

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

May 16, 2022

Those present at 7:00 p.m.:

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| Presiding: | Mayor Stu Markham District 1, John Suchanec District 2, Corinth Ford District 3, Jay Bancroft (arrived: 7:08pm) District 4, Dwendolyn Creecy District 5, Jason Lawhorn Deputy Mayor, District 6, Travis McDermott |
| Staff Members: | City Manager Tom Coleman City Secretary Tara Schiano City Solicitor Paul Bilodeau Deputy Planning Director Renee Bensley Deputy City Secretary Nichol Scheld Planning and Development Director Mary Ellen Gray Planner I Josh Solge Finance Director David Del Grande Chief Communications Officer Jayme Gravell Chief Purchasing and Personnel Manager Jeff Martindale |

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1. Mr. Markham called the meeting to order at 7:00 p.m.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL REMOVE EXECUTIVE SESSION A AND AGENDA ITEM 4A FROM THE AGENDA.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Bancroft.

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

Mr. Markham explained that the meeting would proceed in a hybrid format, and he would offer the floor to a presenter for a particular agenda item. He would then move to Council for comments; he would either call on Council at the dais as a group or individually for those participating online. After Council offered comments, he would open the floor to public comment. He would solicit a rollcall vote when necessary.

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

Mr. Markham noted that the agenda was abbreviated that evening and informed that there was a suggestion to move The Newark Partnership (TNP) directly after 2A.

MOTION BY MR. MARKHAM: THAT COUNCIL AMEND THE AGENDA AND HEAR ITEM 5B, THE NEWARK PARTNERSHIP, DIRECTLY AFTER AGENDA ITEM 2A.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Bancroft.

3. 1. **FINANCIAL STATEMENT:** None

4. 2. **APPROVAL OF CONSENT AGENDA:**
A. Receipt of Alderman’s Report – May 9, 2022

4:15

Ms. Schiano read the consent agenda into the record.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Bancroft.

5. 5-B. **THE NEWARK PARTNERSHIP**

5:07

Mr. Markham explained that the presentation was meant to be a communication between TNP and Council to discern what was happening within TNP.

Leann Moore, Executive Director of TNP, informed that TNP intended to present to Council every month. She was currently in attendance at the Main Street Now Conference in Richmond, Virginia, and was looking forward to presenting best practices to Council upon her return. She presented an update from TNP’s strategic plan of the most recent actions within the last two or three months.

Ms. Moore revealed that TNP was working towards supporting a thriving, healthy, and expanding local economy throughout the City by revamping how TNP originally envisioned its Economic Enhancement Committee. She reported that TNP’s other two committees, Non-Profit and Civic Engagement, met regularly, once a month, and discussed various events, professional development, and challenges faced. She shared that after the pandemic, businesses lacked the bandwidth, time, or staffing to attend monthly meetings so TNP crafted the Economic Enhancement Committee with members of TNP’s board and members of City staff, specifically in the Planning Department. She revealed that Renee Bensley, Deputy Planning Director, sat on the Committee, and TNP invited other City staff as necessary. The Committee’s first initiative was starting quarterly roundtable discussions, which began two weeks prior, and included real estate developers. TNP would host another over the summer with small businesses and organizations, and another for restaurants. She clarified that the small business discussion would not focus on restaurants or small eateries but would focus on retail and service providers; restaurants would have a separate meeting. She explained that the roundtables were to identify any challenges or issues in their sphere of interest. She spoke to a number of downtown businesses who had been successful for decades but had not expanded; she learned that the businesses had need for lessening the amount of time from conception or financing to opening the doors. The primary suggestion was to address the timeline for planning, permitting, and inspection processes; she believed some were a misnomer, especially depending on what type of business was being opened. The Committee wanted to share data on the average time to complete the processes and compare the times to other municipalities in order to rebrand the City’s processes. She refuted claims that Newark was the worst in the State and maintained that TNP could help debunk the myth and brand the City as a business-friendly place.

Ms. Moore shared other suggestions such as tax or utility abatements and pointed that the tax abatements were really only helpful to the developer, not the small businesses while utility abatements were helpful to businesses, especially if the space needed to be rehabbed. The businesses and real estate brokers suggested investigating special permitting to determine how and why it was used, if it was helpful, and if there was a way to streamline the processes. She continued that TNP was working with the Planning Department to launch an Ambassador Program to provide businesses with a singular contact to serve as liaison throughout the process of opening a business in Newark instead of navigating the City’s website; TNP would act as the ambassador. She clarified that TNP, a board member, or volunteer member would become a quasi-ambassador or mentor throughout the process depending on who was looking for assistance, their business, where they were in the process, and background. TNP would work closely with the City to ensure that the data was updated in order to alleviate the City staff time. She shared that everyone that she spoke with was excited about the prospect and confirmed that she had fleshed out the idea with the Planning Department. She expressed her thanks to Ms. Gray, Mr. Solge, and Ms. Bensley for their assistance.

Ms. Moore continued that of TNP’s three pillars of Economic Development, Nonprofit Enhancement, and Civic Engagement, the Nonprofit Enhancement took off the fastest because the City’s nonprofits had never had an organization that helped them network with one another in order to serve

the community better. She reported that at least 12 different nonprofit organizations attended TNP's monthly meetings and 30 to 40 attended TNP's quarterly networking meetings. She continued that TNP was set to launch an online research sharing platform over the summer so that members could share data, resources, best practices, job descriptions and other information with their peers to communicate and troubleshoot together. She added that TNP was able to include more faith-based communities that did not only serve as places of worship but also provided important services, such as food insecurity and housing through the Empowerment Center, Hope Dining Room, and Code Purple locations throughout the City. TNP collaborated with the Interfaith Leaders' Group, which was comprised of about a dozen faith communities of various beliefs, that met once a month to update one another in order to help coordinate their efforts to mobilize and address issues in the community. She maintained that the meeting would present Council and staff to have a coordinated group to go to with specific issues or solicit specific feedback.

Ms. Moore then progressed to Civic Engagement and informed that TNP held its "Knowing Newark" series once a month; the most recent was a native plants walk in Redd Park which actually had a waiting list. TNP currently coordinated 18 Little Free Library boxes throughout the City and sponsored children's books as needed. She added that three new boxes arrived recently and would be located in White Chapel Park, Kells Park, and the Evergreen neighborhood, and would be installed by the Parks and Recreation Department. She informed that all of the boxes in the future would be an upgrade to those the County distributed because they would not require frequent staining.

Ms. Moore continued that TNP would try to better engage UD students with the larger community but found that getting an invitation to new student orientation was difficult. Instead, TNP was going through the Inter-Fraternity Council and had two members of the Student Government Association (SGA) on its board, one of which was on the Inter-Fraternity Council. She informed that anyone who joined a fraternity had to participate in the Inter-Fraternity Council's orientation and TNP was now a participant and could connect the members with internship opportunities, professional mentors, volunteer opportunities, and offer networking outside of the UD sphere to breakdown the stigma around students.

Ms. Moore credited Ms. Gravell for helping to organize the beer garden and informed that TNP was able to sponsor six foldable tables and was happy to sponsor more. TNP looked forward to serving as a sponsor and partner in future events.

The Mayor opened the table to Council comment.

Ms. Creecy asked if TNP would be interested in assisting her with a community clean-up in September by using UD student volunteers. Ms. Moore would reach out to Ms. Creecy.

Mr. Lawhorn asked how TNP, and City staff envisioned incorporating the business survey replies into improving processes during future prioritizations. Mr. Coleman believed it would depend on the scope and explained that the beer garden at the spring concert series was able to be implemented quickly because it did not compete with other priorities based on the group handling the effort. He continued that the worst case was that staff would include them on the priority list and proceed accordingly. Mr. Lawhorn agreed and hoped that the exercise would happen annually so that the City could prioritize accordingly, especially the suggestions were helpful in improving service. Mr. Lawhorn acknowledged that he was aware of the perception of how business was done in the City and that people were often frustrated with the processes; he asked how TNP would improve perceptions regarding the City's reputation. Mr. Coleman explained that improving would be out of TNP's scope but shared that the first step was to get the data which would compete with tasks already in the Planning Department's list. He thought that much was likely perception and revealed that some of the groups experiencing difficulty in getting items through did not provide staff with the necessary information or had submitted substandard applications. He informed that as of Friday, Public Works had 37 plans in its queue, and delays were inevitable because of the high-volume projects in the City. Mr. Lawhorn wanted to have metrics surrounding important objectives in order to create goals and troubleshoot issues. Mr. Coleman revealed that the new EnerGov software that staff was considering included a built-in management dashboard for staff to review key performance indicators (KPI). Mr. Lawhorn cautioned against tracking less important KPIs because it was burdensome.

Ms. Moore interjected that she intended to create a specific list of actions steps, including specific data, that would be helpful for the branding and messaging purposes. She believed that the Ambassador Program would cut down on subpar applications and would make a difference in the future. Mr. Lawhorn wanted to know how often the ambassadors were contacted and if TNP could track how often resources were being used through its website because the result could lead to more funding or streamlining processes.

Mr. Lawhorn shared that he had participated in Knowing Newark events and was pleased with the Little Free Libraries. He shared that Sergeant Dalia had involved fraternity and sorority council with the Police Athletic League (PAL) and felt that UD students should be encouraged to rebrand themselves and highlight their positive impacts to the community.

Dr. Bancroft appreciated the Ambassador Program and shared that the Little Free Library was positively received by his constituents.

Mr. Markham explained that Dr. Bancroft's comments had been interrupted by an unmuted meeting participant.

Mr. Suchanec questioned the Civic Pillar because he believed there was a disconnect between what businesses were in the Newark mix versus to what business residents were drawn. He was unfamiliar with the Knowing Newark series and asked for more details. Ms. Moore explained that the series had been ongoing for three years, but the first two years were online versions. She continued that the intent behind the series was to highlight a "hidden gem" in the City, ranging from people, place or historical piece and had included a native plant walk through Redd Park, discussions with Jim Jones, a session with the local Islamic community about Ramadan, the history of Friends of School Hill, and eating sustainably with the Newark Co-op. She explained that each topic reached a different population and 60% to 70% of the attendees were residents and the average age was 50. She informed that TNP issued a weekly newsletter to 4,000 official subscribers with 500 returning a defunct email or vacation responder. Of the 3,500 recipients, TNP had a 78% open rate and Knowing Newark had a 40% click through rate, double the average for a Delaware e-newsletter. She thought TNP had the opportunity to create programming that could potentially reach a younger audience and included a bridge to the gap between students and residents. Mr. Suchanec asked if TNP's reach was most through online messaging and Ms. Moore confirmed TNP used social media, e-newsletters, and word of mouth. Mr. Suchanec asked if downtown Newark was considered a hidden gem. Ms. Moore informed that TNP had done a segment on the history of the downtown area and various downtown areas and people were highlighted as gems, but nothing had been done to target downtown recently. Mr. Suchanec suggesting highlighting the Alfresco events, but Ms. Moore explained that TNP advertised Alfresco events separately; Knowing Newark events took place on the third Wednesday or Thursday evening and Alfresco and beer garden events were advertised at the end of the segments as well as separately. Mr. Suchanec appreciated TNP's efforts and asked whether the distribution could be used to solicit interest on what types of businesses residents wanted for the downtown area. Ms. Moore confirmed.

Mr. Markham asked that Council always be included in the invitations for TNP regular and Economic Development meetings. He understood that Councilmembers were not official TNP members, but the City was a large member. Ms. Moore agreed and noted that Mr. Markham was a founding sponsor. Mr. Markham revealed that he heard comments from both ends of the spectrum for the permitting process and asked that feedback be specified as to which processes had issues because different permits had different timelines. He referred to Mr. Lawhorn's comments about KPIs and wanted to use them as identifying a problem to fix rather than a staff performance metric. He wanted to hear suggestions on where to find funding to offer incentives and thought it was possible that people knew of various grants. He shared comments that businesses felt that all should be on the same playing field regarding special uses but clarified that the Special Use Permit was initiated years ago as a tool to control issues and behaviors. He wanted to know if the requests were alcohol-related or for outdoor music because there was a balance between downtown residents versus businesses.

Mr. Markham reminded that the Police used to be invited to UD orientation and asked if the City was invited in any capacity and Mr. Coleman did not believe so. Mr. Markham would investigate because he thought the City should be present during student orientation to emphasize that it was part of the experience.

Ms. Moore confirmed that she could invite all of Council in order to provide information on when the board meetings and roundtables were held but asked how many Councilmembers constituted a quorum. Ms. Schiano explained that a quorum was four members and Mr. Coleman added that no more than three members could be in one place discussing business but were allowed to be attendees.

6. 3. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**
 - A. Presentation and Discussion on Accessory Dwelling Unit – Planning & Development (60 minutes)

38:23

Mr. Coleman explained that Mr. Solge would present on Accessory Dwelling Units (ADUs) which were one of the several recommendations from the Rental Housing Needs Assessment Report and included in the Council-directed priority list for the Planning Department. While staff realized ADUs were not Planning's highest priority, there had been time available on the agenda but not enough to discuss the BB/RA Charrette recommendations, which were scheduled for the next meeting. The Planning Department felt that it could present on ADUs that evening without negatively impacting the BB/RA timeline which would allow staff to proceed with other Council-directed priorities. He explained that staff requested Council feedback on items that should be specifically included, excluded, or researched in the preparation of a draft ordinance such as:

- Requiring owner-occupancy in order to lease out the ADU
- If the ADUs should be allowed to be free-standing or part of the main structure
- If the ADUs should be allowed over garages
- If the number of bedrooms should be limited
- If off-street parking should be required
- If ADUs should have a separate rental permit fee structure

Mr. Coleman continued that after staff received feedback, they would return with a draft ordinance for Council discussion to discern any significant issues before starting the formal process for first and second readings. Ms. Gray clarified that staff wanted Council's general thoughts and input on the ADU ordinance, other things to consider, and points of interest. She shared that the Planning Commission was enthusiastic about ADUs but were concerned whether there was a way to encourage that ADUs be used by young professionals, empty-nesters, or those wanting to age in place, so that the ADU did not become an additional student rental. She agreed that the concept was new and that while the RHW was enthusiastic, there were also some general concerns. She pointed to page two of memo that included recommended solutions from the RHW report and reiterated staff's need for Council feedback to help guide the Department's research.

Mr. Solge reminded that Council approved the formation of the Rental Housing Workgroup (RHW) in 2019 to examine issues related to the high demand for student housing due to student growth, the management of rental housing, and the need for additional non-student housing in the City. The RHW identified allowing ADUs on owner-occupied single-family lots as a way to create an additional supply of rental housing. He continued that housing costs had steadily increased in Newark and the RHW discovered that commonly identified needs for the Newark housing market were more affordability, more non-student housing, more families, and a better retention of young residents. Historic trends showed that for the past three decades, the size of the average American household had fallen steadily while the size of the average American house had gotten larger. In 2015, the average house provided nearly 1000 square feet for each occupant.

Mr. Solge explained that ADUs were mostly a function of their relatively small size and were a naturally affordable housing option that provided some flexibility in price and size that did not currently exist in the single-family-zoned neighborhood settings. By utilizing existing lots, ADUs were an infill option that allowed for additional units without further land clearance and were a gentle form of density that did not dramatically alter the character of a neighborhood. He described an ADU as essentially a secondary dwelling located on the same lot as a principal single-family dwelling that could be attached to, detached from, or built within the principal dwelling such as attics, basements, garage apartments, an attached or internal in-law suite, backyard cottages and garage conversions. He declared that jurisdictions differed on the specifics of what was considered an ADU, but it generally centered on the unit having its own entryway as well as living, bath, and kitchen facilities independent of the primary dwelling.

Mr. Solge emphasized that an ADU was not a Tiny Home or mobile home located on a single-family property. The key distinction was that an ADU was a fixed, permanent structure built according to the same standards and practices as a normal dwelling including permanent plumbing and electrical hook ups, compliance with building codes, and a fixed foundation. He continued that allowing ADUs might not be as dramatic a departure from current conditions as commonly believed and revealed that currently, owners of single-family properties in Newark were permitted to take up to two non-transient boarders by right. Owners could also build an addition onto the home up to the allowable lot coverages in their district which could contain full bedrooms and bathroom facilities; only the absence of a kitchen distinguished the addition from being declared an ADU and was therefore not permitted.

Mr. Solge noted that ADUs could appeal to seniors aging in place or living in relative care, or by providing living space for an on-site caregiver or family member. He suggested that some seniors and empty nesters might invest in an ADU to downsize or to supplement their retirement incomes. ADUs could also appeal to young professionals, graduate students, and starter families looking for accommodations

that were more size and cost appropriate for their needs. He indicated that ADUs were a wealth-building opportunity for owners making a major investment in their property that could also yield supplemental income if rented. He maintained that ADUs offered communities a low impact way to develop additional housing units that were generally more affordable, more practical, and less impactful than other forms of new development.

Mr. Solge explained that ADUs affected housing affordability in two ways. For renters, the small size generally equated to lower rents and utility costs and could also provide housing opportunities in single-family neighborhoods that might otherwise be unaffordable or impractical given the large size of standard single-family homes. For homeowners, an ADU could supplement a household's income, or relieve a relative's housing costs, thus reducing the homeowners' burden. Similarly, by renting either the ADU or the primary dwelling, retirees might better maintain their lifestyles with the supplemental income. While shrinking households and changing preferences pointed toward smaller dwelling formats, Americans still expressed a strong preference for neighborhood scale accommodations. ADUs could accommodate the preference in existing neighborhoods without large-scale redevelopment.

Mr. Solge informed that ADUs also served as an additional increment of density and source of new housing in developed areas; they allowed for the expansion of neighborhood housing supply without additional sprawl. The simplified design, permitting, and construction of ADUs made them a very market-responsive source of new housing compared to other small-format, more affordable homes like apartment buildings and condominiums. They could fit into existing neighborhoods and did not require the cumbersome subdivision and site plan approvals of complex multi-family projects; much less the lengthy construction times of large-scale downtown development. With the shrinking size of households and a willingness among small households to trade space for lower cost or closer access to downtown amenities, ADUs helped fill a gap in the housing supply of towns like Newark. They made single-family neighborhoods more accessible by providing housing options beyond the large lot, large house single-family template. He pointed that ADUs were subtle and could fit into neighborhoods without significantly altering their character or appearance, and could increase the population and revenue base of a community without the impact of wholesale redevelopment. He referred to the photo and explained there were two houses constructed by the same builder on the far left with an ADU on the back of the garage, another home had a garage apartment at the back of the building, and an ADU was on the far right. Mr. Markham asked if the lot two the left had two ADUs and Mr. Solge clarified there were two houses on two lots, each with an ADU.

Mr. Solge admitted that any type of new development came with concerns the Planning Department intended to craft an ordinance that allowed ADUs in single-family districts while minimizing the potential for adverse impact. He shared that concerns might include burdening local schools, parking availability, and additional traffic generation. He noted that arguments had been made about the actual affordability of ADUs, but emphasized the importance to make a clear distinction between less expensive dwellings and income-restricted or rent-subsidized units. He explained that there were equity, health and safety concerns raised about ADUs, but research was generally focused on informal or grey market ADUs, and noted that the conversion of neighborhood housing over to the student rental market was a common concern in Newark and that unfair impacts on neighbors and communities needed to be considered and mitigated.

Mr. Solge indicated that the Planning Department's next step was to conduct further research into a variety of tenets to regulate the development of ADUs as part of any zoning amendment; owner occupancy, permitting processes, design guidelines, size restrictions, lot dimensions, and potential incentive structures would be considered. Planning would also evaluate existing ADU ordinances that had been proposed or enacted by other jurisdictions share the results with Council before creating a thorough policy brief on various ADU regulations and their merits. The brief would be brought to the Planning Commission and Council for input and guidance after which, staff would draft a zoning amendment for the Planning Commission and City Council's consideration.

Staff asked that Council discuss allowing Accessory Dwelling Units in Newark's single-family districts and welcomed additional topics of interest or concern, regulations to consider, or additional towns and cities whose ordinances should be examined. Mr. Solge explained that the goal of the presentation and discussion was to obtain guidance on what Planning should research for the next phase of ordinance development.

Mr. Markham asked if the presentation was the first of four times it would be before Council. Mr. Solge confirmed and explained that the next step was to return with a more specific report about potential regulations; following feedback from that interaction, staff would draft an ordinance.

The Mayor opened the table to Council comment.

Mr. Lawhorn generally supported the idea of ADUs and reiterated that his district most often complained that there was such a high demand for housing in the community, that it drove people to purchase and rent homes in neighborhoods that were traditionally owner-occupied, residential neighborhoods. He was encouraged by any idea that would help the City increase supply but admitted there were concerns on how to address ADUs. He believed that owner occupancy was important because it was an assurance that Council's desire to maintain the neighborhood was upheld so it did not devolve into a sprawl of problem rental areas. He asked for clarification on the difference between moving in an aging parent and an ADU was a kitchen. Mr. Solge confirmed. Mr. Lawhorn reiterated that currently, homeowners could have boarder, but the ordinance would enable someone to add a kitchen to allow renters to live in another space in their home. He supported ADUs within the home and thought it was an easy addition but had some concerns with freestanding ADUs. He supported converting space over an existing garage or building a garage if it was within the character of the neighborhood but did not support anything larger than normal or taller than the house; he relied on the Department to ensure that it would not happen. Mr. Solge interjected that enforcement could include matching roof pitches to the primary unit and matching materials; there were ordinances in existence with tenets to address the issue. Mr. Lawhorn maintained that the neighborhood should not change.

Mr. Lawhorn asked how Homeowner Associations (HOA) would fit into the discussion and asked if new HOAs could create by-laws after the ordinance was passed by the City to prevent ADUs. Ms. Gray confirmed that an HOA could craft deed restrictions or restrictions for the neighborhood, but they were unenforceable by any City. If the City were to allow an ADU, the ordinance would trump whatever was allowed in the neighborhood. She continued that if the situation occurred, the HOA would have legal redress under their bylaws to take action. Mr. Bilodeau confirmed that an HOA could have more restrictive rules than the City and could sue to have an ADU taken down. Mr. Lawhorn explained that he was thinking ahead and considering scenarios where disapproving neighborhoods could take action. Mr. Bilodeau explained that it was expensive for HOAs to litigate and if someone built something in violation, the HOA had to go before the Court of Chancery to have it demolished if the structure was in violation of the HOA rules.

Mr. Markham interjected that ADUs were not a possibility when current HOA bylaws were written so the HOA rules were already in place and the City could permit ADUs, but the HOA had no preventative measures in place because it had not been a concern. He continued that HOAs typically had to obtain 100% agreement of property owners to change rules. Mr. Bilodeau assumed that HOAs had rules and regulations about what could be built on lots that could affect the ADU. Ms. Gray noted that Newark did not have many HOAs, but Kent County has had an ADU ordinance in place for years and also had a number of HOAs and could be used as an example. She pointed that ADUs were permitted in California as a State law and argued that there were plenty of examples throughout the Country where ADUs were incorporated. Staff would investigate the concerns.

Mr. Lawhorn agreed with the recommended considerations and could support detached ADUs if design requirements were met. He was not concerned about parking. He generally agreed with the highlighted recommended solutions but emphasized caution with implementation. He also pointed that it was critical to communicate well with the public throughout the process.

Ms. Creecy asked why the conversation around ADUs only focused on single-family homes. She explained that her district had townhomes on Madison Drive but there were approximately six abandoned homes on her block. She lived in California for seven years and witnessed townhomes split in half (top and bottom) with occupants sharing a kitchen. She noted that her area had no HOA but understood the concerns surrounding HOAs. She continued that her neighborhood had 60% to 70% renters and even if she were to try to create an HOA, the rules would not carry much weight because of the percentage between renters and homeowners. She also understood that parking would be difficult unless the home was only two stories with parking in the front and back with a voucher. She leaned more towards owner occupancy because then there was a point of contact for the project and who was allowed to live in the ADU. She did not believe that the City could discriminate against students/elderly/professional people because everyone needed somewhere to live. She noted that an ADU would be ideal for her son to move back into the City.

Ms. Creecy also believed that Council could not be discriminatory against free-standing or attached ADUs. She had a constituent who lived close to the library and had an ADU on his property and asked for assistance because he could not do anything with the dwelling. She agreed there would be complaints about noise and parking, regardless of the situation. She asked Mr. Coleman if it was possible for potential ADU tenants to rent parking spaces with new Main Street developments. Mr. Coleman could

not speak for all landlords but confirmed that the building proposed for the Starbuck location intended to rent parking spaces. He imagined that developers would not let extra spaces sit idle.

Mr. McDermott was generally against the idea and wondered if the resources staff was committing and the continued resources necessary to maintain and regulate between Planning, Code, Police, and Parking Enforcement were sustainable. He referred to other initiatives in the City that lacked staff bandwidth and reminded that the Police Department was still short five members; he was confident ADUs would increase Police calls for service. He explained that neighbor disputes were often remedied by a 911 call and Police were dispatched for parking complaints and noise violations. He referred to the example of three ADUs in the presentation and noted the parking violation of a car parked on the front yard. He maintained that if four dwellings were put on a lot, then cars would park on the front yard, on the street in another resident's spot, or block a mailbox.

Mr. McDermott pointed that the information provided included an AARP report and agreed it was a noble idea to provide a place for relatives to age but he maintained that the situation would be the exception and not the rule in a City that was largely populated during the school year with students. He referred to the HOA comments and explained that people moved into neighborhoods because the neighborhood was appealing with set up, lot sizes, and parking. He continued that if the City began to allow the dynamics of the neighborhoods to change dramatically, existing residents would be disenfranchised. If the ADU were to proceed, he was adamant that the recommendations listed in the report be included and stated that he would never support anything where the owner was not on the property because he was sure the alternative would turn into student rentals. He then asked how staff would regulate owner occupancy and what recourse the City had to determine residency. He explained that there was a situation in Jenney's Run where neighbors were concerned about too many students living in a house, but Code Enforcement did not have the resources to determine whether there were really eight residents; they needed a search warrant and had to follow many other steps to solve the problem. He understood the lack in staff time and resources and reiterated that by allowing ADUs, Council would only create more situations that Police, Code, and Planning were unable to enforce. He believed that Planning should drop the initiative and work on the priority list items to address persistent resident concerns. He maintained that the City would spend time enacting the ordinance and then more time trying to manage it when it came to fruition. He continued that if the ADUs did come to fruition, then owner occupancy needed to be a requirement and the ADU needed to be a part of the house to avoid an influx of detached structures in the rear of the homes. He wanted to limit the number of bedrooms and manage the number of residents in the ADUs. He reiterated that he did not see how the City could avoid studentification and did not think that ADUs were the direction that the City should head because it would have the exact opposite effect of what the report and California indicated. He reiterated that he did not support the initiative but maintained that if it did return to Council, then there needed to be heavy restrictions although he was unsure how the City would manage.

Ms. Ford thought ADUs were destructive to the character of residential neighborhoods and provided a real threat. She fully supported in-law suites which were the only form she found acceptable. She emphasized that there needed to be a family member requirement tenancy in the ADU, if the City had ADUs at all, and the property must be owner-occupied. She was adamant that detached units were absolutely unacceptable because she could imagine a neighbor building an ADU next to her fence. She explained that she purchased her home because her area had one acre lots and she had never had a dispute with any of her neighbors in the 36 years she had been resident of the City. She did not want to see her neighborhood turn into a shanty town. She supported Mr. McDermott's statement that Council gave Planning certain directives and priorities, and they should be addressed rather than the ADU initiative.

Mr. Markham pointed that he included an item on the upcoming agenda to zero in on details for items requested by Council.

Mr. Suchanec agreed with Mr. McDermott's and Ms. Ford's comments and informed that ADUs were not a high priority. He would only support something that addressed multi-generational housing in a single unit; he would not support standalone development of any nature but declared additions were acceptable. He did not see how stopping student rentals could be enforced under the program and agreed with Mr. McDermott's assessment that Code Enforcement could not validate complaints because staff was denied access to the dwelling. He maintained that ADUs would exacerbate the enforcement issues. He was also concerned with resale and asked if the ADUs would be separate on the tax rolls and if they could be sold separately or as a package. If they were sold as a package, then the marketplace for potential buyers was minimized. He asked if the ADU would be metered separately with separate hookups, if there would be tax implications, or minimum lot sizes. He reiterated that he was not in favor of wasting time on the initiative. He found there were enough problems that were difficult to address. He pointed that

District 1 had a maturing population and assumed there was a huge hidden need for multigenerational housing and home additions, which he would support. He would not support anything that fell under separate houses on the same piece of property.

Dr. Bancroft strongly disagreed with Mr. McDermott, Ms. Ford, and Mr. Suchanec and thought it was dishonest if Council was going to commit to try to build housing for people. He often questioned whether the City really needed housing and pointed that he always received arguments to the affirmative. He agreed with AARP's point and would confirm with Mr. Bilodeau offline because he did not see why the City could not have a 65-year age limit. He thought that family tenancy would be more problematic to prove. He believed the group would need to carefully consider how to proceed with restrictions. He agreed that it was undesirable to have infill that caused disturbance but maintained that housing was necessary, especially for older people. He assumed that giant apartment blocks would continue to be built for student housing if there was no alternative.

Dr. Bancroft continued that he generally liked ADUs but agreed with the encroachment on neighbors. He thought that kitchens were necessary, but he did not have a special opinion if the ADUs should be an attachment, over the garage, or part of the house. He would defer to the Department to ensure that the ADU would not encroach on neighbors and to address parking issues. He felt that Council should be considering all solutions on principle. He suggested closer investigation of the California law and of Kent County, as well as other college towns. He wanted to know if people flocked to college towns when the economy took a downturn. He thought fewer than three bedrooms was sensible and wanted restrictions to hit the desired target audience.

Mr. Markham agreed that owner occupation was a requirement, either in the home or the ADU, because he found that there was significantly less disruption when the landlord was present. He believed that non-transient depended upon the definition and there should not be a family member tenancy but there should be a limit on housing square footage. He did not support advertising but did want a limit to the number of tenants in the ADU based on square footage, the number of which should never exceed two, be they spouses or a person and their caregiver. He continued that detached or attached ADUs depended upon the character of the neighborhood and shared that residents in his neighborhood had been adding garages that would not fit in other areas in the City because they would seem cramped. He was also concerned about the lot setbacks and lot coverage, which added to the City's existing stormwater issue that staff had been working hard to address, particularly with Hillside Park. He reiterated that the ADU style would have to match the neighborhood or the house and was not simply an expansion of student housing. He did not support more than one ADU per lot and expressed his concerns with electric, sewer, water capacity, and metering. He did not want anything to change the character of the neighborhood.

Mr. Markham confessed that he was undecided and asked Mr. Coleman to confirm that ADUs were on Council's priority list earlier in the year. Mr. Coleman confirmed that ADUs were part of the Rental Housing Needs Assessment recommendations. Ms. Gray pointed that the ADUs were #150 in the memo provided the week prior and were a priority. Mr. Markham was concerned if there was a communication breakdown because he did not suspect that Council felt it was a priority. Ms. Gray understood and reminded that it was in the memo and discussed the week prior. Mr. Markham understood and reiterated that there was a disconnect.

Mr. Markham asked Ms. Creecy if she wished to provide further comment. Ms. Creecy rested after listening to previous Council comments.

The Mayor opened the floor to public comment.

Ms. Schiano read a comment submitted by Linda O'Hara, District 3:

I would like to express my support for expediting the permitting for accessory dwelling units. They could provide housing solutions for families and older citizens. I myself would like to help my brother but don't necessarily want him in my house. If we could build something in the backyard, we'd both have our privacy but also be close to help each other. When I'm older, I may want to move into the little apartment myself and be able to rent my house to supplement social security. I was very impressed with how easy Portland made it for their citizens and hope we can do that for Newark.

Ms. Schiano then introduced Dr. John Morgan, District 1, supported the idea of making it easier for a homeowner to add an extension onto their home as his neighbor had done 17 years ago when his wife had mobility issues. His neighbor added a large bedroom with a bathroom at the back of the home which was invisible from the street and did nothing detrimental to the quality of the neighborhood. The

neighbor eventually sold the home to a family and there had been no issues so far. He repeated that the City should make it easier for homeowner to add an extra bedroom by going further into the backyard. He acknowledged that there were some water issues that could be addressed on a case-by-case basis. He continued that there was a major concern that in many neighborhoods, a large number of ADU tenants would be students if there were no restrictions in place. He suggested using the special use permitting process that was tied to a particular owner of the property rather than a change in the zoning Code that would be a legacy. He cautioned Council to move slowly because it would be difficult to undo if it proved to be a mistake, especially if it was a matter of changing an ordinance where if people bought their homes because of the ordinance, they would be grossly disadvantaged and perhaps able to sue the City. He repeated that Council should proceed with caution and also repeated his request to make it easier for homeowner to build extensions on the back of their homes.

Blaine Hackett agreed with the recommendation and asked what made the Commission believe that the additions would not be rented to college students. He assumed many owners would want to supplement their incomes and would be in their best interest to rent to a college student versus someone who was considered affordable. He asked if there would be any type of regulation where owners would rent to affordable or low-income housing because there was nothing to regulate owners from doing the same thing as developers who rented to college students. He understood that the whole premise of building downtown was to get students out of the residential neighborhoods so that rents would become more affordable for others, but he did not see it as a possibility in many of the developments.

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

Mr. Markham pointed that there was a mixed bag of support for the item.

Mr. Lawhorn asked if ADUs were currently a third-tier priority. Ms. Gray clarified that it was a third-tier group due to timing because Council had 14 priorities in the discussion and ADUs were one but were in the third tier as far as implementation. Mr. Lawhorn reiterated that he was supportive under the conditions he stated but agreed that good points were made regarding enforcement and its potential difficulties. He revealed that his larger concern was that as the process progressed and the public became more aware, the community would have the same type of response as Council had that evening which meant that it would be a difficult and time-consuming endeavor for staff. He thought that discussions would be beneficial to create a good product but would turn into an abundance of work that could be used for other items that would have a larger impact and be more worthwhile. He liked the idea but admitted that he had concerns and was worried that it could turn into a lot of work for a little return.

Mr. Markham noted there was currently no interest from Council to pursue the project and he would shelf the topic. He asked for opposing opinions. Ms. Creecy interjected that she was interested in the topic. She understood that there would be issues but questioned what came before Council without issues and that did not require debate or attention. She maintained that there were members of the community that needed affordable housing and ADUs were an open avenue of owner occupancy. She explained that her block contained half-way houses, houses for people coming out of jail, and recovery houses and were affordable living because people needed homes. She acknowledged that not everyone would agree during debate which was why she respected all of her colleagues but pointed that it was important to get something done for the community.

Dr. Bancroft agreed with Ms. Creecy and wanted to investigate everything. He pointed that large apartment buildings were not desirable, but they were the realistic choice; the City needed to infill where possible.

Given the differences of opinion, Mr. Markham asked for a motion as to whether Council wished to pursue the item.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL GIVE DIRECTION TO CITY STAFF TO DISCONTINUE THE PURSUIT OF THE AFFORDABLE DWELLING UNIT PROPOSAL.

MOTION PASSED. VOTE: 5 to 2.

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

7. 4. **SPECIAL DEPARTMENTAL REPORTS:** None

8. 5. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. Council Members: None

1. Potential Items for Future Meeting Discussion – Council Members (15 minutes)

9. 5-C. **OTHERS:** None

10. Meeting adjourned at 8:48 p.m.

Tara Schiano
Director of Legislative Services
City Secretary

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