of Mr. Wilson's significance

Mr. Clifton informed that Mr. Wilson was the first black person to serve as a Newark councilperson and the only until Ms. Creecy was elected. Ms. Creecy offered to provide Dr. Bancroft with literature.

- Supported the bike lane measures
- Cautioned against the COVID variants

**Ms. Hughes:**

- Agreed with Mr. Clifton's points
- Informed that Former Mayor Funk requested that the City put out trash containers following Alfresco nights because diners were leaving their trash outside along Main Street

**Mr. McDermott:**

- Did not think it was necessary for the Delaware League to manage Newark's ARPA funds
- Supported George Wilson Remembrance Day
- Was not familiar with the roadside parking issue

- Supported further investigation and resident feedback

**Ms. Creecy:**

- Agreed that the City could handle its own funding
- Supported the displays for Mr. Wilson as she was the second black person to serve on Newark City Council
- Heavily researched Mr. Wilson
- Was honored to have a day of remembrance for Mr. Wilson
- Wanted to forbid parking on Nottingham Road
- Did not want the public to be at risk while riding bikes
- Offered to share her research of Mr. Wilson with Council
- Shared that there would be a clean-up barbeque in Dickey Park on August 14<sup>th</sup>
- Thanked the City for helping her organize the event
- Wanted Madison Drive to look as well-maintained as the rest of the City
- Thanked Newark PD for offering the Police Athletic League truck to the children
- Encouraged residents to come meet their neighbors and discuss resolutions

**9. 1. ITEMS NOT ON PUBLISHED AGENDA**

- A.** Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

**28:33**

Representative Baumbach thanked Council for their service and work. He shared that residents frequently complimented City staff and he believed the leadership and department leaders had been wonderful throughout the pandemic. He stated that Senator Sokola, Representative Kowalko, and others who served other areas of the City were available to help and admitted the last year had been a good one for the State for one-time funding, much of which was deservedly given to the City. He shared that he was reinstating his in-person monthly coffee meetings on the second Wednesday of each month at the Newark Country Club, from 7:30 am to 9 am, for members of the public and Council. He thanked Council once again for reaching out for assistance and offered to field any questions and help in any way. He noted that the Legislature would be quiet for the next four or five months while redistricting the House and the Senate. He anticipated public meetings over the next two months to review the redistricting and then the Legislature would be called to Dover to debate and vote. He acknowledged there would be changes as to which neighborhoods would be in which representative and senator districts. He appreciated how the City was considering ARPA funding and thought the City had good work ahead. He thanked staff for their efforts.

**10. 1-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes):**

**31:49**

The Mayor opened the floor to public comment.

Mark Deshon, District 5, was unaware that Mr. Clifton intended to speak about the parking issue on Casho Mill Road and wanted to ensure the topic was on public record. He wanted the City to institute a “no parking at any time” zone on Casho Mill Road, between Church Road and Pickett Lane. He noted that portion of Casho Mill had been part of the Safe Routes to School Project, a grant for which was awarded to John R. Downes Elementary School. He continued that twelve months ago, striping was applied for a buffered bike lane on both sides of the road in the area as a means to increase safety for bicyclists by providing a designated bike lane with a spatial and visual buffer from traffic. DelDOT was scheduled to complete the project in the fall. He continued that it was unfortunate that some residents continued to park along the portion of Casho Mill Road and were completely obliterating the bike lane and forcing cyclists to go around the vehicles adjacent to traffic lane, thus negating the purpose of the buffered bike lane. He understood that some residents, particularly those who resided between Timbercreek Lane and Church Road could still be able to legally park on the street via some Code variance but emphasized that the residents had other options, including additional private off-street parking, unused garages, and parking along Timbercreek Lane itself. He urged Council to help keep bicyclists safe in the area by removing parking altogether by any means necessary, as soon as possible, as had been done on Cleveland Avenue years ago. He continued that residents should not have the right to create unsafe situations for others.

There was no further public comment and the Mayor returned the discussion to the table.

**11. 2. APPROVAL OF CONSENT AGENDA: (1 minute)**

- A.** Approval of Council Meeting Minutes – July 12, 2021  
**B.** Receipt of Planning Commission Minutes – July 6, 2021

- C. Receipt of Alderman’s Report – July 8, 2021
- D. Receipt of Financial Statement Ending May 31, 2021
- E. Approval of Motorcycle Purchase and Budget Amendment to the 2021-2025 Approved Capital Improvement Program and 2021 Approved Operating Budget
- F. Approval of FY2021 Parks and Recreation Budget Amendment for Tree Maintenance/Removal
- G. **First Reading – Bill 21-24** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Creating a Deputy Director of Planning and Development Position – **Second Reading – August 23, 2021**

**35:03**

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**12. 3. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**

- A. Appointment of Tamesha Garnett to the District 3 Position on the Diversity and Inclusion Commission for a Term to Expire July 15, 2022 (5 minutes)

**36:11**

Dr. Bancroft stated that Ms. Garnett had been involved in various group activities and was experienced in organizing team efforts at her workplace. He spoke to her references who confirmed Ms. Garnett’s organizational skills and virtuous intent. He appreciated Ms. Garnett’s willingness to help expand the community’s vision.

The Mayor opened the table to comments from Council.

Mr. Lawhorn thanked Ms. Garnett for her service and looked forward to the Committee’s work.

Ms. Hughes had no questions and welcomed Ms. Garnett.

Mr. McDermott thanked Ms. Garnett for her willingness to serve.

Ms. Creecy had no questions and welcomed Ms. Garnett.

Mr. Clifton thanked Ms. Garnett.

There was no public comment and the Mayor returned the discussion to the table.

Dr. Bancroft asked Ms. Garnett for her input. Ms. Garnett acknowledged that the Committee was newly created but was sure that once meetings commenced, she would be full of innovation. She confirmed that she had been involved in diversity and inclusion at her current employment through Employee Resource Groups. She continued that she was part of the community and had been exposed to many stories and transformations and hoped to venture outside of her workplace to bring her experience to the community to make an impact.

MOTION BY DR. BANCROFT, SECONDED BY MS. CREECY: TO APPOINT TAMESHA GARNETT TO THE DISTRICT 3 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**13. 3-B. REAPPOINTMENT OF MATTHEW VAN RENSLER TO AN AT-LARGE POSITION ON THE BOARD OF BUILDING, FIRE, PROPERTY MAINTENANCE AND SIDEWALK APPEALS FOR A FIVE-YEAR TERM TO EXPIRE AUGUST 31, 2026 (5 MINUTES)**

**40:20**

Mr. Clifton noted that Mr. Van Rensler had served on the Board in the past and offered to be reappointed. He thanked Mr. Van Rensler for his willingness to serve.

The Mayor opened the table to Council comments.

Ms. Creecy, Mr. McDermott, Ms. Hughes, and Dr. Bancroft had no questions.

Mr. Lawhorn thanked Mr. Van Rensler for serving and was pleased that Mr. Rensler's technical background contributed to the Board.

There was no public comment and returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: TO APPOINT MATTHEW VAN RENSLER TO AN AT-LARGE POSITION ON THE BOARD OF BUILDING, FIRE, PROPERTY MAINTENANCE AND SIDEWALK APPEALS FOR A FIVE-YEAR TERM TO EXPIRE AUGUST 31, 2026.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

**14. 3-C. APPOINTMENT OF JACOB HIGGINS TO THE DISTRICT 2 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2023 (5 MINUTES)**

**42:26**

Ms. Hughes welcomed Mr. Higgins.

The Mayor opened the table to Council comments.

Mr. Lawhorn, Dr. Bancroft, Mr. McDermott, and Ms. Creecy had no questions and thanked Mr. Higgins for his service.

Mr. Clifton asked if Mr. Higgins was still attending UD. Mr. Higgins replied that he would begin pursuing his master's degree in Urban Affairs and Public Policy. Mr. Clifton noted that Mr. Higgins would be the second UD student to serve on a City committee.

There was no public comment and the Mayor returned the discussion to the table.

MOTION BY MS. HUGHES, SECONDED BY MR. LAWHORN: TO APPOINT JACOB HIGGINS TO THE DISTRICT 2 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2023.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

**15. 3-D. APPOINTMENT OF GENE NILAND TO THE AT-LARGE POSITION ON THE BOARD OF ETHICS FOR A TERM TO EXPIRE FEBRUARY 15, 2025 (5 MINUTES)**

**44:25**

Mr. Clifton appointed Mr. Niland to the at-large position on the Board of Ethics. He welcomed Mr. Niland and asked if he was correct in saying that Mr. Niland had been the Human Resources Direct at Hewlett-Packard. Mr. Niland confirmed that he worked in the Personnel Department at Hewlett-Packard for seven years. Mr. Clifton continued that most knew Mr. Niland from his work at the Aetna Fire Company and Mr. Niland confirmed that he had been a director for 40 years and handled Human Resources for the Fire Department.

The Mayor opened the table to Council comments.

Ms. Creecy had no questions and welcomed Mr. Niland.

Mr. McDermott had no questions and thanked Mr. Niland for his many decades of service to the community.

Dr. Bancroft, Mr. Lawhorn, Ms. Hughes and Mr. Clifton thanked Mr. Niland for his service.

There was no public comment and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: TO APPOINT GENE NILAND TO THE AT-LARGE POSITION ON THE BOARD OF ETHICS FOR A TERM TO EXPIRE FEBRUARY 15, 2025.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**16. 3-E. APPOINTMENT OF PAUL KEELY TO THE DISTRICT 5 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT (5 MINUTES)**

**46:43**

Mr. Lawhorn nominated Mr. Keely for the District 5 position on the Reapportionment Committee and knew Mr. Keely well as he had been a City resident for 40 years and had lived in three different districts. He continued that Mr. Keely was a local business owner who put energy behind all of his endeavors and considered Mr. Keely to be a proud Newark resident and a productive, intelligent, and caring individual. He noted that Mr. Keely had positions on The Newark Partnership, performed community service, and was a strong leader in the Newark Morning Rotary. He believed Mr. Keely would be a great asset.

Dr. Bancroft, Ms. Hughes, Mr. McDermott, Ms. Creecy, and Mr. Clifton had no questions.

There were no public comments and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: TO APPOINT PAUL KEELY TO THE DISTRICT 5 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**17. 3-F. APPOINTMENT OF CECILIA LEDOYEN TO THE DISTRICT 4 POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A TERM TO EXPIRE MARCH 15, 2024 (5 MINUTES)**

**48:43**

Ms. Creecy credited Ms. LeDoyen for being one of the most upstanding individuals she had ever met. She continued that Ms. LeDoyen was a two-time cancer survivor and worked in various industries, including pharmaceutical and financial, and possessed expertise in processing daily banking transactions, reconciliations, and reporting functions. She considered Ms. LeDoyen to be highly principled and claimed that she could not have chosen a better candidate for the role.

Ms. LeDoyen thanked Ms. Creecy for involving her in the Committee. She stated that she had lived on Madison Drive for fifteen years and had never wanted to be involved in politics until she met Ms. Creecy. She considered Ms. Creecy to be extremely dedicated in trying to help the neighborhood and appreciated all of her efforts. She readily accepted the appointment and said that the City had been extremely kind to her and she had enjoyed the benefits of the POOH Program. She previously worked with Mr. Fortner and looked forward to assisting the City.

The Mayor opened the table to Council comments.

Mr. McDermott, Ms. Hughes, Dr. Bancroft, Mr. Lawhorn, and Mr. Clifton had no questions.

There was no public comment and the Mayor returned the discussion to Council.

MOTION BY MS. CREECY, SECONDED BY MR. MCDERMOTT: TO APPOINT CECILIA LEDOYEN TO THE DISTRICT 4 POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A TERM TO EXPIRE MARCH 15, 2024.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

18. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None
19. 5. **SPECIAL DEPARTMENT REPORTS:** None
20. 6. **FINANCIAL STATEMENT:** None
21. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:** None
22. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
  - A. **Bill 21-21** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Providing a Reconsideration Process for Parking Waiver Applications (30 minutes)

**53:07**

Ms. Bensley read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: FOR SECOND READING AND PUBLIC HEARING.

Ms. Gray began that Section 32-45(b)(6) of the Code indicated that within 45 days, Council could review, modify or deny the Planning Commission's approval, disapproval, or approval with conditions upon the recommendation from a member of Council, Planning Director and/or the City Manager. Per the Code provision, on January 7, 2021, Mr. Clifton requested that Council review the Planning Commission's decision made at the January 5, 2021 meeting regarding the parking waiver for the project at 132-136 East Main Street. She continued that Council denied the project's parking waiver at the Council meeting on February 8, 2021, which effectively denied the entire project. As a result, the project was not heard before Council. Solicitor Bilodeau held follow-up conversations with the applicants' legal counsel, resulting in concerns regarding Code section 32-45(b)(8), which indicated that a project could not be considered for two years as the parking waiver was denied as well as some perceived ambiguity in the Code language in Subsections 5 and 6. After discussions with Mr. Bilodeau, Mr. Coleman, and staff, it was recommended to revise and clarify Subsections 5 and 6 and Subsection 8 would be revised to be similar to Section 32-79(g). The Section stated that "if, after due consideration, a proposal (for rezoning or annexation) is denied, such proposal shall not be eligible for reconsideration for a period of two years after the final action by the Council, except upon the favorable vote of three-fourths of Planning Commission or Council," whereby the Planning Department proposed that the vote for reconsideration be a simple majority, given that a parking waiver vote did not equate to a rezoning vote, and that the amendment be retroactive.

The Planning Commission first heard the proposed revision at the May 4, 2021 meeting and voted 6-0 to table the proposed ordinance to allow staff the opportunity to reword based on discussions. The reworded proposed revision was presented and discussed at the June 1, 2021 Planning Commission meeting where the vote was 6-0 to approve the revised language as presented. After reviewing the proposed language, Mr. Bilodeau suggested a clarification to 32-45(5) and the clarified language was reflected in the proposed Bill 21-21.

The Mayor opened the table to Council comments.

Mr. Lawhorn, Dr. Bancroft, and Ms. Hughes had no questions.

Mr. McDermott asked if the proposed change to the ordinance was brought about after the developers' legal team came forward with concerns about the ordinance and Ms. Gray and Mr. Bilodeau confirmed. Mr. McDermott asked if Council originally voted to deny the parking waiver. Mr. Bilodeau confirmed and continued that the Planning Commission granted the waiver, Mayor Clifton requested a review, and Council voted against. Mr. McDermott asked if the legal team returned and stated that the City's ordinance was undesirable. Mr. Bilodeau confirmed and said that the legal team claimed there were ambiguities on whether the two-year waiting period applied when the developer had approval first and then was denied. He confirmed the language was convoluted and confirmed that the topic was raised after the denial was issued.

Ms. Creecy asked if agreement was given by the Planning Commission and then was denied by Council. Mr. Bilodeau confirmed.

There was confusion on the dais and Mr. Clifton clarified that Council would vote on the ordinance. Mr. McDermott requested comments from other Councilmembers.

Mr. Lawhorn thought the ordinance was sensible and clarified Council's action of requesting a review. He thought the second part made sense given the current environment where the City frequently discussed downtown Code and parking requirements. He assumed Code would undergo an evolution and the ordinance provided an opportunity for Council to revisit and reconsider projects versus the applicant waiting for years. He thought the ordinance provided flexibility to work with developers.

Dr. Bancroft thought it was sensible to align Code with what Council was trying to vote on before.

Ms. Hughes had no questions.

Mr. McDermott wanted to clarify that he did not have an issue with the proposed ordinance but admitted he took slight issue with the appearance of how the ordinance came about. He reiterated that he supported the ordinance, but he did not appreciate the appearance that the project was voted down by Council. He reminded that he voted yes for the parking waiver initially, but he believed the public appearance was that the developers did not receive the intended result, so Council was retroactively revising Code to accommodate for the specific set of circumstances. He reiterated that he did not have an issue with the ordinance itself.

Ms. Creecy had no issues with the ordinance and shared concerns with the back and forth. She preferred a permanent set of rules to be followed so that Council did not have to go back and forth with parking waivers.

Mr. Clifton agreed with Ms. Creecy that Council needed to consider how it allowed for parking waivers. He emphasized that the question was not germane to the conversation. He reminded that he exercised the prerogative to revisit the topic with Council but admitted that he was unsure if the two-year window made sense and he was unsure how two years became the logical benchmark. He appreciated the comments and stated that he had no issues discussing any ordinances that needed revision.

The Mayor opened the floor to public comment.

George Danneman informed that he was the family owner of the property in question and explained that one of the Councilmembers who voted against the project called him and expressed the desire to investigate ways to reintroduce the vote which then led to the discussion and review of the Code. When reviewing the Code, the applicants did not find a clear answer and so returned to the City to initiate the process. He welcomed Ms. Creecy and reminded that even if the ordinance were to pass, there would need to be an additional vote to allow the opportunity to hear the project once more. He welcomed the opportunity to present the case again and hoped it would be in person. He thanked Council for their time and service.

There was no further public comment and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: TO APPROVE BILL 21-21 AS PRESENTED.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

**(ORDINANCE NO. 21-24)**

- 23. 8-B. BILL 21-22 – AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 268 EAST MAIN STREET (SEE ITEMS 8-C, 9-A AND 9-B) (90 MINUTES COMBINED FOR ITEMS 8-B, 8-C, 9-A AND 9-B)**

**1:08:04**

Ms. Bensley read the ordinances into the record.

Ms. Gray reiterated that the application requested a rezoning from General Business to BB, Central Business District, Major Subdivision by Site Plan Approval, Special Use Permit for the apartment use, and Comprehensive Plan Amendment from Commercial to Mixed Use for 1.25 acres of property located at 268 East Main Street. She noted that the title in the memo to Council and the plan included

“parking waiver” but reminded that the project did not need a parking waiver and, should the project be approved by Council, the title would be corrected on the drawings prior to accreditation. She continued that the project proposal included demolition of the existing two-story Super 8 hotel and the proposed, new five-story, mixed-use building would include 5,700 square feet of restaurant/retail space, parking on the ground floor, and a total of 56 two-bedroom apartment units on the upper floors.

Ms. Gray explained that the Major Subdivision by Site Plan Approval, Special Use Permit, and Comprehensive Development Plan amendment for the property was presented to the Planning Commission at the March 2, 2021 meeting and included a parking waiver request at the time. She shared the Planning Commission’s motions:

- Voted 6-0 that Council revise the Comp Plan V Land Use Guidelines to go from Commercial to Mixed-Use
- Voted 6-0 to recommend that Council approve the rezoning from BC to BB
- Voted 6-0 to recommend that Council approve the Special Use Permit for apartments
- Voted 2-4 to approve the 17-space parking waiver (failed)
- Voted 2-4 to approve the Major Subdivision by Site Plan Approval (failed)
- Voted 5-1 to approve the Major Subdivision by Site Plan Approval with the condition that the plan be made Code compliant with respect to parking and front setback

Following the recommendation from the Planning Commission, the applicant revised the plans to make them Code compliant with respect to parking and the front setback. The applicant changed the use of the commercial space to reduce the required parking and shifted the building to be setback over 20 feet by reducing the width of the rear drive aisle, relocating the mechanical space, and rearranging the apartment lobby area. Ms. Gray emphasized that the only variance requested by the applicant under the Site Plan Approval provision was a side yard for a variance of 2.9 feet. She continued that the parking under the building and the rear lot were reconfigured and the resulting required parking number was 112 spaces with 114 spaces provided so the parking was Code compliant. The plans included in Exhibit A of the attached Planning and Development Report represented the original plans presented to the Planning Commission and the plans attached to the memo reflected the revised plans that represented a design that was Code compliant with respect to parking and the front setback.

The Mayor opened the table to questions from Council.

Mr. Lawhorn asked if the applicant eliminated commercial space to go from the 17-spot parking waiver to Code compliant. Ms. Gray replied that the commercial space was changed from a restaurant use to a quick service use which did not require parking.

Dr. Bancroft asked for the definition of quick service use and Mr. Clifton said that the terminology would be addressed by John Tracey, of Young, Conaway, Stargatt, and Taylor, attorney for the applicant. Mr. Tracey introduced Canon Patel, property owner, Nick Fedyc, Architectural Alliance, and Julian Pellegrini from PELSA, the project engineer. He assured that he would not read the project details verbatim into the record but would likely refer to points in the report. He added that while there were a number of different requests, he believed that most were ministerial and minor with how they fit within the Comprehensive Plan (“Comp Plan”) and Code and he would address each one individually. He reiterated that the Planning Commission unanimously endorsed the Comp Plan amendment, rezoning, and Special Use Permit and recommended 5-1 the approval of a revised plan as long as the applicant addressed the parking needs and the front setback.

Mr. Tracey displayed an aerial photograph of project area and reminded that it was the site of the Super 8 motel. The motel was a two-story, economy style hotel that was constructed in the mid-60’s and was bordered on the left by the Newark Shopping Center, behind by the One Easton Building, and right by the Grain Craft Bar and Kitchen. He noted the “Y” shaped building was the seven-story Main Street Towers building and the George Read Village building. He indicated that the property sat on the eastern edge of the central business district along Main Street and was surrounded with a variety of commercial, student housing, and mixed-use projects, such as the Fulton Bank project currently under construction. He continued that the applicant proposed a mixed-use building that would fit comfortably within the variety of uses and was consistent with the Comp Plan’s goals along the specific portion of Main Street. He described the current structure as a 48-room economy hotel that was over 50 years old and had suffered significant fire damage through tenant misbehavior several years ago. The owners did not rebuild, which provided an opportunity to investigate alternative uses for the property. He displayed the existing plan for the hotel with a 48-room hotel footprint and 70 surface parking spots for guests. He reiterated that the hotel was a budget or transient hotel that served needs in the community but was not in the best location for Main Street as a whole. He noted the site was devoid of any stormwater

management and had been significantly damaged by fire. He repeated that the owners elected to participate in the ongoing improvements to Main Street to provide commercial and student uses versus repairing the fire damage. He suggested that if the project was not approved, the likely scenario would be that the owner would reconstruct the damaged rooms at the Super 8 and move forward.

Mr. Tracey presented the proposed plan which called for replacing the existing 48-room hotel with a 5-story, 56-unit student housing/mixed-use building. He informed that the building was roughly the same length as the Super 8 motel after the applicant revised the plans in regard to adjusting the building location and size. He stated that the first floor would contain commercial space and some tenant facilities as well as the underground parking, mechanicals, and bike storage for the residents. He continued that there were 40 parking spots underneath the building, including three handicapped spaces, and the remainder of the site would provide 74 additional parking spaces, along with the below-the-surface stormwater facility. He noted the first-floor plans would contain roughly 2,800 square foot of commercial space that had a quick-service area of less than 25 seats designed for a take-away establishment and, under the City Code requirement, designs of less than 25 seats did not require any parking. He added that the rest of the first floor would include various facilities to serve the residents of the community including a break room, a study room, an office, mail room and various mechanicals, including bike storage. He informed that there would be a large patio area in front of the commercial space and the remaining four floors would have fourteen two-bedroom apartments on each floor, with handicapped accessible units closest to the elevators.

Mr. Tracey shared that the project renderings were done in concert with significant discussions with the Planning Department and allowed for a more modern look while incorporating older elements into the property. He pointed out that the building would include a variety of different materials, treatments, and colors to break up the building itself. After the Planning Commission hearing and follow-up discussions, the applicant lowered the front architectural element by over two feet, so the upper right corner of the building was 64 feet high. He reported that most of the building's rooftop was just below 60 feet and flat. He discussed the project with the owners of Grain and the owners of One Easton, and none objected to the proposal. He also spoke with the owners of the Newark Shopping Center but while they did not raise any objections, he did not want to assume their perceptions on record.

Mr. Tracey stated that two portions of the relief that the applicant was seeking were related: rezoning from BC to BB and the change in the Comp Plan from commercial to mixed-urban. He presented a reflection of the zoning map which showed the project was surrounded by BB on two sides and noted that the Future Land Use Map showed the property as mixed-urban instead of commercial. He maintained that the proposal was consistent with the Comp Plan for that section of Main Street and emphasized that the Comp Plan specifically noted a desire to introduce mixed-urban development to East Main Street areas. He referred to the chart in the Comp Plan with three zoning districts that fit within the mixed-urban designation - BB, BLR, and STC, and argued that BB was the most logical for the project because the surrounding area was mostly BB. He pointed out that there were certain obligations when changes were made to the Future Land Use Map, including to rezone in accordance with the Comp Plan as it progressed. He reiterated that the applicant's request was completely consistent with the Comp Plan and added that the Special Permit Request was no different than any other Special Use Permits that had been requested for similar projects along the Main Street corridor and other locations within the City.

Mr. Tracey repeated that the applicant requested Site Plan Approval and reminded that the original request included a parking waiver for 17 spots, but the project had the misfortune of a scheduled hearing directly following Council discussions on parking waivers. He assumed the discussions made the Planning Commission wary but noted that the Commission informed the applicant that if revisions to eliminate the need for the parking waiver were made to the plan, then the Commission would support the project. He noted that applicant revised the plans by adjusting the building size, location on the property, and changing the commercial use from a full-service restaurant with a much higher parking requirement to a take-away/quick service restaurant which mandated less than 25 seats within the facility. He continued that the service would serve pedestrians and bike traffic. He noted that the prior request included an 8-foot variance off of the front which was not inconsistent with the surrounding area but was a suggestion from the Planning Commission. Following the revision, the project met the front setback requirements and did not require a variance. He noted the project required a minor relief for 2.9-foot setback from the Newark Shopping Center side of the property where the building was located in order to allow enough width for fire and additional access. He reiterated that the revised project met the parking requirements and stated that the architectural design was thoroughly described by Architectural Alliance in the report.

In addition to having a Code-compliant landscape plan, the applicant was installing a sub-surface stormwater management facility for the property. Mr. Tracey argued that the facility was important given

the current lack of stormwater management on the property and, because it was designed to be an over-management of the stormwater, there would be infiltration on the property that would allow water to be returned to the ground. He confirmed the project would comply with the LEED requirements for the Code and, because the project had been in process for years, it was ahead of the Newark Energy Code. At the first iteration of the project, LEED was the benchmark, so the design was targeted towards LEED. He ensured that the project could aspire to the Newark Code but confirmed it met the applicable LEED requirements.

Mr. Tracey concluded by claiming that the project was an improvement to the current property and would be a net benefit to the area given the site design, architecture, commercial use, and open patio. He reiterated that the presented project was compliant with the exact parameters anticipated by the Comp Plan for that portion of East Main Street by introducing mixed-urban development and BB zoning.

The Mayor opened the table to Council comment.

Mr. McDermott noted that One Easton was six-stories and the project was five-stories and Mr. Tracey confirmed and added that Main Street Towers was seven-stories. Mr. McDermott asked what the Fulton Bank size would be, and Mr. Tracey believed Fulton Bank would be four-stories. Mr. McDermott pointed to the existing grass lot behind the current building and if the lot would be turned into parking. Mr. Tracey replied that the lot would become parking and include the underground stormwater management facility. Mr. McDermott asked if the underground stormwater management would mitigate the parking lot's impervious surface. Mr. Tracey confirmed that the stormwater management was for the entire site and reiterated that the facility would overtreat water on the site and meet management. Mr. McDermott asked if there was connection between the rear of the parking lot to One Easton or the Newark Shopping Center and Mr. Tracey confirmed there was no connection and one was not officially proposed but been discussed. Mr. McDermott asked for the color of the building and Mr. Fedyk replied that the color was wood tone that would be lighter in color than what was presented in the electronic presentation.

Mr. McDermott asked Mr. Tracey to repeat his argument that the project met the qualifications for Site Plan Approval. Mr. Tracey pointed that the applicant was seeking a very minor deviation of 2- to 3-foot intrusion into the side yard and added that there would be common open space which was not a requirement for BB zone. He continued that the project included a unique treatment of parking facilities and noted there was more than enough parking on site. He described the parking as a stacked parking alignment with two space stacks, each of which would be assigned to a unit so that the roommates would be adjusting the parking. He continued that the project qualified as outstanding architectural design, particularly when compared to what was currently on the property and repeated that landscaping would be added to the site with a plan that was consistent with Code. He referred to the planned stormwater management system which would be an immediate improvement because the current site had no system in place. He believed the project fit comfortably with the goals of the Comp Plan on the Main Street corridor and repeated that the applicant was not requesting height relief because the revised plan actually pushed the building back to meet the Planning Commission's concerns. He emphasized that the project presented the opportunity for students to be relocated in non-neighborhood areas and on Main Street to patronize existing businesses without walking through or renting homes in neighborhoods. He pointed that the project did not provide a large external gathering place for parties because the patio was near the commercial business. He repeated that the project would meet the LEED requirements in order to comply with Site Plan Approval obligations. Mr. McDermott asked if the Super 8 motel had long-term residents and Mr. Patel explained that patrons were checked out every 28 days. Mr. McDermott stated that he enjoyed the design of the establishment and admitted the current property was in a poor state.

Ms. Creedy stated that some of her questions had been answered and asked if the apartment complex was geared towards students. Mr. Tracey assumed the property would be attractive to students but would not be exclusively for students because it would not be contracted by UD. Ms. Creedy asked why the area was not included in the BB zone to start. Mr. Tracey believed that the existing use of BC had stood for 50 years but the Comp Plan was accommodating mixed-urban. He noted that some courts were of the position that if an area was rezoned in the Comp Plan then the Zoning Code should match 18 months after the Plan was adopted. He admitted that oftentimes, property owners did not come forward and staff did not partake in a universal rezoning. He reiterated that the Comp Plan called for mixed-urban and the project was best suited as BB. Ms. Creedy thought the project was beautiful and would be welcome in 2021 given the historical issues with the current property.

Ms. Hughes stated that her questions had been answered.

Dr. Bancroft noted that the project included desirable elements and believed it was more modest than other recent projects. He admitted that the Planning Commission had extensively reviewed the project and he was pleased with the Commission's efforts to get the project to Code. He thought the variance request was minor and appreciated the patio as a community space. He asked if the 56 apartments were two-bedroom and Mr. Tracey confirmed. Dr. Bancroft noted that the size would not allow for large parties and thought it was possible that lower income individuals could become residents. Mr. Tracey confirmed that there was no common party area and the rooms on the first floor were reserved for a breakroom, study room, and an office. Mr. Tracey pointed that the building was narrow at only 62 feet wide and the profile would extend into the parking lot, towards the rear of the property. Dr. Bancroft thanked Mr. Tracey for the details and thought the mixed-use plan would work well. Mr. Tracey emphasized that Code allowed eight more units than what the applicant was putting into the building.

Mr. Lawhorn acknowledged that no apartment building was legally targeted to students but thought it was obvious that the project was student housing. He reminded that the 2012 Rental Needs Assessment Study indicated a severe supply and demand issue, and much was driven by the demand for student housing. He thought the City needed thousands of beds to begin to balance out the curve and pointed that the Rental Needs Assessment indicated that the community wanted to solve the problem by increasing density downtown, which was what the proposed project would do. He continued that adding density downtown was very important and wished that the project could have included the additional eight apartments. He assumed the apartments were not included because of the lack of adequate parking. He was disappointed that the project had to forego the chance to have a restaurant at the location and he would have supported a 17-spot parking waiver to give flexibility for the restaurant. He preferred to have less parking than the proposed 114 spots for 56 two-bedroom apartments because one of the City's goals was to promote a walkable, bikeable community. He saw the available spots as invitations for students to bring their personal vehicles which could potentially congest Main Street. He thought the project was a good example of where the City's parking requirement forced the applicant to change the plan from including flexibility for a restaurant and if the City could limit the amount of parking, then the project could have provided more density downtown. He thought it was important for Council to acknowledge that the balance of what the City's parking requirements were and how they impacted what was presented. He felt the project could be denser but did not object to what was presented. Mr. Tracey interjected that Mr. Lawhorn's point was valid and thought the result could have been different if it had been timed differently because a 17-spot waiver was not significant. He suggested that Council review several different projects to determine what they could have been with waivers or adjusted parking codes. Mr. Lawhorn agreed that it was important for Council to provide clarity so desirable projects would be presented.

Mr. Lawhorn asked if Code specified that if a building had five stories then it was required that the building have three stories and then a 20-foot setback for the top two. Ms. Gray replied that the plan would have followed the previous Code before the current revision that allows the buildings to not be setback 20 feet after three stories if the third story was set back 20 feet. She noted the applicant originally requested a variance for that for the five stories but then revised and opted to push the building back 20 feet and so no longer required the variance. Mr. Tracey recalled that the original plans had the building eight feet closer to the road so the project was at a 12 foot setback but because of project's timing prior to Council's debate on setbacks, it was at a straight 20 foot requirement from the bottom to the top, not just the top floors. The applicant requested the 8-foot setback relief at the Planning Commission hearing, but the Planning Commission suggested the project be revised to meet the 20-foot setback. Mr. Tracey stated the pushback allowed for more room for the patio. Mr. Lawhorn agreed that BB zoning made sense and he wanted the City to have clearer architectural standards to create a uniform character along Main Street. He believed the project could help solve some of the City's housing issues.

Mr. Clifton asked Mr. Del Grande to display the aerial plan and clarify where a City-owned plot was located. Mr. Del Grande believed the plot in question was 256 Main Street and was adjacent to the proposed project. Mr. Clifton appreciated two-bedroom apartments because they were more affordable, created fewer police calls, and could be converted to accommodate small families. He agreed with Mr. Lawhorn's comments about the City needing thousands of beds and noted the study was conducted in 2012, prior to UD's increased enrollment and decrease in campus housing. He informed that he received many calls from District 1 concerned with student encroachment into the neighborhoods. Mr. Tracey reiterated Mr. Clifton's points and thought it was commonplace in college towns for private developers to fill the need for student housing and force the problem onto the municipality. He thought the opinion was strong that the appropriate place for mixed-use facilities was on Main Street. Mr. Clifton agreed that similar projects to the proposal helped with the proliferation of students in neighborhoods and credited the City for doing a reasonable job in stemming the tide. He asked Mr. Tracey who owned the fence between Grain and the project and Mr. Tracey was unsure but wanted to take steps for improvement. Mr. Clifton hoped that the fence would be improved because it did not provide great value. He asked if

the restriction to a quick service versus a restaurant required delineation in the agreement. Mr. Bilodeau believed the delineation would be appropriate. Mr. Tracey agreed and noted the delineation would also be on the recorded plan as a quick service restaurant with 25 or fewer seats.

The Mayor opened the floor to public comment.

Cecilia LeDoyen, District 4, noted that of the 56 apartments, only one was for handicapped individuals. Mr. Tracey assumed the project had the ability to have one on each floor and explained the project had four floors and the presented plan was a representation of floors 2 through 5 so there would be an accessible unit on each floor. Ms. LeDoyen asked how handicapped individuals could escape the building in the event of a fire because the elevators would shut down. Mr. Fedyk replied that the building was five stories and was required by Code to provide a generator to service the elevator. He emphasized that the building would have a sprinkler system as well.

There was no further public comment and the Mayor returned the discussion to the table.

Mr. Bilodeau informed there would be four votes that evening. The first was to amend the Comprehensive Plan which required reasoning for the vote. The second vote was to rezone the property from BC to BB and also required a reason. He noted that if the Comprehensive Plan Amendment passed, then the rezoning property from BC to BB would be consistent with the Comp Plan because the use would be designated as a mixed-urban property. He continued that the third vote was for the Major Subdivision by Site Plan Approval and shared that criteria was to be based upon distinctiveness and excellence of site arrangement and design and including, but not limited to:

- Common open space;
- Unique treatment of parking facilities;
- Outstanding architectural design;
- Association with the natural environment including landscaping;
- Relationship to neighborhood and community and/or;
- Energy conservation defined as site and/or construction design that the building department has certified meets or exceeds the 'certified' level as stipulated in the LEED (Leadership in Energy and Environmental Design) United States Green Building Council Program or a comparable building department approved energy conservation program.

Mr. Bilodeau noted the variation was a 2.9-foot side setback. He continued that the final vote was for a Special Use Permit for the 56 two-bedroom apartments and was required to meet three criteria and Council was required to state reasoning.

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL ADOPT BILL 21-22 - AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 268 EAST MAIN STREET FROM COMMERCIAL TO MIXED-URBAN.

Mr. McDermott would vote in favor of the amendment because it was consistent with the Comprehensive Plan and because of the reasons set forth in the Planning Department's February 23, 2021 report.

Ms. Hughes temporarily withheld her vote because she could not hear the Solicitor's directions.

Dr. Bancroft, Mr. McDermott, Ms. Creecy, Ms. Hughes, and Mr. Clifton voted yes for the reasons stated by Mr. McDermott.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

**(ORDINANCE NO. 21-25)**

24. 8-C. **BILL 21-23 – AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT) 1.25 ACRES LOCATED AT 268 EAST MAIN STREET**

**2:11:18**

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL ADOPT BILL 21-23 – AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT) 1.25 ACRES LOCATED AT 268 EAST MAIN STREET.

Mr. McDermott voted in favor of the rezoning because it was consistent with the Comprehensive Development Plan and because of the reasons set forth in the Planning Department’s February 23, 2021 Report.

Dr. Bancroft and Mr. Lawhorn voted in favor of the ordinance for the reasons stated by Mr. McDermott.

Ms. Creecy voted yes for the rezoning because there were parcels adjacent to the Super 8 that were BB-related and because she appreciated that the setbacks would lessen congestion as supported in the February 23, 2021 Planning Comprehensive report.

Ms. Hughes voted yes for the reasons stated by Ms. Creecy.

Mr. Clifton voted yes for the reasons stated by Mr. McDermott.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**(ORDINANCE NO. 21-26)**

**25. 9. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:**

- A.** Request of Priya Realty Group for the Major Subdivision with Site Plan Approval of 1.25 +/- Acres in Order to Demolish the Existing Structure and Construct a Five-Story Mixed Use Building Including Commercial Space and Parking on the First Floor and 56 Two-Bedroom Apartment Units on the Upper Floors at the Property Located at 268 East Main Street ***(Agreement and Resolution Attached) (See Items 8-B, 8-C and 9-B)***

**2:12:56**

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE THE REQUEST OF PRIYA REALTY GROUP FOR THE MAJOR SUBDIVISION OF 1.25 +/- ACRES IN ORDER TO DEMOLISH THE EXISTING STRUCTURE AND CONSTRUCT A FIVE-STORY MIXED USE BUILDING INCLUDING COMMERCIAL SPACE AND PARKING ON THE FIRST FLOOR AND 56 TWO-BEDROOM APARTMENT UNITS ON THE UPPER FLOORS AT THE PROPERTY LOCATED AT 268 EAST MAIN STREET IN ACCORDANCE WITH THE SITE PLAN APPROVAL.

Ms. Bensley clarified that the motion should include “for a Major Subdivision with Site Plan Approval”.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE THE REQUEST OF PRIYA REALTY GROUP FOR THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL OF 1.25 +/- ACRES IN ORDER TO DEMOLISH THE EXISTING STRUCTURE AND CONSTRUCT A FIVE-STORY MIXED USE BUILDING INCLUDING COMMERCIAL SPACE AND PARKING ON THE FIRST FLOOR AND 56 TWO-BEDROOM APARTMENT UNITS ON THE UPPER FLOORS AT THE PROPERTY LOCATED AT 268 EAST MAIN STREET.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**26. 9-B. REQUEST OF PRIYA REALTY GROUP FOR A SPECIAL USE PERMIT FOR 56 APARTMENTS IN THE BB ZONE AT THE PROPERTY LOCATED AT 268 EAST MAIN STREET (SEE ITEMS 8-B, 8-C AND 9-A)**

**2:14:37**

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE THE REQUEST OF PRIYA REALTY GROUP FOR A SPECIAL USE PERMIT FOR 56 APARTMENTS IN THE BB ZONE AT THE PROPERTY LOCATED AT 268 EAST MAIN STREET.

Mr. McDermott voted yes for the Special Use Permit as he believed it did not affect adversely the health or safety of persons residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; was not detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; and was not in conflict with the purposes of the Comprehensive Development Plan of the City.

Mr. Lawhorn, Dr. Bancroft, and Ms. Hughes voted yes for the reasons stated by Mr. McDermott.

Ms. Creecy voted yes because the applicant confirmed verbally and shared in the planning presentation that the project would not be in conflict with the City of Newark boundaries and would not be injurious to property or improvements and no conflict with Comprehensive Planning.

Mr. Clifton vote yes for the reasons stated by Mr. McDermott.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hughes, Bancroft, Creecy, Lawhorn, McDermott.  
Nay – 0.

**27. Meeting adjourned at 9:15 p.m.**

Renee K. Bensley, CMC  
Director of Legislative Services  
City Secretary

/ns