

PLANNING BOARD

MINUTES

DATE: January 12, 2022

1. **Roll Call**

This is the Public Meeting of Wednesday, January 12, 2022. Chairman Garip called the meeting to order at 7:00 p.m.

Mr. Dib and Mr. Chiusolo were administered the oath of office as members of the Planning Board. Roll call was then taken and the following members were present: Mr. Dib, Mr. Contini, Mr. Chiusolo, Deputy Mayor Canestrino, Mayor Labrosse, Mr. Allegretta, and Mr. Garip.

ABSENT: Mr. Martucci

LATE ARRIVAL: None

EARLY DEPARTURE: None

ALSO PRESENT: Joseph L. Mecca, Jr., Esq.; Kim O. Furbacher, Certified Court Reporter; Gregory J. Polyniak, P.E., P.P., Neglia Engineering; Bridget McLaughlin, Zoning Officer; Francis A. Reiner, LLA, P.P. and Daniel L. Hauben, AICP, P.P., DMR Architects, Redevelopment Consultants.

2. **Payment of Bills**

MOTION TO APPROVE BILLS AS SUBMITTED. MOTION MADE BY MR. CONTINI. SECOND BY MR. DIB. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, MAYOR LABROSSE, DEPUTY MAYOR CANESTRINO, MR. ALLEGRETTA, AND MR. GARIP.

3. **Approval of Minutes of December 8, 2021**

MOTION TO APPROVE MINUTES OF DECEMBER 8, 2021. MOTION MADE BY MR. CHIUSOLO. SECOND BY MR. CONTINI. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, MAYOR LABROSSE, DEPUTY MAYOR CANESTRINO, MR. ALLEGRETTA, AND MR. GARIP.

4. **MEMORIALIZATIONS:**

**a. 359 Main MF 2020-Q LLC
Block 408, Lots 1 & 16
SP#16-21 V#16-21**

Memorialization of Resolution for site plan approval in connection with a mixed-use building consisting of one hundred ten (110) units, a dog walking area, amenity space, rooftop outdoor space with 4,653 square feet of retail space and an outdoor seating area.

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MOTION TO MEMORIALIZE MADE BY MR. DIB.
SECOND BY MAYOR LABROSSE. MOTION IS PASSED BY AN
AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR.
CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR
LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

**b. Investigation study for 123 Anderson Street
(Block 425 Lot 1).**

Resolution recommending the determination that
the property constitutes an "area in need of
redevelopment" without condemnation in accordance
with the criteria set forth in N.J.S.A. 40A:12-5
per resolution 448-21.

MOTION TO MEMORIALIZE MADE BY MR. DIB.
SECOND BY MR. CHIUSOLO. MOTION IS PASSED BY AN
AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR.
CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR
LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

5. APPLICATIONS:

**a. Cornerstone Capital Investment Hackensack,
LLC
85-99 State Street
Block 214, Lots 19-22
SP#20-20 V#20-20**

The Applicant requests Site Plan Approval to
demolish the existing warehouse building, commercial
building and associated improvements to construct a
new six (6) story multifamily residential building of
sixty-seven (67) units, consisting of twenty-eight
(28) one-bedroom units, nineteen (19) one-bedroom
plus den units, and twenty (20) two-bedroom units.
Additionally, the Applicant proposes one hundred and
twelve (112) parking spaces, exclusive of six (6)
tandem parking spaces. Additional improvements
include curbing, transformer, parking lot striping,
lighting, landscape improvements and an underground
detention system to accommodate runoff.
Additionally, the Applicant proposes water and
sanitary connections to the State Street
right-of-way.

**CARRIED TO FEBRUARY 9, 2022. APPLICANT WILL
RE-NOTICE.**

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a. Election of Chairman

MOTION TO NOMINATE FERNANDO GARIP CHAIRMAN OF THE PLANNING BOARD MADE BY MAYOR LABROSSE. SECOND BY MR. ALLEGRETTA. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

b. Election of Vice Chairman

MOTION TO NOMINATE JOHN CHIUSOLO VICE CHAIRMAN OF THE PLANNING BOARD MADE BY CHAIRMAN GARIP. SECOND BY DEPUTY MAYOR CANESTRINO. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

c. Election of Secretary

MOTION TO NOMINATE MICHAEL ALLEGRETTA SECRETARY OF THE PLANNING BOARD MADE BY VICE CHAIRMAN CHIUSOLO. SECOND BY MAYOR LABROSSE. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

d. Appointment of new members

UNDER REVIEW

e. Appointment of Planning Board Attorney for 2022.

MOTION TO APPOINT JOSEPH L. MECCA, JR., ESQ. ATTORNEY FOR THE PLANNING BOARD MADE BY CHAIRMAN GARIP. SECOND BY MR. CONTINI. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

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f. Appointment of the Professional Planning and Engineering Consultant for 2022.

MOTION TO APPOINT NEGLIA ENGINEERING, GREGORY J. POLYNIAK, P.E., P.P., PROFESSIONAL PLANNING & ENGINEERING CONSULTANT OF THE PLANNING BOARD MADE BY MR. ALLEGRETTA. SECOND BY VICE CHAIRMAN CHIUSOLO. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

g. Appointment of Certified Shorthand Reporter for 2022.

MOTION TO APPOINT LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C. CERTIFIED COURT REPORTERS OF THE PLANNING BOARD MADE BY MR. ALLEGRETTA. SECOND BY VICE CHAIRMAN CHIUSOLO. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. DIB, MR. CONTINI, MR. CHIUSOLO, DEPUTY MAYOR CANESTRINO, MAYOR LABROSSE, MR. ALLEGRETTA, AND MR. GARIP.

6. **Old Business: NONE**

7. **New Business:**

A. Presentation: Proposed Zoning Ordinance

B. Presentation: Proposed Zoning Map

P U B L I C H E A R I N G

Mr. Mecca stated: There is going to be a fairly comprehensive redo of the zoning ordinance, which is also in conjunction with that a proposed zoning map amendment, although it's not the official zoning map at this point. In conjunction with the zoning ordinance, the map is also going to be changed so it will be a preliminary zoning map change. There is an outline that was prepared by Mr. Reiner. He and his firm have worked on these zoning ordinance revisions and it's really a redo of the zoning ordinance. It's a complete revamping of it. He can explain that further, but we're tasked tonight with hearing from Mr. Reiner and making a recommendation to the Mayor and Council as to whether or not to adopt the zoning ordinance revisions and the map that goes along with it. Then it would go back to the mayor and council for second reading, and if they adopt that zoning

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ordinance, it becomes the ordinance, it becomes our zoning ordinance for the city.

Chairman Garip stated: And this follows the master plan that is very important.

Mr. Mecca stated: Correct, and I'm glad you mentioned it.

It's in accordance with the master plan reexamination report that we did in 2020, that recommends that the city redo its --

Chairman Garip stated: Well the master plan, so everybody knows, the master plan is this board's document and it drives the various zoning ordinance. The zoning ordinance gives the master plan teeth. We can approve any plan we want, but without the zoning ordinance it's all for naught. So it's important that we understand exactly now how the zoning ordinances are going to look, you know, related to the master plan that this board reviewed and passed to the city council in 2020.

Mr. Reiner, why don't you take over the floor here and talk to us about the zoning ordinances.

F R A N C I S A. R E I N E R, L L A, P. P., c/o DMR Architects, 777 Terrace Avenue, Hasbrouck Heights, New Jersey 07604, having been duly sworn/affirmed, testifies as follows:

D A N I E L L. H A U B E N, A I C P, P. P., c/o DMR Architects, 777 Terrace Avenue, Hasbrouck Heights, New Jersey 07604, having been duly sworn/affirmed, testifies as follows:

Mr. Reiner stated: So I'm excited to be here tonight. This is a long time coming. As Joe mentioned, this was originally brought up in the master plan reexamination study as something of need and it actually dates back much farther than that with Mr. Borrelli, dating back years, the need to really rework the entire zoning ordinance.

So we started this process back in August of 2020 through steering committee meetings. We had up to 23 participants, and everybody that was involved, there was a lot of information that was provided, there was a lot of input that was given back and forth between the city, the staff, professionals, and members of the steering committee in regards to how this process will work and what issues the city had been dealing with for years based on the old zoning ordinance. So there were at least eight meetings with the staff of professionals over that time. We had four full drafts that were shared and reviewed. We had six individual sections that were drafts that were sent and shared with the steering committee members, as

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well as multiple summary memos and informational analysis that was provided as a part of the process. On December 3rd, we had sent a memo to the planning board. That was a review and an outline that was dated December 3rd that talked about the significant changes within the document. It was a five page memo that gave you more of a summary of the actual zoning ordinance, and then you should have all received the actual document itself.

So what we're going to go through tonight is a very brief kind of outline of the ordinance, try to hit some of the major points that were emphasized and the changes, and then be able to answer any questions that the board may have.

So in terms of the goals -- and I just want to take one second to acknowledge and recognize the hard work that Al Borrelli did, as well as Bridget, who has been intimately involved with us making sure that we are getting it right, because it's important to put together a document that allows Bridget and the building department and the zoning department to do their job. And so, you know, over years and years of time, what everybody finds is that there are gaps, holes, and there are things that contradict themselves within the document. We've tried in this version to really clean up all of that.

So one of our goals was to make it a clear and more concise document that was simpler to read from both the city's perspective but also from the development and property owners' perspective. The idea was to protect the city from oversights and omissions that the previous zoning ordinance had, and to really clean up inconsistencies and inaccuracies that the previous zoning ordinance included that we think that we have covered and made changes to. So in terms of the actual document, the cleanup and clarification, we removed or improved unenforceable language that was in the previous zoning ordinance that, you know, there were, I would say, ideas of what should be done but weren't clear enough to actually dictate that they had to be done. So we cleaned up that type of language.

We provided missing definitions and updated existing definitions. One example was the difference between "impervious coverage" versus "building coverage." Previously, there was no building coverage that was actually identified in the previous zoning ordinance, so that now is identified.

We modernized the zoning ordinance to meet some of the more recent legislation from the state, so we

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provided new state electrical vehicle parking language that was part of the state legislation.

We have language in there for the 5G equipment standards. That's in progress. We are still working through that with Bridget and the building department.

And just as an aside, and this is a good point to make that this is in progress, is that this is intended to be a living document. So there should be more modifications to the zoning ordinance over the next few months or years. I think part of what happened with the old ordinance is that it was adopted and then it went for decades without being changed, and so it didn't really represent a living document. The idea here is that as things come up, we now have a very clear, understandable document that we can make changes to, whereas before, because there were so many issues with the old ordinance, it was difficult to make any individual changes.

We included cannabis overlay zones, as well as recommending zoning changes to different areas. I'll show you that as we get to the end of the presentation in terms of the zoning map. In addition, we provided new and enhanced sections.

We provided language for off-site and off-tract improvements that developers would be required to meet. We also provided performance standards, and we enhanced the buffer standards that were a part of the previous document as well.

I think one of the more interesting parts and probably what was just glaringly obviously needed versus the old ordinance is, you can see on the right, here is a typical schedule of district regulations as well as area, yard, and bulk regulations for the R-50 zone. This is just an example on the right of the previous zoning ordinance.

What we were able to do, Dan worked closely with the steering committee, with Deputy Mayor and with Bridget, was we put together really a chart. So now instead of having to read the R-50, and then if you go to R-100, it refers back to the R-50, and if you go to the R-75, it refers back to the R-100. So it became very difficult, confusing to understand what was permitted, what was conditional, what was accessory. And so what we were able to do was basically put in these charts, and you can follow the charts and basically look at the R-2 zone, see what's permitted in terms of "P" represents permitted. So single family detached dwellings on the right --

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Chairman Garip stated: Okay. I think the board needs to understand where this might be changing, if at all, you know.

Mr. Reiner asked: Dan, you want to just throw in?

Mr. Hauben stated: And, Mr. Chairman, you're referring to changes in terms of permitted uses.

So for the most part, the uses have not been substantially changed.

What we did do is kind of make an effort to be a little bit more clear and to avoid redundancies. So part of what that meant --

Chairman Garip asked: You cleaned it up a little bit? You cleaned it up?

Mr. Hauben responded: We cleaned it up. There is an extent to which this does look different from your current ordinance in terms of the uses that it lists, so in the language that Fran was about to get to, it says we consolidated similar and duplicative uses. So where you'll see that is, for example, bars, cafes, restaurants, bakeries, those have all been consolidated as eating and drinking establishments, and the reason we did this is because in the existing ordinance, bars, bakeries, cafes, whatever, they basically are permitted in the same zones, it is sort of redundant to treat them all as separate.

And we tried to do that generally.

So another thing that you'd see in your existing ordinances, there's lists of very specific types of businesses. And the problem with that is -- you know, I think that that's a good thing to do when you're trying to provide specific standards for certain businesses or you're trying to say, you know, this business is similar to that business but for certain reasons we want it in a particular zone. The problem with that is that you might have a use that is benign, but because it doesn't fit a specifically named category, it requires a (d)(1) variance.

Chairman Garip asked: So hatchet throwing, for instance?

Mr. Hauben responded: Yes, hatchet throwing, exactly.

So something that we did was we created two retail categories, one is general and one is neighborhood. And "general" is essentially your big box stores, your supermarkets, etc., "neighborhood" is essentially your pharmacies and your --

Chairman Garip asked: So where does hatchet throwing come in?

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Mr. Hauben responded: Hatchet throwing is indoor recreation, so that is something, you know, we created a definition for indoor recreation that includes a number of uses that are similar to hatchet throwing, and then the language says something like "and uses that are passive recreation or recreational and athletic in nature."

So what you'll really see here is we did a lot of consolidation where there were clearly uses that you want to separate from others. Like, for example, you'll see on the page on this slide "nightclub," we wanted to distinguish that from a bar because a nightclub is, by its own nature, noisier, it probably is more attractive --

Chairman Garip asked: What's the difference? How do you define that?

Mr. Hauben responded: A nightclub is, we have a definition, if you want me to pull it up right now.

Essentially a nightclub is distinguished from a bar, that it serves alcoholic beverages but the primary focus is dancing, whereas a bar might also serve food and the like and the emphasis isn't on music and large crowds.

Chairman Garip asked: What about new things like, you know, there have been these and I have never been to one, like hookah bars and all this other stuff, what about those things?

Mr. Hauben responded: We did not address hookah bars in this, but in this case, what that means, however, is that they would be inherently prohibited by way of not being listed in this chart. If a use is not listed in this chart, the same way it is in your current ordinance --

Chairman Garip asked: So you can't have a hookah bar on Main Street. Is that right?

Mr. Hauben responded: Exactly. You could not have a hookah bar, because it is not listed as permitted.

Chairman Garip asked: Is there anyplace in Hackensack where you can have a hookah bar?

Ms. McLaughlin responded: There is also with the Smoke-Free Air Act, I talked to the health department about this, that it is not permitted in Hackensack presently.

Chairman Garip asked: So you can't have a hookah bar in Hackensack?

Mr. Hauben responded: Correct.

Ms. McLaughlin responded: Correct.

Chairman Garip stated: I'm just curious, because I don't know.

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Mr. Hauben stated: And I'm glad you brought that up, because like I just said, it's important to understand that any use that's not on this table is prohibited. Anyplace where you see a blank space in the table, it's not permitted.

We have specific language right in the ordinance, right before this table that says no use in this table shall be presumed to include cannabis related activities unless otherwise specifically stated.

Chairman Garip asked: So you can't have a cannabis bar on Main Street with coffee and all those things like Amsterdam?

I'm asking these things on behalf of the board.

Mr. Hauben responded: These are good questions. I'm glad you're bringing them up. I'll let Fran continue.

Mr. Reiner stated: This is a good reason why I brought Dan.

Dan, I'm actually going to let you walk through the rest of the presentation, you've done a great job answering questions.

Vice-Chairman Chiusolo asked: Can you have a cigar bar?

Mr. Hauben responded: I think you're looking at the same issue.

Ms. McLaughlin stated: No, it would have to be by special ordinance.

Vice-Chairman Chiusolo asked: So you can apply?

Chairman Garip stated: They would need a use variance.

Mr. Hauben stated: We'd have to amend the zoning to either permit it by right or to give it conditions.

Mr. Reiner stated: It would have to be a (d) variance to the zoning board.

Mayor Labrosse asked: Guys, don't we already have a hookah place on Main Street?

Mr. Reiner responded: Yes.

So I think it's important to note, if you have an existing use that's not permitted, it's a preexisting nonconformity.

Mayor Labrosse stated: Through the Chair. Let me ask the board this.

We're voting on this. Is this something we want to prohibit in town? Clifton has like 30 of them. They're in restaurants. Some people like a hookah.

Vice-Chairman Chiusolo stated: I think cigar bar is important too.

Ms. McLaughlin stated: If I may, mayor, there are a couple items that we are going to be discussing

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with the mayor and council and the boards in the new year. As Fran was talking, this is a living document. It's going to continue into the new year. We're going to get direction on some of those items, and we can add that to the list. I have like 3 or 4 things that I need direction on to speak with Fran about for that subsequent revision, so we can certainly add that to the list and have a discussion about that.

Mr. Reiner stated: Yes, so, again, just the process by which you can move forward. This board could recommend to adopt this, but as Bridget said, there are still a couple of items that we were not able to get final direction on that would be an amendment that could come back to the board in February or March, depending on when we get direction from the mayor and council, which could include, you know, amending it and putting in the ability to have hookah bars on Main Street. I mean, I think there are those things -- what our direction was was we've gotten this to a point where it's 90, 95 percent right. It's a vast improvement over the existing ordinance. And if there are some things we have to come back and amend within the next couple of months, it would be better from the city's perspective to close the loopholes that the old ordinance has, adopt it, and then amend based on other things that the mayor and council provide direction on.

Chairman Garip asked: So this can be amended at any time?

Mr. Reiner responded: Yes.

Mr. Hauben responded: It can be amended at any time as many times as you want, essentially.

Mayor Labrosse stated: What I don't want to do, folks, is, with the amount of people we're hoping to bring into the city, and that's our goal, is to bring people into Hackensack from outside of Hackensack, not just the new people who will be living here, create a great downtown, that's one of the major goals here. I don't want to send a message out we're not allowing this, we're not allowing that, because that's going to keep people out of Hackensack, cigar bars, hookah bars, restaurants.

Mr. Reiner asked: Joe, let me ask you just a question about the process. Could it be that this board makes a recommendation tonight that maybe the board has an opinion that they want to make a recommendation back to the mayor and council to allow some of these things, and could they make that recommendation and then those revisions could occur

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as part of the second reading? I'm just trying to figure out the process.

Mr. Mecca responded: Yes. Absolutely. The board can make recommendations to adopt it as it is or adopt it with certain changes, it then goes back to the mayor and council with those recommendations, and the mayor and council --

Chairman Garip stated: But we have the Mayor and Deputy Mayor here.

Deputy Mayor Canestrino stated: Through the Chair. This is Kathy. If I may?

This has been in process for a very, very long time. And, you know, without examining every word or sentence in here, in the older version of the code, correct me if I'm wrong, Bridget, but there were lots of inconsistencies and things that were subject to interpretation and things that might not even be legally correct based on the current statute from the state right now.

Ms. McLaughlin stated: Exactly.

Deputy Mayor Canestrino stated: So rather than keep putting this -- you know, to me, all these documents, just like you've seen with our rehabilitation plan, to me these are all living documents and they're going to continue to evolve. You know, the laws continually change, the world continually changes, and I think the best thing the city can do is be willing to admit that we're willing to adapt to those things, and, in many cases, legally we have to. This hasn't been done in a very, very, very long time and there was a lot of work that went into this, and we didn't even touch on the fact that there were zones that have now been eliminated because, for various reasons, that no longer made sense. So we're at a point where we've had multiple discussions about this, and we feel by putting this off longer, we're really leaving ourselves open for more risk. So while what's in here may not cover everything and we're willing to admit that, what it covers is correct, it's correct, it's accurate, it's interpretable and we can legally stand behind it, where the other one, there were areas where we felt we were definitely at risk.

Chairman Garip asked: So what is the board being asked to approve or not approve this evening?

Deputy Mayor Canestrino stated: What the city did, the city introduced this last night, so the city did its review and the city introduced it as, okay, we've looked at it, this is something that we are now going to ask the planning board should we move

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forward and have the second reading and approve it. So what we're asking you tonight is to say, after reviewing this, do you agree at this point in time it's the right thing for the city to do to approve this and go forward with it understanding that this isn't the last revision and there's never going to be a last revision because the world is going to change, as I said.

Chairman Garip stated: So we're approving a document that can change at any time. So I guess my question is: What is it exactly that we're approving, if it's a document that can change at any time?

Deputy Mayor Canestrino stated: Fernando, that it's now defensible. It's now accurate. We now comply to the state statutes with what's published here. And it's much clearer and easier for us to defend, should we have to.

Ms. McLaughlin stated: I want to say, I agree with everything the Deputy Mayor said.

I want to give you a little example from the perspective of code enforcement in the city and standing up in a courtroom trying to defend when you're writing a summons for, you know, one of your residents is complaining a neighbor is not following the ordinance, and then there's inconsistencies in the ordinance, and then we've had situations where their attorney argues that because we had whole sections of the ordinance that conflicted against, which over the years because we added things but didn't take away things, and then I had attorneys even for zoning say, well, you know, you're saying this can't be permitted but in this section it says it can, and it was left open to interpretation also, and that was the problem. And like the Deputy Mayor said, it was really unenforceable, and there was a lot of inconsistencies. There were a lot of definitions that weren't -- I mean, I think Dan would agree, there were definitions nobody even used anymore based on Moskowitz, which is the best practice, and then there were definitions we didn't even have, for instance, impervious coverage. Like I couldn't even believe we didn't have an impervious coverage definition, because for a lot of zoning applications I need to be able to calculate that.

Chairman Garip stated: You did a lot of work here, zoning, the building department.

Ms. McLaughlin stated: Everybody did a lot of work here. Al Borrelli did a lot of work. Fran did a lot of work. Dan did a great amount of work. I

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drove them crazy, I will admit that. Because they didn't understand on our side, meaning Al and I, every day the situations coming in, and then I would say, well, what do we do when this happens, because on a daily basis, and I will say daily, daily we will have engineers and architects who are licensed professionals who could not understand our ordinance and said can you tell me what this means, can you tell me where there's a definition for this, and we couldn't. So the biggest changes of this ordinance was to correct and make it compliant with the Municipal Land Use Law so we weren't challenged legally. There was a couple of times when a couple of attorneys said, you know, I can totally challenge this if you deny. I said, okay, you know, that's your remedy.

This is the major phase.

Chairman Garip stated: We are being asked to look at this document and say that you guys, all this work that you did to clean this up and correct the inconsistencies and comply with the Municipal Land Use Law and be consistent with state regulations or not, all of this has been done and you're asking the planning board to say that's terrific, we vote to send this to the city council to basically become the law of the city, the zoning ordinance for the city.

And the city, per the Deputy Mayor and Mayor, this can be amended as time goes on, but the ordinance has to be amended, this is the ordinance as it stands now and --

Mr. Reiner stated: So, Chairman, this would be the new ordinance, if it's recommended by the planning board. It goes back to the mayor and council, their second reading would then adopt this ordinance as the new City of Hackensack zoning ordinance.

Chairman Garip stated: Okay. All right. So this is a big deal. I just want to make sure the board members, myself included, appreciate what it is we're being asked to consider here and understand what we're being asked to vote on.

And Fran and Bridget, correct me if I'm wrong, but we didn't specifically take anything out that was permitted. For example, it didn't explicitly say in the other one you can have hookah lounges, it didn't specifically say that, it just didn't address it at all. So why it's not in here right now, yeah, we could have waited another six months and let's get everything we can think of in here and let's get answers from everybody, but we actually said we're

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really proceeding at risk because of the things Bridget and I have just mentioned, let's get a baseline out here that really just clarifies and makes this a defensible product. And then, you know, when things move forward, we're going to have to make decisions about the whole cannabis issue, obviously. And should we decide we don't want to be smoke free, have smoke free environments, that's something we can consult with the health department on as well. Those are serious decisions that have to be made, and when they're made, the plan will be amended.

Ms. McLaughlin stated: Yes. Absolutely. I agree 100 percent.

And there is even a couple things that I wanted to change but there was still discussion on so we didn't add it at this time, because we want to make sure we proceed in the correct way by having all the departments meet and discuss with the mayor and council, etc., so this is, I would say, Dan and Fran, I think you would agree, the most conservative way to approach it at this time by having it correct, and then there's just a couple of things that we can --

Mr. Reiner stated: I just want the board to understand that if this document is recommended to go back to the mayor and council and if it's adopted, it is a whole zoning ordinance, you're not adopting a piece of a zoning ordinance. You have covered every aspect that you need to cover legally, you have clarified everything that you need to clarify. The additional amendments that may occur are minor in terms of the amount of work, the amount of time, and really are focused in on maybe a few more detailed specifics. You will have a fully compliant, fully functional zoning ordinance if this is recommended and then ultimately adopted by the mayor and council.

Mr. Contini stated: Consistent with what the mayor is saying, I strongly believe all of us believe in a strong, vibrant downtown. And the one thing that I would like to see, if it's not in there, consistent with what the mayor says, we have to show people that we're open minded, open to the future.

Are beer gardens allowed in the downtown?

Mr. Reiner responded: Yes. They are allowed in the downtown, because they are within a downtown redevelopment plan, which is the superseding document to the zoning ordinance. So the downtown redevelopment plan allows entertainment, it allows bars, it allows outdoor beer gardens, it allows rooftop restaurants, it allows all those types of entertainment. We amended the redevelopment plan to

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specifically allow those things. So this ordinance is for the rest of the city, not for the areas that have been designated as areas in need of redevelopment and have a superseding redevelopment plan on top of it.

Mr. Contini stated: My second question is, we have two microbreweries in town. Are they allowed to have rooms or tasting rooms or to be present somehow in the downtown area?

Mr. Hauben responded: I think the answer is yes.

Mr. Reiner responded: So the answer to that is yes. Again, that's a redevelopment plan for the downtown, allows those things to occur. It allows breweries to have them in the downtown.

So what I'd say, mayor, to your comment about hookah bars in the downtown and cigar bars is that it would probably be a more appropriate location to amend the redevelopment plan, which we're working on right now, to specifically allow those uses in the downtown, because I'm not sure that you would want to have a hookah bar outside of the downtown area. We could put them in the B zones, for instance, but the hookah bar idea in the downtown would not necessarily be something that would be affected by this ordinance, that would really be affected by the downtown redevelopment plan, and we could put that into that document as we're looking to amend that document now, we could add that as a part of the conversation.

Mayor Labrosse stated: I have no grievance in having a hookah bar one way or the other, my point is, there are people that do, so I just don't want to be shutting people out from the downtown that we're trying to create. I went through this with the tattoo parlors, you know, and people called me up, why don't you let tattoo parlors in town. I know that we changed that, but we're catering to a crowd that's between 25 and 35, and these are the people that use these things and go to these things. We want people to do this in Hackensack, not someplace else, that's all I'm saying. If we chase them away, we're not allowing it.

Mr. Allegretta stated: At least put something together that if it's a hookah bar, 1, 2 hookah bars, we're not talking about many, but just the ability to stay in Hackensack and go to a place and do that. It's something I wouldn't do, but I would go to a cigar bar, because I meet guys in Paramus, you get together, and with all the work going on in Hackensack, it just makes sense.

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Mr. Contini stated: Mike, I'm with you. I end up going to Paramus or Clifton or other parts of the county with my other friends when it's the day for us to get together. This is something that Hackensack should be. You know, if we can do it in Paramus, we should be able to do it in Hackensack.

Deputy Mayor Canestrino stated: But if I may, we're not saying we're not going to do it. It wasn't allowed, today it wouldn't be allowed. It's just that I firmly believe that we have issues and this is a way of at least formalizing and putting an end to some of the issues that we're now dealing with every day, as Bridget mentioned. We're just putting a stake in the sand very similar to what was allowed before. This is not the final product. The more we keep delaying this --

Mayor Labrosse stated: I understand what you are saying, Kathy. We all know it could be amended, but you know who doesn't know, the people who are going to look at our zoning ordinance to possibly bring their business here.

Vice-Chairman Chiusolo stated: All I can say is if someone has an existing establishment and wants to turn it into a cigar bar, he's going to have to come before the board, waste another 3 to 6 months, because part of the ordinance we're doing tonight, he can do a cigar bar, he can do a hookah bar, we're done.

Mr. Reiner stated: I just want to clarify.

The downtown redevelopment plan, which is the document that is essentially the zoning ordinance for the 163 acres, where everybody is focused on how do we bring in -- you know, we've been successful in bringing in new residential, we've been successful in bringing in private development, and now we're at the cusp of trying to figure out how to bring in the right types of retail. This board knows the types of end users that are now living in the downtown. So hookah bars and cigar bars and beer gardens and all those things, I think that any of those things that you want to see happen in the downtown should be done in the downtown redevelopment plan. That is really the overriding --

Chairman Garip stated: Fran, I think we appreciate that, but I'd like to understand what the mayor and council are interested in. So, mayor, do you agree with what Mr. Reiner is outlining here?

Mayor Labrosse responded: My point being, I know it could be amended. I think that's great. Documents like this are living documents that should

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be amended as we build the city.

My point being is the public in general does not realize that. Somebody looking to open a certain type of business, they see it's not allowed, they go somewhere else. They don't say I'm going to take on a six-month battle and tens of thousands of dollars in order to get this to go through. So that's all I'm saying.

Chairman Garip asked: So is there some change that we should be making to this document before we vote on it?

Mayor Labrosse responded: I thought, Fran, without stopping this at all, we wouldn't skip a beat if the recommendation could be done. I don't see the harm in it. It's not stopping it from moving forward any time.

Deputy Mayor Canestrino stated: My issue is this, and I am just going to say it once and stay out of it, my issue is this, if we can get this done and still be able to approve it at the next council meeting, I'm okay with it. If we have to continue to delay this, you have to understand, there are things in here that have new projects that are coming in. The law is, and correct me if I'm wrong, Joe, you're subject to the rules at the date of your application.

So if we don't make these changes and projects come in where we cannot defend certain things that we need to and want to defend and have defined in here as reasons of things that we need to be defending in this city, by holding it up we're just continuing to allow these things to proliferate, and that's the main reason why we were trying to get this done in a timely manner.

Mayor Labrosse stated: That's why Fran said we should be able to amend it before it gets --

Deputy Mayor Canestrino stated: I want to hear that from Steve Kleinman, I guess, because we tried this before and he said no, we have to start all over again.

Mr. Reiner stated: So let me make a suggestion, and, Joe, I'm asking if you could check me on this.

I would like to have Dan finish the presentation. I think what the board could do is it could make a recommendation -- I'm suggesting that this could be a possibility -- make a recommendation to approve it with if the board has a couple of conditions, maybe the cigar bar and hookah bar are conditions that they would like to see amended, and then it can go back to the mayor and council. And if Steve Kleinman says you have to start over, then the mayor and council

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can say, we're not going to make those changes now, we'll adopt the ordinance and then we can make the amendments of those and allow for a first reading back to the planning board and a second reading with the amendments. That way you as the board have provided the mayor and council with a direction, but the mayor and council may not be legally be able to move on that because they would have to start the process over. And Steve Kleinman, because he's not here tonight, can weigh in on that, and if he says no, you have to do a first reading again, go back to the planning board, well, then the mayor and council has the right to say, well, we're going to adopt the plan as is and we'll ask the board to do an amendment.

Chairman Garip stated: Well, can't the mayor and council do a first reading and then come to the planning board? I guess my point is, do we have to take that extra step?

Mr. Mecca stated: Well, I think Fran is exactly right as far as the procedure.

The mayor and council, if the board says we would look to an amendment to the ordinance, that's a recommendation. It's up to the mayor and council to adopt that recommendation.

Now, if they do say yes, we should do that, then the city attorney would say okay, is that a substantial alteration that requires further notice or is it just a minor alteration? So that's something that the city council can determine.

So, if I may, so this is the consistency review. This is to make sure that what we're doing is consistent with the master plan and the master plan reexamination report, and specifically the master plan reexamination report says you should make a change to your ordinance because there's a lot of gaps here, as outlined. So just that alone would say yes, let's move forward on it.

Mayor Labrosse stated: All right. So we pass this. It gets through. It goes tonight, it goes to the council, we vote yes on it, the following month we can amend this and add this item, correct?

Mr. Reiner responded: Yes. Absolutely.

Chairman Garip stated: But to the Deputy Mayor's point, we can take this to the next step and make the recommendation as is to the city council.

Deputy Mayor Canestrino stated: That's exactly what I would propose, is that we agree to have this approved with recommendations that there are considerations by the council for the following

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amendments and then give them a list so it says quite clearly that this planning board is fine with what this is with the following recommendations to be considered by the council, and then the council also has time to review those considerations and make an amendment. We've done this, John, as you know, we've changed ordinances sometimes one right after the other because we had to.

Mayor Labrosse stated: I know that, but the reason this needs to be done by us and -- I don't want to sit and wait for somebody to have to challenge it.

Deputy Mayor Canestrino stated: No, but if what we say tonight is that the planning board agrees for this to move forward but to have amendments or to have the council take the following recommendations from the planning board into consideration immediately following, and then whatever those considerations are, we just hit one topic, we may have 3 or 4 others as we keep talking, and whatever they may be, I think the council then would discuss, are we in agreement with the planning board. Then we'll make an amendment, and then we'll come back and forth. At least this baseline will be established. That, unfortunately, is very important to me and I think you hear it's important to Bridget only because of the life that we live day-to-day with this, and that is the only thing that I'm asking.

Mayor Labrosse stated: I understand that and I am in favor of getting this through.

Mr. Hauben stated: I'll proceed. I just wanted to provide a closing statement on that from my end because I was really involved. So similar to how we created basically a citywide matrix of permitted uses by zone, we created new bulk tables in a single section showing what the bulk standards are in each of the R zones and in the B zones and the other zones.

One of the things that we tried very carefully to do here is, the existing ordinance has in several zones multiple tables that either conflict with each other within one zone or which reflect uses that aren't permitted, and it was actually very confusing to understand what the bulk standards were. So we took sometime to interpret how we understood the zoning to be meant to be designed so that we can apply the most appropriate.

Mr. Reiner stated: So to give an example to the board, one of the zones did not allow hotel but it had bulk standards that included hotel in residential

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uses as a part of the list of what the bulk standards are, even though hotel was not a permitted use. So those types of things were all cleaned up so that it was clarified.

Mr. Hauben stated: Another thing that we found is that the only standard for coverage was essentially meant to be building coverage but it limited all improvement coverage to what was intended to be building coverage. So essentially all improvements were limited to 25 percent of lot area in the R-50, where I believe, based on my experience with many other towns' zoning ordinances, 25 percent is really intended to be the coverage limit of the building, not your driveway, your swimming pools, and all other improvements. So we provided impervious coverage standards to encompass building coverage and all other improvements and make it a little easier for property owners to develop their property in a way that I think the ordinance must have originally intended to.

I don't need to get on to that, but we also consolidated and cleaned up a bunch of the end notes at the end of the bulk tables that made it very hard to understand how the B ordinance was structured. There were substantial updates to the ordinance. We cleaned up the supplemental standards and conditional use standards; supplemental use standards being sort of secondary bulk standards for specific uses which were not intended to be conditional, meaning having to go through a different application process from a buy right use and also if you deviate from a supplemental standard, you don't require a (d)(3) variance, you just require a (c) variance. The ordinance was not entirely clear in some cases whether there were conditions for conditional uses, and we tried to make sure if a use had to be conditional and had conditions, which is what is required by the MLUL.

Mr. Reiner stated: So again just to let the board know, so there were actual uses in the existing ordinance that are identified as a conditional use and there are no conditions, so essentially they are a permitted use. So what we did was we added the conditions to those uses that were conditional but didn't have any conditions in them, in order to clarify the position.

Mr. Hauben stated: And we made substantial changes to the signage standard section. The signage section in the current ordinance is loaded with inconsistencies and weak or unclear standards. So we

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provided much clearer standards to clarify what sort of signs are permitted in each zone and to break down or specify the powers that the city has to enforce its sign standards. We provided a matrix again for signage to show what signs are permitted in each zone and for different types of uses in those zones and to provide the standards for those signs. I think this is probably the biggest section that we had to make changes to because of just how problematic the existing section was.

Mr. Reiner stated: So we actually went through, and you have a map in front of you and I'm going to go to the next slide in a second, but essentially what we did is we removed some zones that were no longer viable because we had redevelopment plans that superceded them. So, for instance, we removed the HCS zone because we now have a Prospect Avenue redevelopment plan which supersedes that underlying zone, so there was no reason to have any of the uses or bulk standards within that. We rezoned the M-2 to M-1. We rezoned all the M-1 to B-3. We removed the R-2A, because it was essentially the same as one of the other zones with the exception of garden apartments, and garden apartments aren't really being built at this point so we didn't see the need to have two separate zones for that.

And then we did something that was part of the master plan reexamination study, which was we identified the location essentially between State Street and the railroad for a new zone called an R-4 zone, and this is really to look to transition out of what is a larger higher density downtown redevelopment plan that has allowed up to 14 stories in its history, to really require a stepdown of uses to be able to transition into more of a residential going towards the west. So there's a maximum of four stories, and it permits single family townhouse, two over two, and apartments. This would be more like the notion of when you walk out of a city and you go into what some people would call like walk-up townhouses, brownstones, those kind of things. So we created a zone that was specific to try to transition out of a higher density mixed use downtown into more of a single family going towards the west.

And essentially what you see here is in red are all the zones that were identified and changed, and you can see there's some gray underneath them that shows what these zones were previously, essentially looking to update the map. This isn't the official map. I believe you have a company that's working on

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digitizing the official map, but this would be the interim official map for the board's consideration. I think that's really it.

The only thing I would add is that, so the first reading was last night at the mayor and council, the planning board is reviewing this, can provide recommendations in addition to whether or not they want to recommend the board, the mayor and council approving it, and then ultimately it could be adopted at second reading and they would update the zoning map.

This zoning ordinance change is only to Chapter 175 of the zoning ordinance. There are other chapters that will have to be amended in the future that are tied into this. We've identified all of those kinds of chapters. They're a much smaller amount of changes, much less amount of time and effort, but we acknowledge with Bridget and the zoning department that there will have to be some modifications to some of the other chapters just to make sure that everything is consistent moving forward. So that's really the presentation. What I might recommend, Joe, as the entity that put this together and having heard the discussions that went back and forth, one of my recommendations through the Chair would be to consider, if the board would be so inclined to want to move this back to the mayor and council, to move it back to the mayor and council and then maybe provide some conditions of other uses that you would like to see incorporated, and that those uses might have some conditions attached to them.

This is the hard part for the board to consider. For instance, if you wanted to allow cigar bars and hookah bars, one of the things you might do from a conditional standpoint is say that they cannot be within 1,000 feet of each other.

Just to give an understanding of what that thousand feet means, a block is essentially 400 feet in length. So if you take the distance from Atlantic Street to Demarest Place and then from Demarest Place to Mercer, that's roughly 800 feet. So you get an understanding, if you say a conditional use of a hookah bar and a cigar lounge of 1,000 feet, it's basically every 2, 2 and a half blocks is what you would be kind of limiting yourself to those uses.

(Meeting was opened to the public for comment.
No one wished to comment.)

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BOARD DELIBERATION AND VOTE

Mr. Allegretta stated: I'd like to make a motion to move forward.

Mr. Contini stated: I second that motion.

Mr. Mecca stated: So the motion is to recommend that the mayor and council to adopt the changes, the revisions to the zoning ordinance and to consider -- I would ask that the board also put in that recommendation that the mayor and council consider some additional uses that might be attractive to those who will be living in the downtown area.

Chairman Garip asked: Mr. Allegretta, you made the motion. Do you agree to add to the motion?

Mr. Allegretta responded: I do. Absolutely.

Chairman Garip stated: Okay. So, Mr. Contini you seconded that.

Mr. Contini stated: I agree, and also to facilitate the amendments where we don't want another year or two to do this, I mean, to get this done and then facilitate the amendments to come.

MOTION TO APPROVE:

MOTION BY: M. Allegretta

SECOND BY: R. Contini

ROLL CALL: A. Dib - aye

R. Contini - aye

M. Allegretta - aye

J. Labrosse - aye

K. Canestrino - aye

J. Chiusolo - aye

F. Garip - aye

8. Adjournment

MOTION TO ADJOURN MADE BY VICE-CHAIRMAN CHIUSOLO.
SECOND BY MR. CONTINI. MOTION IS PASSED BY A
VIVA VOCE VOTE. THE PLANNING BOARD MEETING IS
ADJOURNED AT 8:32 PM.