

CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

MARCH 14, 2022

Those present at 6:07 p.m.:

Presiding: Mayor Jerry Clifton
District 1, John Suchanec
District 2, Corinth Ford (arrived 6:06)
District 3, Jay Bancroft
District 4, Dwendolyn Creecy (arrived 6:49)
District 5, Jason Lawhorn (arrived 6:06)
Deputy Mayor, District 6, Travis McDermott

Staff Members: City Manager Tom Coleman
City Secretary Tara Schiano
City Solicitor Paul Bilodeau
Chief Communications Officer Jayme Gravell
Finance Director David Del Grande
Planning and Development Director Mary Ellen Gray
Deputy Planning Director Renee Bensley
Planner II Tom Fruehstorfer
Planner II Michael Fortner
Parks and Recreation Supervisor Joe Spadafino
Deputy Director of Public Works and Water Resources Ethan Robinson
Administrative Professional II Danielle Mapp-Purcell

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1. Mr. Clifton called the meeting to order at 6:07 p.m.
 2. **EXECUTIVE SESSION**
 - A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purpose 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 personnel matters in which the names, competency and abilities of individual employees are discussed
 - B. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (6) for the purpose 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 MR. MCDERMOTT: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (9) FOR THE PURPOSE 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 PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED AND EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (6) FOR THE PURPOSE 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 – Ford, Lawhorn, McDermott, Suchanec, Clifton.
Nay – 0.

Absent – Creecy, Bancroft.

3. RETURN TO PUBLIC SESSION

Council exited Executive Session at 7:05 p.m.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL DIRECT THE CITY TO PROCEED WITH SETTLEMENT AS DIRECTED IN EXECUTIVE SESSION WITH SPECIAL COUNSEL.

MOTION PASSED. VOTE 7 TO 0.

Aye – Ford, Lawhorn, McDermott, Creecy, Suchanec, Bancroft, Clifton.
Nay – 0.

4. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

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

Mr. Clifton explained the procedures for the hybrid Microsoft Teams Meeting Platform. He stated that at the beginning of each item, he would call on the related staff member to present and, once the presentation was complete, he would call on each Councilmember to offer their comments. If a Councilmember had additional comments to add later, they should signal the Chair to be recognized again after all members had the opportunity to speak. If members of the public wanted to offer comment and were attending in person, they should sign the sign-in sheet near the entrance to the Council Chamber to be called on to speak at the appropriate time. Members of the public attending virtually should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak or message the meeting organizer through the chat function with name, address or district, and the agenda item on which they would like to comment. He stated that all lines would be muted until individuals were called to speak, at that point, the speakers' microphone would be enabled, and they would need to unmute themselves in order to comment. He emphasized that public comments were limited to five minutes per person and all speakers were required to identify themselves prior to speaking. Comments in Microsoft Teams chat would not be considered part of the public record for the meeting unless they were read into the record as part of the public comment. He asked that all attendees keep cameras off until called on to speak.

5. 1. ITEMS NOT ON PUBLISHED AGENDA

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

6. 1-B. UNIVERSITY

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

7. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None

8. 1-C. CITY MANAGER (10 minutes):

7:14

Mr. Coleman informed that while preparing for the 4th of July Fireworks show, staff learned that the cost of fireworks increased more than anticipated and staff assumed the budget to be \$5,000 short. He asked for Council feedback on whether staff should bring back a budget amendment to increase the contract cost by \$5,000 to maintain the existing show quality and duration. He confirmed there would still be a show, but it would be shortened by 5 or 10 minutes to remain under the current budget. If there was support for the request, it would be added to a future consent agenda based on the value.

9. 1-D. COUNCIL MEMBERS (5 minutes):

8:18

Mr. Clifton noted that New York was using cameras with microphones that were calibrated towards loud mufflers and so forth. He acknowledged the numerous problems with cars with loud mufflers and credited the Newark Police Department (NPD) for enforcement. He asked that the City Manager investigate the technology for the City's use and believed it might require enabling legislation from the State. He requested Council feedback.

Ms. Creecy:

- Asked if the fireworks show would be 5 to 10 minutes short if the request was denied. Mr. Coleman confirmed. Mr. Spadafino revealed the 30-minute show would be reduced by 10 minutes and the prices of materials, shipping, UD Police overtime, and DeIDOT charges had increased. He confirmed

that the \$5,000 would present the same show as in past years. Ms. Creecy asked if the \$5,000 would also cover overtime for Police and Mr. Spadafino confirmed and explained that the City was unable to decrease the Police and DeIDOT coverage. Mr. Coleman clarified that \$5,000 made a 1/3 difference in the total show because many of the costs were fixed regardless of the length of the show. He noted that a little bit of extra funding would allow for more shots. Ms. Creecy agreed that the topic should be discussed, and she was leaning in favor of the request because it was a family event.

- Would not make a decision on the cameras until she learned more details about the cost, what the cameras would be catching, or if there was a violation of privacy to citizens.
- Asked for updates on the plans for the Newark Housing Authority's (NHA) plans for the development. Ms. Gray revealed that staff had not heard from the applicant since the presentation to Council. Ms. Creecy asked if it was overdue. Ms. Gray replied that the situation was up to the applicant to send the application to the Planning and Development Department. Ms. Creecy asked if there was a set time for particular information to be submitted and Ms. Gray understood that the NHA needed to have the Comprehensive Development Plan Amendment in their plan by April in order to apply to for the tax increment financing to the Federal Government. She was unaware of any other deadlines. Mr. Coleman interjected that the NHA submitted for the first draw and were working on the master planning and were in the early stages of engineering design. He confirmed the plans were progressing, but the NHA would not go too far without the financing decision from the State.

Mr. Suchanec:

- Suggested that the NHA consider some accommodation for the homeless population on Main Street because it was an ideal location that would be suitable for the purpose. He understood that NHA had some plans for stores and offices on the first floor and wondered if room could be made for lavatory facilities for the public.
- Believed the request for cameras had merit for traffic noise and Police enforcement of nuisance properties that also generated noise and residential complaints. He continued that the standard operating procedure was to get a compliant but by the time responders were available, the noise either abated or the crowd dispersed. He believed that cameras with video and audio could help enforce the ordinance.
- Supported the request for increased firework funding to attract people to the City during the summer months.
- Acknowledged the efforts of the Conservation Advisory Committee (CAC) in working Mr. Spadafino to create the Tree Giveaway program. He revealed that one of his campaign points was that the City's tree canopy was disappearing, and Mr. Spadafino encouraged and created a program to help residents replace trees. The CAC funded the acquisition of 150 trees: 600* families registered for 2 trees and 15 families registered for one tree. When residents pick up their trees later in the year, they will be supplied with a bag of mulch and growing tips. He added that if anyone needed a pignut hickory, there were still some available but noted that they matured at 70 feet tall. Mr. Clifton noted that the program had the opportunity to branch out.

*(*Secretary's note: At the March 28th Council meeting, Mr. Suchanec corrected 600 to 60)*

Dr. Bancroft:

- Supported funding for the fireworks
- Supported investigating the cameras

Mr. McDermott:

- Supported the request for firework funding
- Did not generally support traffic enforcement cameras but thought it was worthwhile to investigate. He also wanted resident feedback.

Mr. Lawhorn:

- Asked if it was possible to expand the show to have a larger display. Mr. Spadafino would speak to the firework company to determine additional pricing. Mr. Lawhorn supported the investigation for further discussion.
- Was skeptical about the camera but supported further investigation

Ms. Ford:

- Endorsed the idea of using the camera technology because the biggest complaint from her constituency were car noises on Capitol Trail and Delaware Avenue. She agreed that it was likely the City would need enabling legislation from the State.
- Supported the funding for additional fireworks to bring visitors back to the City.

- Wanted consideration to be given for the City to have holiday window displays similar to those in New York City. She believed that the City could be known for its holiday windows and encouraged people to begin brainstorming.
- Reiterated her support for Alfresco nights over the summer, if not every week, then at least one in June, July, and August

Mr. Clifton:

- Agreed with Mr. Lawhorn that the City deserved a huge community event, and the City was in the financial position pull it off. He supported the use of \$5,000 and also supported expanding the fireworks show.
- Received occasional complaints from outdoor dining patrons on Main Street about the level of noise from cars. He acknowledged there were ongoing concerns about dining indoors because of COVID and the City wanted to do its best in accommodating patrons. He thought the issue was broader than just complaints from Delaware Avenue, Kirkwood Highway, and Main Street and would give the wrong impression to visitors patronizing restaurants and businesses.

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

26:16

Sasha Aber, owner of Homegrown Café and resident of Fairfield, was present to address Alfresco as a business owner and a resident. As a resident, she agreed that the event was fun to participate in with her children but felt the opposite way as a business owner. She explained that the event was expensive for restaurants because they needed extra staff who were not always available. She added that the event was weather dependent, and, during the summer months, heat rose from the streets. She spoke to various businesses, she found there were two who preferred more Alfresco events but many retail stores did not support the event because customers could not access the locations. She emphasized that traffic was an issue and even though Homegrown’s lot was accessible, it took 45 minutes to get to the Wawa next to the Post Office (on Ogletown Road). She noted that signage was also an issue because DeIDOT put up a notice that Main Street was closed but did indicate why. She pointed that there was a dump truck at the beginning of Chapel Street but there were no banners. She offered Council a different proposal: move Alfresco to more of a picnic event in order to promote take-out. She reminded that prior to the pandemic, the City hosted a Wednesday night music series on the Academy lawn. She continued that the City owned Adirondack chairs and suggested that picnic tables could be purchased. Staff could close off Academy Street before the fire station and host a large picnic event. She understood that Alfresco events cost \$10,000 each but her suggestion would cost only hundreds of dollars and would still encourage people to come downtown because it would still be possible to drive down Main Street, pick up takeout, and participate in the picnic environment. Her suggestion would also increase attendance at the musical events. She believed that the picnic event could be a win for everyone between the issues with traffic, dining on Main Street, getting patrons to the businesses, allowing accessibility to retail stores, and maintaining parking availability. She asked that Council consider her suggestion and thanked them for their time.

Mr. Coleman informed that Ms. Gravell issued a questionnaire to Main Street businesses and staff received a number of responses which he presented to summarize each responding business’s opinion. Mr. Clifton thought it was safe to assume that a compromise was once a month during the summer. He reminded that last year’s August Alfresco event was tied to National Night Out, a national event for the Police and Fire Departments. He agreed with Ms. Ford that the City should tie summer Alfresco events with another issue to encourage attendance.

Ms. Creecy asked Ms. Aber if there was a particular time that was more suitable for the restaurant community. Ms. Aber replied that there would never be a perfect time because if the restaurants set up early, then traffic was blocked but setting up later impacted bar goers. She was less concerned about the time than the frequency because the event should be a pleasant experience for everyone, but the summer heat was a negative factor; spring and fall were better. She revealed that May was her restaurant’s busiest month, and she did not have staffing available for two locations. She reiterated that the event was fun as a resident, but businesses required a second set of staff and, depending on the weather, the tables could only be turned over once or twice depending on the temperature. As a business, she wanted to contribute to downtown and participate in the events, but she also wanted to acknowledge that she operated at a loss. She reiterated the event should take place when the weather was good, and patrons were able to enjoy themselves; she preferred adding April, September, and October.

Barbara Jo German, 81 West Mill Station Drive, supported Alfresco in all seasons, even in the winter. She pointed out that COVID was still a concern and supported the event every Wednesday, spring through winter, from 5 pm until the normal closing time. She thought it was great for the community to get out and great for the businesses. She thought it was great for her friends and everyone to get together

after being isolated. She suggested a special library event to get the community involved as well. She reiterated her support for Alfresco events.

Chris Locke, resident of District 1, Counsel for Lang Development Group (LDG), and a Main Street retailer celebrating its 50th anniversary, supported the Alfresco events. He believed the event promoted the downtown district to residents and other visitors. He understood Ms. Aber's economic challenges but pointed that it was up to the individual businesses to decide. He appreciated her picnic idea as a great way to promote music but thought that most patrons would want to sit at the restaurants to drink and enjoy the evening. He left the question of summer events to Council and reiterated his support for Alfresco.

Ms. Schiano introduced Ryan German. Mr. German supported Alfresco and wanted an event every Wednesday night for the ease of marketing. He thought it was possible for the event to run from the end of April through the last Wednesday of June with a break throughout July and into the beginning of August. He wanted to support NPD and other police organizations through National Night Out in August and reinstate Alfresco events every Wednesday from the last week of August through the last week of October. He claimed that the event was a boost for the businesses and economy and the only drawback from last year was that the event was canceled eight times due to bad weather, some from rain and some from the heat index. He admitted that cancellations made it difficult to promote but maintained his desire to hold the event every Wednesday and hope for good weather. He thought the event was important for the community and assured that the beach communities would be dining alfresco over the summer. He believed Dewey Beach closed the roads every night, and assumed other beach towns did as well. He added that not all City residents went to the beach, and some came to Main Street. He supported dining out and Alfresco events.

Ms. Schiano introduced Ben Frampton, 74 West Cherokee Drive, who supported Alfresco because COVID had not ended, and outdoor dining was safer. He preferred to hold Alfresco every Wednesday in the spring, summer, and fall but agreed it should be cancelled for rain. He suggested closing Main Street at 5pm for dining to begin at 5:30. He believed the community enjoyed the event which provided a boost to the economy. He worked at two restaurants in the City and stated that the event helped him as well as other staff.

- 11. 2. APPROVAL OF CONSENT AGENDA: (1 minute)**
- A.** Approval of Council Meeting Minutes – February 28, 2022
 - B.** Receipt of Planning Commission Minutes – February 1, 2022
 - C.** Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of Harris NorthStar CIS Migration
 - D.** First Reading – Bill 22-08 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Increasing the Compensation of the Mayor and Council Members – Second Reading – March 28, 2022

39:20

Ms. Schiano read the consent agenda into the record.

Mr. Suchanec commented that he submitted a request to remove item 2D from the agenda and Mr. Clifton reminded Mr. Suchanec that he received a response from the City Solicitor. Mr. Bilodeau interjected that Mr. Suchanec wanted to discuss different rates and reminded that the item was on the agenda as a first reading, so it was not possible to hold a discussion unless it was pulled completely and started over. He reminded that there would be full discussion at the second reading and vote on March 28th. Mr. Suchanec noted there were two options presented and asked if a third option could be introduced before the vote. Mr. Bilodeau replied that the third option would depend on whether it was significantly more than the other options. Mr. Suchanec asked what the procedure would be if the third option was significantly less. Mr. Bilodeau pointed that it would not be a substantial change it could be amended after discussion; the opposite would be a substantial change.

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

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

- 12. 3. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS: None**

- 13. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None**

14. 5. **SPECIAL DEPARTMENT REPORTS:**

A. 2022 Insurance Renewals – Finance Director (15 minutes)

42:15

Mr. Del Grande revealed that the existing coverage for all insurance lines would expire on April 1, 2022. Willis Towers Watson, the City's insurance brokers, conducted a marketing effort on the City's lines of insurance. Willis approached numerous insurance carriers for alternative proposals, but most companies declined to bid on the coverage for various reasons (exposures, terms or were not competitive on pricing with the current providers). As a result of their efforts, staff secured the policy renewals, added a new carrier, and did not currently recommend any new changes to coverage. He explained that the one carrier change was the transition from CNA (National Fire Insurance Company of Hartford) to Euclid (Hudson Insurance Company) for the business auto policy. The City's previous auto provider, CNA, advised that they were no longer interested in underwriting auto policies within the City's business sector.

While the City experienced renewals with minimal increases from 2016 through 2019, renewals for the last three years had been trending upward. Mr. Del Grande reported that the overall renewal program would increase by \$114,589, or 12.5%. He emphasized that Willis assured staff that the premiums were consistent, or better, with what their other clients experienced and were not a result of the City's claim activity. He reminded that the City would only opt to bind with companies that held an AM Best rating of A or better (Excellent and Superior).

Of the \$114,000 increase, \$50,000 was due to the change in the overall insurance market, over which the City had no control. The remaining increase of \$65,000 was due to increased property valuations and the need to insure a larger number of motorized equipment than in previous years. Mr. Del Grande added that Willis' brokerage fee increased 5% to \$67,803, and the fee for SISCO, the City's third-party administrator, increased from \$500 to \$1,500. The \$1,500 was a flat, upfront, annual fee for handling claims under the liability package. Willis, who managed the insurance program, had not requested a fee increase in three years. As a result, the overall renewal program returned at an annual premium cost of \$1,029,035, which was \$19,000 more than what was budgeted for 2022. Staff would be able to cover the shortfall internally without any adjustments. He ensured that staff would continue to remain vigilant regarding the potential for rising insurance costs and would continue making efforts to balance the City's future risk exposure.

The Mayor opened the table to Council comment.

Mr. Suchanec asked if some of the municipalities bonded together to negotiate insurances. Mr. Del Grande replied that City used a management risk company, Delaware Valley Insurance Trust, for workers' compensation, and was the only item not in the packet. He noted that staff had considered moving in that direction in the future. Mr. Suchanec asked if it had been considered for the current proposal and Mr. Del Grande said no. Mr. Suchanec suggested future investigation and Mr. Del Grande repeated that staff would investigate.

Ms. Creecy asked if the fee was flat and would not be ongoing. Mr. Del Grande explained that the premiums were for each of the City's policies. Ms. Creecy clarified that she was speaking of the \$19,000. Mr. Del Grande explained the \$19,000 was the budgetary differential between what staff budgeted in the 2022 Operating Budget and the actual cost of the premiums. Ms. Creecy asked if the amounts were after all companies competed and were the best. Mr. Del Grande confirmed.

Mr. McDermott and Mr. Lawhorn had no questions.

Ms. Ford had no additional questions and agreed with Mr. Suchanec's suggestion.

Dr. Bancroft and Mr. Clifton had no questions.

The Mayor opened the floor to public comment.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL AUTHORIZE STAFF TO BIND INSURANCE COVERAGE FOR THE UPCOMING POLICY YEAR PER THE RECOMMENDED LEVELS AND CARRIERS REPORTED ABOVE.

MOTION PASSED. VOTE: 7 to 0.

Aye – Suchanec, Creecy, McDermott, Lawhorn, Ford, Clifton, Bancroft.

Nay – 0.

15. 6. **FINANCIAL STATEMENT:** None

16. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**

- A. Recommendation to waive the bid process in accordance with the Code of the City of Newark to utilize Sourcewell Award Contracts for the purchase of #1463 Vanguard Tractor (10 minutes)

48:37

Mr. Spadafino presented the revised recommendation to waive the bid process for a replacement of Parks & Recreation equipment #1463 Vanguard Ventrac Tractor. Mr. Spadafino emphasized the equipment was extremely important for park maintenance operations and shared that the Fleet Maintenance Division of Public Works and Water Resources evaluated #1463 and recommended to replace the unit during the budget process through the Capital Improvement Program. Staff intended to purchase the new Vanguard Ventrac with the cost of \$58,838.80, including freight, which was still below the budgeted amount of \$60,000.

Mr. Clifton asked Mr. Bilodeau if the motion needed to be made with the amended amount. Mr. Bilodeau noted the cost was under budget even with the addition of the freight cost.

The Mayor opened the table to Council comment.

There were no questions from Council.

The Mayor opened the floor to public comment.

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

MOTION BY MS. FORD, SECONDED BY MS. CREECY: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO UTILIZE SOURCEWELL AWARDED CONTRACTS FOR THE PURCHASE OF A VENTRAC TRACTOR AS OUTLINED IN THE MEMO DATED MARCH 7, 2022 FOR THE PARKS DEPARTMENT.

MOTION PASSED. VOTE: 7 TO 0.

Aye – McDermott, Lawhorn, Ford, Bancroft, Creecy, Suchanec, Clifton.
Nay – 0.

17. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

- A. **Bill 22-04** An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BN (Business Neighborhood) and RM (Multi-family Dwellings – Garden Apartments) to RA (Multi-family Dwellings – High-Rise Apartments) 11.51 Acres Located at 100 Dean Drive and 500 and 700 Creek View Road (90 minutes) *(See Items 9A and 9B)*

52:21

Mr. Clifton informed that although items 8A, 9A, and 9B, would be discussed simultaneously, they would be voted up on separately and public comment and questions were appropriate at the designated time.

Ms. Schiano read the ordinance into the record.

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

Ms. Gray presented the rezoning, special use permit (SUP), and major subdivision by site plan approval for the Mill at White Clay, located at 500-700 Creek View Road. She noted that was joined by Ethan Robinson, Deputy Director of Public Works and Water Resources, and Tom Fruehstorfer, Planner II. She noted that Council was provided with all of the applicable documents to the project, including the staff report plans and recommended Planning Commission motions; her presentation would focus on the more salient aspects of the project. She explained that a 11.5-acre property was proposed to be developed by converting the current 5-story office building to 111 apartment units consisting of 48 one-, 54 two-, and 9 three-bedroom units, constructing a new 4,800 square foot restaurant, a new 6,013 square foot studio/theatre, and a new three-story building with 30,972 square feet of commercial space. She reported that an existing two-story, 20,000 square foot office building would remain unchanged, and the

proportion of the property currently zoned BN (neighborhood shopping) and RM (multi-family dwellings, garden apartments) were proposed to be rezoned RA (multi-family dwelling, high-rise apartments) while the portions zoned SFHA (special flood hazard area) would remain the same.

Ms. Gray explained that the applicant was requesting an SUP for substantial improvement of a structure in an SFHA zoning district with site plan approval and informed that all of the existing and proposed uses were allowed in the RA zoning district. She reiterated that the project included the improvement of a structure with a new residential use in the SFHA zoning district which required SUP approval under Section 32-78, which indicated that the proposed project would not adversely affect the health or safety, or be detrimental to the public welfare or property, or be in conflict with the proposals of the Comprehensive Development Plan, as well as Section 32-96(a)(3), which included compliance with flood control measures and were included in the staff report. Staff indicated that the proposed improvements would not increase flood heights or velocities and the ground floor of the proposed structure would be elevated at least 18 inches above the base flood elevation so there would be no danger of materials being swept downstream or to impact the projects, water supply, or sanitation system during flooding. She added that while the plan did not reduce flood water storage, it would not increase the water surface elevation or the base flood, also known as the 100-year-flood. She continued that the applicant requested site plan approval for relief from the allowed uses, building separation, building setback, side yard, and number of parking spaces.

Ms. Gray pointed to the staff report and reminded that the site plan approval provision allowed uses not otherwise permitted in the zoning district. The restaurant, theater, and office uses were expected to mix well with the proposed residential and residential neighborhood uses. She explained that the building was an existing brick accessory structure and met Code for the current zoning of BN, but did not meet Code for the proposed RA zoning district. The road from which the building was setback was primarily an access road through the apartment complex and the 1.7 foot required variance was minimal. She noted that the plan included two side yard variance requests. The first request was for the theater, which required a 7-foot side yard where the property only had 6 feet. The theater bordered a BC property which did not have a required setback and the border of the property was a wooded embankment the led to a parking lot; the 1-foot variance was therefore minimal. The second variance request was for an existing maintenance building which required a 20-foot side yard but only provided an 8.9-foot side yard. She explained that the side yard did not currently meet the required setback in RM zoning and noted that the bordering parcel was part of the same subdivision, so the 11.1-foot variance was a technical issue; the structure was not located too close to another property.

Ms. Gray revealed that per Code, the project required 490 parking spaces for the proposed uses but provided 392 spaces. The result was a request to vary the difference of 98 spaces. As indicated in the staff report, the applicant felt that the peak use times at the apartments, office, and restaurant/theater would not align, and the proposed 392 spaces would provide adequate parking. She noted that the Commission would need to consider the size of the requested area of regulation exceptions against the standards of distinctiveness and excellence of site design as outlined in Section 32-97 and described in the staff report, as well as the developer's site plan approval submission.

Ms. Gray confirmed that the proposed plan conformed with the Comprehensive Development Plan V and would not require a Comprehensive Development Plan Amendment to change the designation. She informed that the proposed development met all of the requirements detailed in Chapter 27, Subdivisions, with the flood plan considerations and the site plan approval provision with the Subdivision Advisory Committee recommendations conditions of approval as described in the staff report. Following the Committee's review of the proposal, staff prepared and presented the Planning and Development report to the Planning Commission at the December 7, 2021 meeting with the suggestions that Council approve the rezoning, the SUP for the substantial improvement of a structure in the SFHA zoning district, and the major subdivision by site plan approval; the Planning Commission voted 5-0 to recommend all three to Council.

Ms. Gray revealed that there had been changes to the plans since the December 7th Planning Commission meeting and were listed in the Planning and Development report and required to be completed before the plan could be scheduled for a City Council meeting. She confirmed that the changes and tasks had been addressed to the satisfaction of staff with the outstanding items being required in the Subdivision Agreement, including that the applicant agreed to install a multi-purpose sports court and grant an easement to the City on the northern portion of the property. She continued that the drawings in Exhibit A of the Planning and Development report represented the drawings as presented to the Planning Commission with a revision date of November 10, 2021, and the drawings attached to the letter represented the revised drawings with a revision date of January 4, 2022.

The Mayor opened the table to Council comment before moving on to the applicant's representative, Chris Locke.

Ms. Creecy asked if the variance was a technical issue. Ms. Gray replied that a variance for a side yard setback from the road for 1.7 feet was a technical issue. Ms. Creecy asked if the zoning was switching from NS to RA. Ms. Gray corrected from BN and RM to RA. Ms. Creecy asked if there was a change with a sports court. Ms. Gray explained that per Code, certain open areas were required for recreation and, if not, the applicant needed to provide a fee-in-lieu. Instead of the fee-in-lieu, the applicant opted to install a sports court and grant an easement to the City on the northern portion of the property, along the creek. Ms. Creecy asked if the plan required parking waivers. Ms. Gray confirmed that there was a request but clarified that the term was different because a parking waiver was allowed in the BB, central business district, but because the project in question was proposed to be zoned RA, the parking could be varied under the site plan approval provision process. She repeated that the applicant requested a variance of 98 parking spaces. Mr. Bilodeau interjected that the project lost five spaces with the addition of the sports court, so the variance was now for 103 parking spaces.

Mr. McDermott asked Ms. Gray to explain the purpose of a side yard and why Code had specific requirements for the sizes. Ms. Gray replied that the purpose was to ensure there was appropriate separation between buildings. Mr. McDermott noted that the whole property was a joint property and did not adjoin to any other projects so there was not another building that would be affected by shortening the side yard. Ms. Gray confirmed that the setback did not meet the Code provision and did not impact an adjacent property.

Mr. Suchanec revealed that he spoke to Ms. Gray previously about building in the flood plain and whether there would be an impact on property values up- or downstream. He shared that Ms. Gray verified the project did not include any new construction in the flood plain and all of the construction was outside of the flood plain. Ms. Gray confirmed. Mr. Suchanec reiterated there would be no adverse effect either upstream or downstream for residential properties and Ms. Gray confirmed. Mr. Suchanec noted the property only had one entrance; he was corrected that the property had three entrances. Mr. Suchanec asked if staff was convinced that the traffic flow would be sufficient for access to the property. Mr. Robinson replied that staff did not anticipate the number of trips in and out of the development would rise to the point where the City would need to have a Traffic Impact Study (TIS) and staff did not feel that the traffic would negatively impact the surrounding area.

Mr. Clifton referred to the issue of setback variances and asked how long the buildings had existed on the property. Ms. Gray and Mr. Locke replied that the Mill had been at the location since 1857, before the Civil War. Ms. Gray explained that when a new project was proposed then it was subject to current regulations. Mr. Clifton appreciated the rule.

Dr. Bancroft asked if there would be a rule on how many electric vehicle (EV) charging stations the project was supposed to have. Ms. Gray replied that the City did not currently have any regulations on requiring a specific number of EV stations. Dr. Bancroft asked if there was rule for bicycle spots and Mr. Robinson replied that Code required one bicycle space for every five provided vehicle parking stalls. Dr. Bancroft asked if Mr. Robinson was mixing up bicycles and vehicles. Mr. Robinson informed that per Code, the number of required bike stalls was based on the number of provided parking stalls. Ms. Gray referred to the information included in the Council packet and recalled that there were 90 bike stalls. Dr. Bancroft assumed the presentation would be straightforward. He asked if the variance for 103 parking spaces was because that was the number short of the requirement and not based on any arithmetic and Ms. Gray confirmed. Dr. Bancroft asked if the eleven ADA spaces were sufficient, and Mr. Robinson confirmed that the applicant provided an adequate number of ADA stalls.

The Mayor offered the floor to the applicant, Jeff Lang. Mr. Lang introduced Alissa Cirillo, and Maddy Lang of LDG, Chris Locke, LDG General Counsel, and Frank Newton and Scott Mason from the Chapel Street Players (CSP). He displayed an image of the existing property and reiterated that a portion of the project was an 11-acre parcel but there were about 22 acres in total. He was involved with the acquisition of the property in late 1990's from NVF and the original intent was for a mixed-used project. He shared that he had appeared before Council to seek approval for 140 apartment units on the lower part of the site but was then approached by a large office tenant to turn the building into an office use for a computer science corporation which, at the time, was buying the IT and HR support from DuPont. LDG reapproached Council and were reapproved for an office use but Council wanted 5 spaces per 1,000 square feet to address parking concerns. As a result, the applicant was unable to do any other development with the site because of the intense parking requirement. He revealed that office parking and office traffic generation was much higher than residential generation. He confirmed that LDG met

with DelDOT who determined there was no need for a TIS because the project was a less intense use than what was previously approved and already existed at the site.

Mr. Lang explained that the present building at 100 Dean Drive served as the office for LDG and 700 Creek View was an existing 20,000 square foot office building occupied by a single tenant, Applied Control Engineering, Inc., since the building's construction in the late 1990's. He displayed a picture that included the five-story mill building and the reservoir to the left. He noted that when the building was first purchased, it was covered in white stucco. LDG removed the stucco, exposed the stone, and added the stair towers for the office tenant use; they also added a new lobby and elevators. He pointed to the existing old timber framing in the presentation, and reiterated that the building was constructed in the late 1800's for industrial use. He noted that the timbers were suited for a mill/loft apartment use.

Mr. Lang then displayed a site plan of the entire 11 acres and indicated the creek was on the northern part the property and the property extended into the middle of the creek. He noted that the stormwater pond was located next to 700 Creek View and was a feature LDG intended to re-expose to the site by building a restaurant alongside; the restaurant would be creek view and pond view. He explained that the plans would turn three parcels into two parcels, due partly to the zoning compliance discussed by Ms. Gray and which type of zoning permitted the use. When the site was originally developed, the applicant sought an RM/OFD zoning but OFD (Open Floodway District), no longer existed so new zoning was RA/SFHA. He noted that RA permitted the mixed-use options on the site which allowed for one large parcel that permitted the office, the restaurant, and studio/theater use.

Mr. Lang introduced the history of the site and reiterated that the original buildings were constructed before the Civil War and had been used for woolen mills, paper mill, and fiber mills. The location included additional buildings, one of which was a paper mill out front of Timothy's, and also included a variety of architectural designs such as stone and brick. He explained that site was used as an active millrace, so water used to run beneath both of the buildings. When it was purchased, LDG had to close off the millrace and fill in the basements. He referred to comments concerning the exposure to the stream and emphasized that the buildings were built because of the stream's location; the original use was for the stream to come into the building to generate electricity. He stated that all of the first floors were purposely built high enough so that they did not flood; the lower level included the equipment to harness the water to create electricity. He then displayed older pictures of the site and reiterated that the buildings were once covered with white stucco which LDG removed and returned to the original stone facades.

Mr. Lang explained that the proposed redevelopment included a proposal for a three-story office building because there were a number of office tenants who enjoyed the location and there were three large tenants, for about 10,000 square feet, who did not want to move. LDG offered to build a new building for the tenants next to the 20,000-foot building and convert the five-story building into apartments. He clarified that LDG was constructing an office building because there was still a demand and interest to remain at the location by WSFS, Blair Computing and F&P. He noted that the amenities associated with the site were highly desirable with direct access to the reservoir, White Clay Creek, and the amenities that would be constructed as part of the discussions with the Parks & Recreation Department. He shared that the project included plans for a one-story theater and that LDG had been in discussions with CSP for two or three years prior to submitting the application to keep CSP in Newark because they had been approached by multiple parties to move outside of the City. LDG was able to incorporate CSP's use into the new mixed-use opportunity. The new location would be much more user friendly for CSP's clientele. LDG decided to accompany the theater with a restaurant for community use along the creek side; it was originally planned as a two-story building, but restaurant groups preferred a clean, 5,000 square foot footprint with an outside patio. The current planned called for a 2,500 square foot outside patio on the righthand side of the 4,800 square foot restaurant with views of the creek and stormwater pond.

Mr. Lang progressed to the conversion of the building which included discussion points on what type of units should be included. He explained that LDG had increasing demand in its portfolio for one- and two-bedroom units which was lacking in the downtown area. He thought the project was a great opportunity to covert a building into units that could be utilized by different types of people, not just undergrads. He explained the two-story maintenance building was currently one-story and would be converted to two-story to create a secure, indoor bike storage area. Plans also called for a pedestrian bridge to connect the upper parking area straight into the third floor of the building for safety concerns. The two-story building supported the bridge and would likely be constructed for access on the second floor to allow the maintenance crew to store equipment, and the first floor would serve as the indoor bicycle storage area.

Mr. Lang showed another graphic where the three-story office building was located next the two-story building and built in the existing parking lot. He emphasized that there was no encroachment on the flood plain. He explained that because of the theater's use, the building did not require many windows. There were discussions to put the theater next to the creek, but it was then decided to move the building to a more appropriate location on the site, which was against the property line. He repeated that the setback was about 6.3 feet, but it was on a hill descending from the car dealership's parking lot. He reiterated that the new restaurant would be located along the creek with a beautiful outside deck and the 500 Creek View building would maintain its existing footprint. LDG would infill a bit on the fifth floor to convert the white siding into usable space and include a rooftop deck on the right side of the building for residents' use.

Mr. Lang explained that the site plan approval request related much to the zoning. LDG selected the RA zoning in conjunction with Ms. Gray and Mr. Fruehstorfer because the area was unique from downtown and would include four or five different uses. There was no zoning in current Code that allowed mixed-use of that type other than RA; LDG had to choose RA zoning and seek site plan approval for the other proposed uses. He displayed the proposed brick office building that would mimic the design of the existing building but have larger, industrial windows. He informed that the rear of the building included balconies that could be used for office workers to experience the outside space. He presented the proposed restaurant in day and evening, including a portrayal of the outside patio area. He revealed that LDG worked with CSP to design the theater and incorporated the logo on the building and repeated the plans to build the bridge which would have a sports court located on the higher level of the parking area. Because of the court's proximity to LDG's office, they could control the use and manage what was happening with the space. He emphasized the court would not tie up parking or create traffic concerns on the lower part of the site.

Mr. Locke interjected and presented the revised plans to show the location of the sports court and reminded that it took five parking spots which changed the parking variance from 98 to 103 spaces. The decision was made in conjunction with City staff and Parks & Recreation, and he reminded the location was contingent on approval by Public Works. Mr. Lang and Mr. Locke apologized for the late submission and explained that they wanted Council to see location of the court to understand the request for the additional five spaces. Mr. Lang pointed that there was a compliance in Code associated with active recreation and, in his opinion, the site included enough active recreation. Through ongoing discussions with Mr. Spadafino, Mr. Lang interpreted that active recreation in Code was, in many instances, a playground. He pointed that the clientele at the site would not utilize a playground and opted to build a multi-functional court; the final agreement was forthcoming two weeks prior which was why LDG was unable to provide a totally revised plan until that evening. Mr. Locke reiterated that that the court was multi-purpose to accommodate the diversity of tenants. Mr. Lang encouraged more development of pickleball courts in the area.

Mr. Lang confirmed that LDG considered how parking would work on the site because there had been more parking spaces for the office user, which was dictated by the office tenant, not Code. He clarified that when LDG leased the building to a 100,000 square foot office tenant, they requested close to 500 parking spaces, but Code only required 300. LDG questioned why 500 were spots were necessary because the office tenant never utilized all of the parking. He explained that Code was based on stand-alone use and argued that usage in a mixed-use area would alternate throughout the day. He agreed that spaces were necessary for residents of the buildings because most used cars and pointed that although there were 111 units, nearly 50 were one-bedroom. He explained that the two- and three-bedroom units would need two spaces and the one-bedroom units would need a single space for unless occupied by a couple. He estimated 170 spaces for the residential use which left over 200 spaces for a restaurant that had peaks at lunch and dinner but stated that the residents and employees would use the restaurant so there would be overlap. He revealed that the theater only operated at the evening and Mr. Locke interjected the CSP held less than 40 performances in a given year. Mr. Lang added that the performances were held on nights and weekends when the office users were not on location which freed up 150 spaces for the 50,000 square feet usage. He displayed a map showing 156 spaces on the right-hand side that overlapped between the office building and theater and questioned why additional spaces would be added and why they were needed when the alternating uses. He explained that most urban environments operated in a similar way with parking garages used in the day by office users and at night by restaurant or theater patrons. Mr. Locke reminded that the issue was discussed by the Parking Subcommittee; he maintained that the intent was to have multiple use parking spaces rather than increase stormwater issues with an increase of pavement. He maintained that the set up would allow the same parking spaces to be used by multiple tenants at different times of their use.

Mr. Lang acknowledged that the market drove parking and understood that there was an opportunity to add a parking garage to the right of Parcel 3A. He explained that an original design had

more uses for the property and an 88-car parking garage. LDG preferred to first determine how the need and use worked before building more parking. He described any parking issue as an internal problem for the property because LDG was the only user, and its residents and tenants would dictate to them their needs. LDG already had ideas on how to include more parking on site and would not be spilling onto anyone else's property. He believed the plans would actually reduce the traffic impact based on the original use and reiterated that LDG would manage the parking themselves which would be market driven. He repeated that LDG would build more parking if needed.

Mr. Lang stated that CSP was a benefit to the community and were a main reason the project was great. He believed that sustaining the CSP's use in the City long-term was a fantastic opportunity for LDG and the City to help the group. He noted that CSP's current location was not conducive to the business and the patronage had been reduced tremendously because of parking and access problems. The new location would be ADA compliant with ample parking. He noted that the conversion of the office space would be an on-going trend throughout the country because there was a tremendous need for housing accompanied by a lack of materials and labor. He continued that the new restaurant would be a great attraction to the local area in combination with the theater and pointed that the project would also increase the City's tax base and utility revenue. He displayed a picture of CSP's existing theater and credited the group's ability to hold successful performances with the limited space and resources at the current location; then he displayed a picture of the proposed, improved theater space.

Mr. Lang reiterated that the plans for the residential use called for smaller units and he spoke with Ms. Gray about the average size of the units. He revealed that Code called for the average unit to be 800 square feet but admitted there were a number of one-bedroom units that were smaller than 800 square feet and some that were larger. In aggregate, the average was over 800 square feet for the units. He thought there was opportunity to create demand for one- and two-bedroom units from a different clientele and hoped to prove such in the future. He noted that the project called for amenity spaces, such as a fitness center and community room with a coffee bar; the building would be open and staffed 24 hours a day. There would also be a theater room, outdoor deck, yoga room, sport court, and a rooftop patio on the righthand side.

The Mayor opened the table to Council comment.

Mr. McDermott thanked Mr. Lang for the presentation and pointed to his statement about office space transitions which was contradictory because he was constructing a new office space next to the current building. He admitted that he could see the trend elsewhere. Mr. Locke clarified that the current building was 106,000 square foot of office space and the plan was to build a 30,000 square foot office building which proved how the market was changing and Mr. McDermott agreed.

Mr. McDermott then shared concerns from his constituency. One point was that the property was located in a flood plain and residents, especially those downstream and across the creek, were concerned about further flooding because water already encroached near their homes. He asked if the project would increase the probability of downstream flooding and, if not, how was the determination decided. Mr. Lang explained that the plans were to build above the creek's elevation, which was at elevation 68, and the building was at elevation 100. In order to flood, the creek had to rise 30 feet, but it only rose about 20 feet in the worst flooding. He noted that the new bridge had more limitations than any place on LDG's site and reiterated that any construction would be higher than the existing bridge on Paper Mill Road. Mr. McDermott understood and explained that he was speaking about those residents who had contacted him and lived downstream. Mr. Lang explained that there would be no impact because the construction would be above and no land in the flood plain would be touched. Mr. McDermott asked if the plans called for more impervious surface which would create more runoff. Mr. Lang explained the only possibility for runoff would be the additional impervious area near the theater that would be built on the hillside, against the car dealership. Mr. McDermott asked if the theater would be in the flood plain and Mr. Lang said it was not; it would be outside of the flood plain. Mr. Locke revealed that Delaware Natural Resources and Environmental Control (DNREC) and the Federal Emergency Management Agency (FEMA) investigated the project and approved. Mr. Lang confirmed that LDG had a flood elevation survey performed on the site in the 1990's which resulted in a remapping of the floodway. He informed that FEMA measured elevations of cross sections of the stream every quarter mile and developers had to verify and provide elevation certificates for every building anywhere the near the stream. He informed that Mr. Robinson requested that LDG reaffirm the elevations certificates for accuracy, so LDG had another study done and submitted it to DNREC, FEMA's representative. DNREC reviewed the study and consulted with City staff who confirmed the plans were totally compliant and there was no risk for any impact on the stream or any flood impact downstream. Mr. McDermott thanked Mr. Lang for the information.

Mr. McDermott asked if the stormwater retention place currently existed, and Mr. Lang confirmed. Mr. McDermott asked what type of stormwater improvements would be made on the property. Mr. Lang explained that the site already managed the upstream water because all of the car dealerships fed into the site's facilities, into the pond, and out through the stormwater pipes. He explained that LDG was the reason stormwater management existed on site at all and that it began in the 1990's. He added that the site handled all of the stormwater for Cleveland Avenue. Mr. McDermott asked if LDG had done any additional improvements to facilitate the site and if any consideration had been given to where the water would go from the theater. Mr. Lang emphasized that LDG had to create a stormwater area by the theater for the small impact it would have, retain it, and then disperse it. He revealed that even during flooding, no water reached the site, and the only close call was Timothy's parking lot whose building had been there since the 1850's. He reiterated that there would be no impact and the plan was to build far above the flood elevation. Mr. McDermott reiterated his concern that the properties on the other side of the creek were not on a hill and residents reached out. Mr. Lang and Mr. Locke both understood the concerns. Mr. Lang reiterated that the site had been through the review process with City staff, DNREC, and FEMA, and confirmed that all of the requirements were met and improved where necessary.

Mr. McDermott asked about sewage management and the City's capacity for an additional 111 apartments. Mr. Locke replied that LDG met with Public Works and had an analysis performed of the line where it was determined there was capacity to handle the increased sewer. He noted that the pipe required some repairs, but LDG and the adjoining property owner agreed to make the repairs. Mr. McDermott asked for clarification on the three ways to access the property. Mr. Locke replied there was access on Margaret Street, Christopher Lane, and Creek View; he noted that Christopher Lane was between NAPA and the Jeep dealership, next to Domino's. Mr. McDermott asked how many seats were in the theater and Mr. Locke answered that there were 200 seats. Mr. McDermott understood that no TIS was performed but assumed if a show at the theater at sold out, there would be 100 cars; he asked how many parking spots were available. Mr. Locke replied there were about 397. Mr. McDermott asked if LDG owned the property all the way to the creek. Mr. Lang repeated that LDG owned all the way to the middle of the creek and had actually given the land on the other side of the creek to the City during the last project. Mr. McDermott asked if any thought was given to connecting the property to the proposed parkland. Mr. Locked explained that LDG gave the easement to the City in order for the two properties to be connected in the future. Mr. McDermott visited the site with Mr. Spadafino and explained that his neighbors liked to walk to Main Street, but the route was convoluted. He asked that consideration be given to connecting the park to the property and Mr. Lang was enthusiastic about the suggestion.

Mr. McDermott addressed the representatives of CSP. Scott Mason, President of CSP, introduced himself. Mr. McDermott asked Mr. Mason to describe CSP's activities. Mr. Mason explained that CSP performed four main stage shows a year as a subscription package which included drama, mystery, and comedy. He continued that CSP also held a 24 hour play festival for original playwrights over one weekend in March and held a fundraiser in June, which was either a comedy or a musical. Occasionally, CSP would hold a holiday show or special fundraiser. He revealed that CSP was a 501(c)(3) and all of the members were unpaid volunteers. He described the theater as a labor of love and a commitment to the City.

Mr. Lawhorn noted that CSP held an event for The Newark Partnership (TNP) and admitted the parking was an issue and the facility was crowded. He understood the appeal of a new theater. He acknowledged the student demand had on residential neighborhoods, so he viewed any opportunity for a development project to ease the burden on residential neighborhoods as a positive factor. He considered the variances to be minimal and the others were reasonable and sensible. He believed that the parking explanation made sense given the logical progression about how the lot would be used; he thought the variance request was sensible. He considered the entire project to be a great addition to the City given the current uses, the proposed uses, and the beauty of the reservoir. He reminded that there was a budget to create a park in the area which would add to creating an attractive space for residents and visitors. He stated that when the Pomeroy Connector Trail was put in Fairfield Crest, residents were able to ride their bikes or walk to the area. He was also unaware of the third entrance and asked if it could be improved for easier access to the site. He was pleased by the indoor bike storage and recalled that it was common request from Bike Delaware and community residents. He revealed that Mr. McDermott had covered the rest of his concerns.

Ms. Ford was thrilled that CSP would have a new theater and with the indoor bike storage. She urged LDG to extend the pedestrian trail, as mentioned by Mr. McDermott, in the near future. She was a proponent of apartment units that were not targeted to students and was relieved that the attempt would be made to attract young professionals and asked for the marketing plan. Mr. Lang replied that LDG wanted to create an environment that attract young professionals to the extent possible. He noted the existing track record with some of the units on the hill that had been gradually converted over time from

largely undergrad students to graduate students, young professionals, and couples. He explained that there were only four one-bedroom apartments in LDG's entire portfolio of over 360 units in various buildings around the City because there had not been tremendous demand for single bedrooms. He revealed that every one-bedroom apartment required two parking spaces per City Code which meant that there was no real incentive for a developer to use valuable land downtown and construct one-bedroom apartments. He continued that developers could either choose to use the land for parking or seek an expensive and controversial parking waiver. As a result, developers built bigger two-, three- or four-bedroom apartments. He reminded that years ago, incentives were given to build two-bedroom apartments but stressed that there had been no incentive to provide one-bedroom apartments. He believed that building one-bedroom apartments would trigger a dramatic change in the dynamics of the apartment market because undergraduates preferred a group living environment. Ms. Ford postulated that as people aged, they made more money and did not need roommates. Mr. Lang confirmed and continued that the apartment had to be properly priced and include amenity spaces. He pointed to the market driven projects in the area and noted the one-bedrooms were higher priced, around \$1300 or \$1400, but included great amenity packages. He argued that undergraduates were unlikely to pay so much for an apartment and would opt to share costs with roommates. He repeated that there was opportunity to a space in the market.

Mr. Locke noted the plan called for balconies to offer residents views of the vistas and assured that LDG was purposely targeting specific clientele that would appreciate the building. He shared that college tenants preferred to be located downtown and the site was considered far away. He noted that LDG would rent to interested applicants but reiterated that the amenity package would generate interest in specific clientele. Ms. Ford asked why there was no consideration given to co-op apartments. Mr. Lang explained that LDG had been involved in a few condo projects that were difficult to navigate. Mr. Locke added that financing for condominiums was difficult, and Mr. Lang revealed that the administration of a condo building was not as easy as commonly thought. Mr. Locke added that co-ops were worse than condos. Mr. Lang believed that if the market created itself over time because of the demand in units and interested residents, the situation would be a logical opportunity for the building. He noted it would be difficult to convince a bank to loan money to redo the building only to sell condos because the banks would question the market proof. He emphasized the need to transition the building correctly into a more mature rental building and discover the long-term opportunities. Ms. Ford hoped the trend was a possibility because it spoke to permanency and a more stable population in the City.

Dr. Bancroft asked for evidence of the housing need and assumed the prices would be too high for students. Mr. Lang replied that Mr. Lawhorn statements were more of a generalization of more units were built, there would be less demand in the houses in the individual neighborhoods. He did not necessarily feel that the project was filling a demand associated with undergraduate student housing and revealed that he could redesign the project and return with 80 four-bedroom apartments, but stated that was neither his, nor Council's desire. He supported Mr. Locke's statement that the location was not ideal for student housing given what LDG knew about the needs and wants of undergraduate college students. He maintained that the location was perfect for graduate students or people that were taking classes at night and working during the day who wanted proximity to Newark and its amenities. He explained that they did not want to be downtown because they were unable to study or go to bed early, and could not do the things necessary to function as a graduate student or young professional. Dr. Bancroft understood but doubted that many people would rent in the neighborhood if they worked downtown. He thought integrating a theater and restaurant made sense if it could work. He questioned active recreation and was concerned that the sport court was converted from some parking spaces. He did not think that any green space had been added. Mr. Lang agreed that no green space had been added but argued that the site already had a tremendous amount of green space because it was 11 acres.

Mr. Lang clarified that LDG did not request the RA zoning, rather they had to determine how a five-story existing stone building fit into the zoning Code. He educated that if the application was to build a five-story building, the conversation would be different. As it stood, LDG met with Mr. Coleman, Ms. Gray, and City staff to consider how the existing site and proposed uses could fit into Code; the only possibility was RA. Dr. Bancroft asked if LDG would be restricted to three-stories. Mr. Lang corrected that ten-stories were allowable under RA. Dr. Bancroft asked if the site was currently zoned RA and Mr. Lang explained that site was currently RM but, as an existing-non-conforming use, RM would not have permitted the proposed uses. As a response, LDG would have had to create subdividable parcels but doing so would have triggered a myriad of other non-confirming setback issues with every building. LDG originally proposed another scenario, but City staff created the current solution.

Mr. Locke returned to Dr. Bancroft's comments about market demand and confirmed that LDG would be able to entice residential tenants from the Pike Creek and Hockessin areas who were Gore employees, bank employees, and nurses. Mr. Lang added that many graduate students still wanted to

maintain a connection to Newark but there were no appropriate housing choices, so they moved to Trolley Square. He was familiar with the Trolley Square price points because some of his children had made the same move, and he believed that if LDG could provide quality one-bedroom apartments of a similar price point with amenities and access to a vibrant downtown, then they would want to stay. He referred to the recently approved Grove project at College Square and noted it was targeting a very similar type of resident because of its proximity, not to the downtown, but to a different type of environment.

Dr. Bancroft then asked why the EV charging stations had been reduced from six to four. Mr. Locke believed the statement was incorrect and would investigate. Mr. Lang noted the trending need for charging stations and explained that LDG intended to add more to their other projects to meet the demand. He supported the City's move to require EV charging stations into projects. Dr. Bancroft assumed there was capacity enough to build ten stations with out much electric box work. Mr. Locke interjected and confirmed that the project indeed had six stations: four to the right of 500 Creek View and two by 700 Creek View. Mr. Lang reiterated that it was possible to build more depending on need. Dr. Bancroft questioned the language "based on market feasibility" and suggested that it should read "based on market rates" because LDG would charge for the service. Mr. Lang agreed.

Dr. Bancroft asked about bike spaces because he 54 spots and more for inside storage. Mr. Lang confirmed that the project would comply with the required amount and include indoor and outdoor storage. Dr. Bancroft wanted to encourage bicyclists. He then calculated that there were 173 bedrooms and 150 parking spaces for the office, he assumed there should be 100 spaces for the theater and restaurant but believed the situation would be congested. He then asked about lighting and asked if consideration had been given to directing light downward to decrease light pollution and nuisance. Mr. Lang confirmed that it had always been the intent and shared his belief that lights were not as evasive as they once were. He pointed that LDG had LED light conversions in most if its buildings which could direct light much better than some of the original high bay shoebox lights common with older shopping centers; he confirmed the project would meet the requirement. He estimated that the closes resident was 600 or 700 feet from the rear one of the buildings and noted the site had dense tree coverage but confirmed that LDG would with any adjoining residents through City staff to handle any concerns. Dr. Bancroft repeated his concern about light pollution and Mr. Locke emphasized that the site was pretty well lit already so the only additional light would be with the restaurant, office, and theater.

Dr. Bancroft asked for an explanation on the 10 points for conservation, which he guessed was awarded to the project by the City's Conservation Advisory Commission. Mr. Lang and Mr. Locke questioned the statement and Mr. Bilodeau interjected that he believed Dr. Bancroft was referring to the LEED requirements. Mr. Locke stated that all projects had to follow the requirements set forth by City mandates in Code; LDG always met the requirements. Ms. Gray explained that the site plan approval process required an additional ten points to be met under the Green Building Code and was also included in the subdivision agreement. Mr. Coleman asked if the 10 points was in addition to the 40 baseline points for a total of 50. Ms. Gray corrected that the 10 points was actually on top of 50 points. Mr. Lang believed that the site should get points for historic preservation and Mr. Locke revealed that the site already received points for historical preservation. Dr. Bancroft appreciated the efforts to maintain some of the site's character and noted there were public comments to be read into the record.

Mr. Suchanec suggested a creek walk, similar to what Wilmington had along the river, or San Antonio had, so that it was possible for people to walk along the creek. He admitted he did not know if it was a possibility. Mr. Locke informed that because of FEMA and the flood zone, there were many restrictions that made the suggestion an impossibility. Mr. Suchanec asked that LDG give consideration to building pedestrian bridges across the creek to the other side to offer a path from the site to the proposed playgrounds and reservoir. Mr. Locke reminded that LDG gave the easement to the City for future potential discussion. Mr. Suchanec suggested that LDG pay for the bridge and Mr. Locke said that was never part of the agreement.

Mr. Suchanec preferred not to dictate parking and thought the development should dictate what the parking would be. He pointed that the site was unique and if there was a parking issue, it would be up to the LDG to solve. He suggested that LDG reserve space for public transportation in the area, such as a future bus stop, to add the location to any bus loop program. He added that an inclement weather shelter would be useful. Mr. Locke pointed that there were currently two bus stops; one on Woolen Way and one on Margaret Street, that was used by UD. He informed there was also capability to have a stop on Paper Mill Road. Mr. Suchanec asked about a stop inside the property. Mr. Locke said it was a possibility. Mr. Suchanec believed the proposal was a great project and was more restoration than a development project; it was a great addition to the City.

Ms. Creecy noted that most of her questions had been answered by the discussions but had a few more. She shared that her son graduated from UD and was now at Villanova and she was concerned about available housing. Mr. Lang agreed that there were not many options. Ms. Creecy revealed the only downside for her district on the projects was that her district was low-income, and many students were concentrated in her area because it was affordable. She noted that she was heading into her 16th year as a resident on Madison Drive and explained that she received those who were pushed away from similar projects. She brought up the Housing Authority earlier because the proposed project was beautiful, and she would gladly sell her home to become a resident but would not specifically because of her constituency and those who aspired to attend UD. She assumed the Housing Authority would not create enough housing for students to return home nor was there much housing for the homeless. She asked what options were available to low-income residents; she hoped that LDG would consider the question with future projects. She wanted opportunities to be available to all residents and stated that the proposed project was beautiful. She maintained that she held no grudges for those who had any type of wealth and explained that she did not want her constituency to be left out of the picture.

Ms. Creecy asked if there were 397 parking spots. Mr. Locke corrected there were 387 spots. She asked if there were 14 ADA spots. Mr. Locke revealed that 11 ADA spots were required by Code and the plan called for 14. She thanked the Mr. Lang for preserving the culture of the building and reminded that in the 1850's, similar mills were worked and built by people who looked like her; it meant a lot that they were preserved. She encouraged the CSP to keep performing and looked forward to shows. She stated that a City was nothing without art.

Mr. Lang informed that Mr. Locke had served as a board member on the NHA in the past and LDG sat with the NHA to work on long-term plans. He revealed that LDG owned an adjoining property and were working with the developer to help with access issues and the new redesign of the NHA property on Main Street. He shared that LDG started Lang Cares three or four months ago, and part of the initiative as a non-profit was to help young people and families in the Newark community. He continued that Lang Cares was reaching out to Habitat for Humanity to try to help build housing. Ms. Creecy asked that they come to Madison to renovate the homes. Mr. Lang wanted to continue to give back to the community through their projects and some of the initiatives through Lang Cares. He explained that his daughter, Maddy, was the point person for the organization.

Mr. Clifton noted that he had been a very vocal opponent to Site Plan Approval and described the project as one as to why Site Plan Approval should happen. He commended the LDG for its efforts and suggested that if all of the other projects met the standards set by LDG, he might not be as much of an opponent towards some of them. He thought it was counter intuitive to approve variances for buildings that had existing for 170 years because it was non-sensical to waste staff and developmental time to get variances. He suggested that Council address the issue in a future discussion but was unsure if there was another place in Newark that would apply.

Mr. Clifton revealed that he had visited Memphis on many occasions and shared that much of the office space on Union and Beale Street were being converted similarly to Newark's downtown. He corrected that his statement was more appropriate to say that in the BB use, Memphis was converting office spaces above retail spaces into apartments and condominiums. He agreed that the conversions would continue to trend over the next few years because the pandemic exposed the possibility of working from home. He believed that more companies would continue through remote work.

Mr. Clifton thought the location was great for the theater and noted that Amelia Island, in Florida, had a performing arts theater and it was popular given its proximity to restaurants. He emphasized that it was a critical piece to the community and a real argument could be made, even with the Arts Alliance and other organizations around town, Newark was not as art centric as it should be for a university town. He commended the idea of creating one-bedroom apartments and was concerned that young adults between 25 and 35 years old did not see themselves employed one job or one place for very long and so did not want to commit to purchasing a home and preferred to rent. He believed that one-bedroom apartments would become more important in an upscale community. He commended LDG on their efforts to save the existing, historical buildings, and was unsure if the State had deemed them as such. He considered the project to be unique given the zoning and he believed that the collaborative effort between City staff and LDG was commendable. He agreed with Mr. Suchanec that the parking would work but if it did not, the solution would be up to the applicant. He thought the project presented a break from the paradigms of the past where Council would view parking. He noted that parking requirements at the site were not the same as they would be in a different location in the City. He thanked the LDG for the presentation.

Mr. Locke said he would be remiss to not address the great input from the City's various departments to make the project what it was and credited Public Works, Planning, and Parks & Rec for their ideas.

The Mayor opened the table to public comment.

Frank Newton, CSP, appreciated the City's support. He previously attended a meeting to discuss the shift in parking from around Chapel Street and the City's new parking plan. He expressed the theater's concern with the parking situation and the ability for its patrons to access the community theater, which officially the Community Theater of Newark, a moniker they wanted to maintain. He credited Lang Development for being an amazing partner and shared that CSP were excited about the plan. He invited all to participate in theater and believe it was beneficial to the City and its residents.

Scott Mason, CSP, thanked Council for their support. He emphasized the need for a new theater and noted that they in the grace of the owners of the Newark Shopping Center who permitted theater patrons to park in their lot during the shows. Prior to COVID and because of the Center's renovation and revival, theater patrons found it difficult to find parking. CSP learned from the Center that it was possible that the privilege could be revoked and, if it did, Mr. Mason stated that CSP would be finished and the 100-year history the group had with the City would be over. He shared that the now-defunct Downtown Newark Partnership once attempted to get CSP dollar parking the municipal lots in 2010 but failed because of the Friday and Saturday night downtown activities. Additionally, CSP had about \$10,000 saved for a new roof because the building was constructed in the 1950's but had to spend \$13,000 to construct a 12-foot fence around the property to stop student trespassing; the students actually knocked down the existing wooden fence to cut through. He revealed that the property was vandalized in a multitude of ways. He referred to Mr. Lang's presentation which showed the Chapel Street Player sign at the front of the building and revealed that he had to rescue the sign from the Police Department's evidence room because it had been stolen by students and hung in their apartment building. He emphasized that the location was not a good environment. When he started at CSP in 1989, the street was residential, the neighbors were all adults, and patrons were allowed to park on the street. He continued that the same was for Choate Street and Cleveland Avenue. He reiterated the area changed into a student rental area and the patrons did not want to walk by house parties on Friday night to get to the theater. He was last at the theater in February and had to call the police because the neighbors across the street set a couch on fire prior to the start of the show. He confessed that the theater would not survive in such an environment. CSP began looking for a new theater in 2010 and had been unsuccessful; Mr. Mason had worked with every developer in the City to get a space and nothing came to fruition, including trying to get into the College Square Shopping Center in 2010. He stated that Mr. Lang offered CSP the opportunity to have a new, single-level theater to replace the current show space which had many steps and was not ADA accessible, save for the front row and bathrooms. He reiterated that the new location was on one level and was ADA compliant and would allow for ADA participation on the stage. He thanked everyone for their support and asked that everyone remembered why the theater had to move.

Zack Jackson, Treasurer for CSP, thanked Council and was heartened to hear so many comments valuing the arts within the community.

Ms. Schiano read the following comments into the record:

John Bock: Please support the approval of a new theatre for chapel street. It's a terrific organization and is a real cultural icon for the City.

Caitlin Custer: I live one street away from the city limits of Newark, so while I don't count as a city resident, I still feel very invested in the city and surrounding areas. Most of the development in the city in the past decade has focused on building up the availability of housing for University of Delaware students, sometimes to the detriment of the quality of life in the community - such as the elimination of the bowling alley, or the overcrowding of streets that were formerly single-family homes. The proposal of the land swap between Lang Development and Chapel Street Players, however, preserves and strengthens a longstanding creative outlet in the community, while allowing developers to add housing to a street already dedicated to student living. Chapel Street Players will get the opportunity to have a brand-new theater, with state-of-the-art sound and lighting, and most of all, the parking to welcome more patrons. As a performer, I have participated in 3 shows at CSP and it is a lovely small-town theater with long roots in the community. This would be such a gift for the playhouse, which is old and crumbling, and it would breathe new life into their productions. This seems like a 'no-brainer' to me, as it would be accomplishing two goals at once, preserving the legacy of community theater for generations to come, as well as providing new student housing on a street that is already primarily focused on providing multi-student housing, some of which is outdated or dilapidated.

Walter D. Osborne, M.S., J.D.: I am writing in support of the proposed new theater for the Chapel Street Players to be located along White Clay Creek in Newark, DE. It is my understanding that the proposal, submitted by Lang Development, comes before the City Council on March 14th. I live in northeastern Elkton, MD, and although I do not live in Newark, I have been an active member of the Chapel Street Players for 13 years, involved in all aspects of the theater's operation. I am also the volunteer groundskeeper for the facility. In addition, I patronize many of the businesses in downtown Newark, including the movie theater, Walgreen's, Klondike Kate's, Sport Clips, and others.

In my position at the theater and as a frequent theatergoer there, I can wholeheartedly attest to the parking problem and noise issues that the theater has had to deal with over the years. As an actor there, I have been onstage where, during performances, the loud parties and music have been major distractions for both actors and patrons alike. On a weekly basis, I pick up discarded trash on our property carelessly tossed by college students (I've seen it firsthand). A new theater off Paper Mill Road would be a blessing for our patrons, because there would be ample free parking. We have heard from patrons who resist attending performances at the current location during the school year, because they don't want to walk through the gauntlet of crowds of loud and rowdy students from the Newark Shopping Center lot to the theater. In addition, many of our patrons have mobility issues, and we only have three handicapped parking spaces. The walk from the shopping center or even the municipal lots is simply not feasible for many. A move by our theater to the new location would not alter my patronage of downtown establishments; it's easy to park at the shopping center or the municipal lots and get to those businesses that I like.

We at Chapel Street Players are grateful to Lang Development for submitting this proposal and we earnestly hope that the Council will approve it. In my personal opinion, I am convinced that the new theater would be a source of pride for the entire downtown Newark community and greatly expand the cultural footprint for the area. Members of the City Council, I urge your approval of this worthwhile project. Thank you so very much.

Debbie McKeown: Dear City of Newark Council, I look forward to attending the newly located Chapel Street Players Theatre conveniently located with parking. It will be wonderful to continue to have an active theater in Newark and am grateful that there are sufficient volunteer actors to present the dramas year after year. Please see the wisdom in locating the new Chapel Street Players Theatre with sufficient parking at its newly proposed location.

Charlotte Lenzen, Townsend, Delaware: Chapel Street Theater performers are a wonderful group of people who have been adding to the artistic experiences of the people in the wider area for years. It is a tribute to them that they have been somehow able to survive despite the impossible parking situation. Unless you are lucky enough to get one of the 2 or 3 parking places in front of the theater you have to walk from the shopping center parking lot and manage not to be hit by a car that is entering. It is truly dangerous. I so hope that the new theater option allows them to perform and have a theater location that is worthy of their efforts.

Carolyn Nye & Bryan Baldwin, 717 Colgate Lane: My husband and I recently moved to Newark and one of the many reasons we chose to move inside city limits was because of the arts available to us. We would love to see Chapel St Players be more accessible with parking and support the move.

Nora Hufe: Hi, Just want to add my two cents and say that I support the new location for the Chapel Street theater. This will be a great place to go and there will actually be parking too.

Daniel and Deborah Kiser, 18 Farmhouse Road: Hello, I just wanted to let you know that my wife and I fully support the move of the Chapel Street Playhouse to its new proposed location. CSP has provided quality entertainment to the people of Newark for years. It would be so nice to have ample parking and maybe a little more leg room in a new building. So please count us among the supporters of the move of the Chapel Street Playhouse to its new proposed location.

Joshua Coslar: In support of Chapel Street Theatre's proposal, I no longer live in Delaware, but Newark is where I grew up. I had a monthly pull list from Captain Blue Hen comics, I learned to play guitar by taking lessons at Rainbow Records, my first skateboard came from Switch Skate and Snow, I played my first gig at Mojo on Main, I had my first beer at Klondike Kate's, and my first time working in theater outside of high school was at Chapel Street.

I now live in Newark, New Jersey, and I work in theater full time. I'm a stage combatant, choreographer, production designer, and administrator. I've worked at renaissance festivals and theme

parks and historical reenactments and off Broadway. I wouldn't have my career without Chapel Street Theatre; no working theatrical technician would receive their basic skills and understanding of the workplace without a robust community theater program. I return to Chapel Street once a year for their overnight one act festival, and see many veterans of the program do the same. Arts administrators, teachers, actors, choreographers, writers, storytellers and dozens of other colleagues in the theater and arts industries got their start at Chapel Street.

With a new and improved location, Chapel Street will be able to help more students and adults experience theater for the first time. Those performers, writers, directors, and technicians might go on to be successful in their fields, or they might continue to pursue community theater for the rest of their lives alongside their other interests. Regardless, they will carry with them skills that will apply in anything and everything they do. Chapel Street Theatre is an important part of Newark. It means "home" to me in the same way that coming back for Free Comic Book Day at Captain Blue Hen does. It is the beginning of a lifelong relationship with the arts for so many people. I cannot endorse the project strongly enough, and I am overjoyed with the many opportunities this will bring. I so look forward to visiting the new location.

Virginia Hyde: Hello, I am writing in support of the new location for the Chapel Street Theater. Coming to Main Street for dinner and seeing a show is something my family loves to do. The lack of parking and the very old building made it sometimes difficult. Please accept my voice in support of the theater having a new location on the creek.

Valerie Walton: As a Delaware native and Newark resident, I sincerely hope that you support a new home for the Chapel Street Players' theater! They have been a strong member of our community for many years. It would be a wonderful opportunity for all of us to enjoy their talents in a new setting. Please help to keep the arts alive in Newark! We need more things to enjoy in this awesome city. Many thanks.

Melody Bock: I am writing to ask you to support the proposed new theatre building for Chapel Street Players. I believe a good community theatre plays a critical role in the vitality of a municipality. I've attended shows at the current location, and while the performances are superb, the theatre itself leaves a lot to be desired. I believe the new building and location will greatly enhance the experience of theatre patrons, and the experience of the actors themselves.

John Harvison, Garnett Valley, PA: Hello, I understand there is to be a vote on March 14 regarding the proposal to build a new Chapel Street Players as part of a "Creek View Project". Although I am not a city resident, I am a long-time supporter of Chapel Street Players, more than 30 years, and continue to attend several performances every year. Their performances bring me to Newark periodically and during these trips, I shop and eat in Newark. Please add me to the list of supporters for the project. Thanks!

Donald and Caroline Pruden: Please be aware that my wife and I have been CSP members for over 35 years. I have acted, directed over 15 productions, served on the Board, and supported Newark. CSP is an asset that needs the move to become an even greater part of the art scene in Newark.

Barbara Tilton, 25 Lenape Lane: I have been a patron of Chapel Street Players for several years. They're a wonderful, dedicated, talented group of volunteers who love theatre. They have done their best to deal with the old building they're in, and need to have a theatre where their efforts can be directed at performing, rather than keeping an old building functioning. I ask for your support in helping Chapel Street Players get their new building promised by Lang with the "Creek View Project".

Joan and Jim March: My husband and I have been enthusiastic patrons of Chapel Street Players for over 20 years now. We enjoy and appreciate what the dedicated team has been able to do in their existing building, putting on excellent productions and making a significant contribution to the cultural offerings of the City of Newark, despite the theatre building being old, small, and lacking parking. We were delighted to hear that the company may soon have a brand-new home on Creek View Road and wish to express our support for this potential move.

Anne M. Powell: I have been a season ticket holder of CSP. It is with great anticipation that I look forward to a new building and location for this long time Newark entertainment venue. I have watched the growth of fledging actors grow into true thespians. I not only support CSP but the local businesses of Newark. I am not a resident of Newark but support CSP. I ask you to approve this new location and building. Regards.

Zachary Jackson: Hello, my name is Zachary Jackson, and I am writing to voice my support for the "Creek View Project" as it concerns the construction of a new theater space for Chapel Street Players. While I live just outside of the City of Newark, I am a frequent patron of the theater and businesses on

Main Street and its environs. I have had the pleasure of performing and attending shows at Chapel Street Players since 2016, and the company and its volunteers have come to mean a lot to me in the past few years. While I will not dwell on the long and important history that the group has in the Newark community, it goes without saying that it has had a huge impact on the lives of many, many people.

That being said, the current location has become a hindrance on the continued growth and success of the group. Each year, more and more money is poured into the upkeep for an old building, while our patrons continue to voice their concern over the lack of parking. Currently, Newark Shopping Center has been gracious enough to allow our patrons to park there, but this can be a difficult distance for some of our older patrons. Additionally, the lot can be very crowded, and spaces are not always easy to find. We are also keenly aware that this friendly agreement could end at any time, which would likely mean the end of the company as we know it. Should that be the case, many of our patrons, including myself, would not come to Main Street as often. Pre-show dinners, post-show drinks, flowers, gifts, desserts, all of these economic benefits of a local theatre group would cease to exist.

This project provides the company with a new space that allows Chapel Street Players to grow its programming footprint and to infuse more economic benefits to the community. Parking would also no longer be an issue, allowing some of our patrons who stopped attending to return. I hope that the city council gives this project serious thought and decides to approve it, allowing one of Newark's cultural foundations to continue into the future. Regards.

John E. Powell: I patronize downtown Newark businesses and CSP and am in favor, of this new location. I would enjoy visiting the city and CSP in this new location with parking. One of the problems Newark and CSP shared in the past is the lack of nearby parking. This solution will benefit both Newark and CSP.

Elizabeth Chartrand: I am a resident of Newark, and I love live theatre! Chapel Street Players is very important to the Newark community, offering affordable quality entertainment. I have lived here not quite four years, and so grateful to have CSP Theatre in Newark. After many years in their small church-like building, it is time for a new venue....I support a new building for CSP to truly flourish. Thank you.

Joe Abbruzzesi: As you know, any time you build in the flood plain, you could cause additional flooding upstream and in the proximity of the new construction. With a total of 41,785 square feet of new construction in the White Clay Creek flood plain, can you guarantee there will not be additional flooding at the rear of the Paper Mill rowhomes or the Paper Mill Farms homes. I have lived at 4 Wrangler Road since 1976 without water reaching my home, although it has reached my property line during the flooding at the White Clay Creek. Can you guarantee me that with this new construction that flooding in the future would not penetrate farther onto my property or reach my home? Lang has prospered immensely with new construction in Newark, his development should not be allowed to have a negative effect on Newark properties.

James Papas: Good evening , I am writing to you as a property owner located at 7 Wrangler Road, Paper Mill Farms, Newark, Delaware. Although I did not receive any notification from you I am in close proximity to an application made to the City for approval called Lang Developers to be known as Creekview Road Associates LLC, for Major subdivision. This is the same property previously known as NVF located in a floodplain which was purchased and developed by the Commonwealth Group from Delaware. The current request is to take this property and redevelop a large selection of the Commercial Property and turn it in to 111 apartments and some additional office space for Lang to be located in a flood plain without sufficient parking spaces. In addition to this, it is a site that will put additional strain on the water supply, sewage capacity. These units are obviously for students. This project is close by to one of the busiest and most dangerous road intersections. While checking the demographics the population consisting of students and the regular population that makes up the total city population shows that the population in the City of Newark has been consistently declining from 2014. Instead of taking care of the basic needs of the City's real population the services of the City Fire Department, police are nonexistent. This has been partly due to the pandemic will continue to deal with in the future. Which we are still dealing with and will continue in the future. In addition to this property, the above applicant owns property that once housed a Burger King that is not built yet. University saying that they are going to do something, and they do not like removing . In short this is not the time to be building additional apartments to be occupied by University of Delaware students. As you know 2/3 of the population of the City is made up of students who are here for a period of nine months during the year. As you also know the potential ownership of the development is structured by an LLC which means a Limited Liability Corporation. This type of ownership allows the investors and owner to walk away from the project if it does not work out to the taxpayer and the City holding the bag. This is also true of all the owners of mostly apartments built in the past as well new projects to come. The City has also lied to the local community that all of this is to serve

local needs of families, seniors and individuals working at businesses in the community. That is obviously not true. It only benefits the University of Delaware because the regular working population cannot afford the rents collected by the developers, you also know that the longer inflation goes on ability to rent apartments will decline. Do the right thing and decline this application as the only winners, if you approve this request, will be the Commonwealth Group and Lang. The other losers will be the current homeowners of the City and the State of Delaware who will have to bail the City out.

My wife, Mary Jane and I, along with our family who have called the City our home for the past 48 years, recently experienced the worst grid lock this past week trying to meet our daughter. The traffic closed all entrances in and out of the entire downtown area could not move. We sat there for over a half an hour. Later on, that same week, a vehicle was hit by the rains that passes through the City. This is just the beginning. I am sure the University of Delaware is sitting back and building up their fund since they do not have to demolish high rise apartments while the City, who took pride in following the Main Street program and got an award which has not a success because of all the empty commercial space, has not become the City that the University built with no liability. There is still time to make a difference and stop the bleeding, unless this is yours, and the University of Delaware plan going forward. I loved to call this City my home, however I cannot believe the City allowed this to happen. I would be happy to talk to you further as I have over 50 years of experience working out situations you are dealing with at no cost. My daughter and her family will also be willing to help as well.

Ms. Schiano added that she read the letters in the order received, and Mr. Papas was a resident of District 6 but was outside of the direct mailing notice distance of 500 feet. She informed that no other comments had been received as of an hour prior.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE REZONING OF 500-700 CREEK VIEW ROAD TO RA AND SFHA AS SHOWN ON THE KARINS AND ASSOCIATES MAJOR SUBDIVISION PLAN, REZONING, SPECIAL USE PERMIT, AND SITE PLAN APPROVAL PLAN DATED OCTOBER 28, 2020 AND REVISED JANUARY 4, 2022, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE NOVEMBER 30, 2021 PLANNING AND DEVELOPMENT REPORT BECAUSE IT DOES NOT CONFLICT WITH THE COMPREHENSIVE DEVELOPMENT PLAN, AND BECAUSE THE PROPOSED PLAN DOES NOT CONFLICT WITH THE DEVELOPMENT PATTERN IN THE NEARBY AREA.

Mr. Bilodeau interjected and reminded Council that a vote for a rezoning needed to include the opinion of whether or not the rezoning was consistent with the Comprehensive Plan. He noted that Council possessed the Planning Director's and Planning Department's reports where it was concluded that it was consistent and reiterated that Council needed to state as such. He informed that the reasons for the rezoning were included in the memo and Code, and suggested that Council could use the language "for the reasons set forth in the Planning Department's Report" or "for the reasons stated by my colleague".

Mr. McDermott voted yes because the rezoning was consistent with the Comprehensive Development Plan as outlined in the November 30, 2021 Planning and Development Report and the rezoning was consistent with the character of the district, and was particularly suitable for the uses as described by the applicant, specifically apartments, theater, and restaurant.

Mr. Lawhorn voted yes for the reasons stated by Mr. McDermott and for the reasons included in the Planning Department Report.

Ms. Ford voted yes for the reasons stated by Mr. McDermott and for the reasons stated by the Planning Department.

Dr. Bancroft appreciated the efforts and supported the CSP. He thought it was admirable and that, sometimes, patrons were consistent in support of it. He was not surprised to hear the folks involved in the theater wrote letters of support and if it was a theater project, it would be great. He noted the proposed building would be out of the flood plain. He did not believe the proposed rezoning to high-rise was consistent with the Comprehensive Development Plan, nor did it do anything for the general welfare, was bad for congestion and public safety in the area, the air quality, and light pollution. He said it would involve expanding the City services to support the location and he was concerned about gentrification as poorer residents were pushed outside the downtown, there was increased challenge for them to maintain a decent quality of life. He found minor concerns with the amount of investment at risk that was being into the flood plain and the added vehicle traffic, and potential parking issues. He voted no.

Mr. Suchanec voted yes because the proposed zoning was consistent with the Comprehensive Plan and for the reasons stated in the Planning Department's report.

Ms. Creecy voted yes for the reasons stated by Mr. Suchanec and for the reasons set forth in the Planning Department's report of November 30, 2021.

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

MOTION PASSED. VOTE: 6 TO 1.

Aye – Clifton, Suchanec, Ford, Creecy, Lawhorn, McDermott.

Nay – Bancroft.

(ORDINANCE NO. 22-05)

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

- A.** Request of Creekview Road Associates, LLC and Creekview Road Associates II, LLC for the Major Subdivision of 11.504 +/-Acres In Order to Convert the Existing Five Story Office Building to 111 Apartments, Construct a New 6,013 Square Foot 16 Studio/Theater, and Construct a New Three-Story Office Building with 30,972 Square Feet of Commercial Space. ***(Agreement and Resolution Attached) (See Items 8A and 9A)***

3:15:39

Mr. Clifton asked if the vote was simple. Mr. Bilodeau confirmed and instructed that Council needed to state that the reasons for allowing the six bonuses or variances were because of the factors of distinctiveness and excellence in design as set forth in Code. He suggested the language "those factors of distinctiveness and excellence in design have been met" to justify the factors.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE MAJOR SUBDIVISION BY SITE PLAN APPROVAL OF 500-700 CREEK VIEW ROAD AS SHOWN ON THE KARINS AND ASSOCIATES MAJOR SUBDIVISION PLAN, REZONING, SPECIAL USE PERMIT AND SITE PLAN APPROVAL PLAN DATED OCTOBER 28, 2020 AND REVISED JANUARY 4, 2022, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE NOVEMBER 30, 2021 PLANNING AND DEVELOPMENT REPORT, BECAUSE IT COMPLIES WITH THE SUBDIVISION ORDINANCES AND ZONING CODE, AND BECAUSE IT DOES NOT CONFLICT WITH THE COMPREHENSIVE DEVELOPMENT PLAN.

Mr. McDermott voted yes because the distinctiveness and excellence of the site met the requirements to receive the six bonuses because the uniqueness of the plan, particularly the one-bedroom apartments, were desperately needed in the City, and it assisted with the development of creative arts within the City by allowing the Chapel Street Players to remain within the City limits.

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

Ms. Ford voted yes because the variances were offset by the excellence of the design, and also for the reasons stated by Mr. McDermott.

Dr. Bancroft voted no because he did not believe the applicant demonstrated that the conditions would not affect adversely the health and safety of persons living or working in the City of Newark boundaries or within a mile to Newark boundaries and within the State of Delaware, nor did he believe the applicant demonstrated that the conditional use would not conflict with the purposes of the Comprehensive Development Plan of the City. He denied that the applicant demonstrated the importance of the proposed use.

Mr. Suchanec voted yes for the reasons stated by Mr. McDermott, for the excellence of design, and for the preservation of the buildings on the property.

Ms. Creecy voted yes for the reasons as stated by Mr. McDermott.

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

MOTION PASSED. VOTE: 6 TO 1.

Aye – Clifton, Suchanec, Ford, Creecy, Lawhorn, McDermott.
Nay – Bancroft.

19. 9-B. REQUEST OF CREEKVIEW ROAD ASSOCIATES, LLC AND CREEKVIEW ROAD ASSOCIATES II, LLC FOR A SPECIAL USE PERMIT FOR THE SUBSTANTIAL IMPROVEMENT OF THE EXISTING STRUCTURE IN THE SPECIAL FLOOD HAZARD AREA AT 500 AND 700 CREEK VIEW ROAD AND 100 DEAN DRIVE (SEE ITEMS 8A AND 9A)

3:20:56

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE SPECIAL USE PERMIT FOR THE SUBSTANTIAL IMPROVEMENT OF THE EXISTING STRUCTURE IN THE SPECIAL FLOOD HAZARD AREA AT 500 CREEK VIEW ROAD AS SHOWN ON THE KARINS AND ASSOCIATES MAJOR SUBDIVISION PLAN, REZONING, SPECIAL USE PERMIT AND SITE PLAN APPROVAL PLAN DATED OCTOBER 28, 2020 AND REVISED JANUARY 4, 2022, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE NOVEMBER 30, 2021 PLANNING AND DEVELOPMENT REPORT, BECAUSE IT DOES NOT ADVERSELY AFFECT HEALTH AND SAFETY, IS NOT DETRIMENTAL TO PUBLIC WELFARE OR INJURIOUS TO PROPERTY, DOES NOT CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE DEVELOPMENT PLAN, AND WILL NOT INCREASE FLOOD RISKS.

Mr. McDermott voted yes for the Special Use Permit because it did not adversely affect health and 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; nor would it be detrimental to 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; nor would it be in conflict with the purposes of the Comprehensive Development Plan within the City. He also took into consideration the requirements that were set forth for a Special Use Permit within a SFHA, as outlined in the Planning and Development Department Report dated November 30, 2021 on pages 4 and 5, specifically the concerns of residents that commented that evening about the danger to increased flood heights. He emphasized that the concerns were addressed by FEMA and DNREC prior to the applicant's petition. He noted the second consideration brought up by residents was to the effect of public utilities, specifically sewer, the concerns of which were addressed by Mr. Coleman.

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

Ms. Ford voted yes for the reasons stated by Mr. McDermott.

Dr. Bancroft voted no because the design was not distinctive, the parking lacked unique treatment, the architectural design was not outstanding, and the landscaping was not sufficient.

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

Ms. Creecy voted yes for the reasons stated by Mr. McDermott.

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

MOTION PASSED. VOTE: 6 TO 1.

Aye – Clifton, Suchanec, Ford, Creecy, Lawhorn, McDermott.
Nay – Bancroft.

Mr. Clifton reminded that there would not be a meeting on March 21st and Council would meet again on March 28th.

20. Meeting adjourned at 10:28 p.m.

Tara Schiano
Director of Legislative Services
City Secretary

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