

BETHLEHEM CITY COUNCIL MEETING
10 East Church Street - Town Hall
Bethlehem, Pennsylvania
Tuesday, June 1, 2021 - 7:00 PM

INVOCATION

PLEDGE TO THE FLAG

1. ROLL CALL

President Waldron called the meeting to order. Present were Bryan G. Callahan, Michael G. Colón, Grace Crampsie Smith, Olga Negrón, J. William Reynolds, Paige Van Wirt, and Adam R. Waldron, 7.

Opening up City Hall Rotunda

President Waldron noted that once again it is he and Mr. Vidoni in the rotunda this evening. As we enter a new phase in our pandemic and the response to it, there is an ongoing pressing conversation that needs to happen about when will we open City Hall for Council Meetings as well as the other Authorities, Boards, and Commissions. In the next few weeks President Waldron would like to reach out to individual Council Members to feel what their comfort level is about coming back into the rotunda as well as opening up the room to the public. As it stands the current CDC guidelines would allow for open meetings. This is a unique room and is tight so there is that consideration as well not only for Members of Council sitting up at the dais but as well as members of the public. He will be interested to hear the other Council Members thoughts as well as the Clerk's Office about any issues that we might foresee. President Waldron does intend to continue the virtual option that we have rolled out. If anyone does not feel comfortable coming in by no means will there be any pressure to do so. We will continue to have our YouTube stream and archive indefinitely into the future.

2. APPROVAL OF MINUTES

April 20, 2021

3. PUBLIC COMMENT (on any subject not being voted on this evening - 5 Minute Time Limit)

None.

4. PUBLIC COMMENT (on ordinances and resolutions to be voted on by Council this evening - 5 Minute Time Limit)

Certificates of Appropriateness - 14-18 West Third Street and 317-327 South New Street - Denials

Maureen Dresen, 2815 Whitewood Road, informed she grew up in South Bethlehem and is on the Board of the South Bethlehem Historical Society. She is asking City Council Members to support the Historic Conservation Commission (HCC) recommendations to deny the projects

proposed for Third Street and on New Street. The City of Bethlehem established the Historic Conservation Commission. The government wrote the guidelines for the Commission and members are appointed because of their expertise and experience. She is asking City Council to look at their recommendations to deny the two buildings. Other builders and developers with projects in South Bethlehem follow the rules; there should be no exceptions for developers just because they have deeper pockets. Often developers need to modify their plans in order to adhere to the HCC guidelines and she is hoping that perhaps that can be an outcome of this evening. She noted just because she is seeking your support on these recommendations does not mean that she does not agree to change or wants progress or better things for South Bethlehem, that is further from the truth. Ms. Dresen is simply asking that we make sure that everyone plays by the same rules. This is a critical decision and she does not believe that South Bethlehem needs any taller buildings. Newer and taller does not always mean better or improved. She likes being able to see the Lehigh University campus, the mountaintop, and a variety of roof lines when she drives across the bridges to go to South Bethlehem. She is asking Council to consider if there was a proposal to build an 18 story building in the middle of Main Street right next to the Moravian Book Store would the Historic Conservation Commission responsible for that part of the city approve it? She thinks not. Would City Council even consider overriding that recommendation, she doubts it especially when UNESCO is considering a World Site Designation for that historic part of our city. Ms. Dresen believes we can revitalize South Bethlehem without taller buildings. She hopes City Council will vote to support the recommendation from the HCC.

Roland Yoshida, 135 E. Market Street, noted he lives in a housing cooperative on the corner of Market and High Street that is known as the Market Street Townhouses. We will be celebrating 50 years since the first occupant took up residence in our complex of 15 units. You may not recognize our 3 buildings; they are no higher than 2 stories and are of brick construction. These buildings are on a parcel where a single dwelling mansion once stood. He has been told that when the mansion was sold a developer proposed a 6 story apartment building for the site. Imagine a 6 story apartment building today well within the central historic district and if that building was approved and built. What other tall buildings could have replaced the historic structures along Market Street? Another developer probably would have proposed another tall structure arguing the precedent set by constructing a 6 story building. How often has he attended Council Meetings where some previous Board action has been cited to push for zoning variances? Fortunately some wise people back in the early 1970's nixed the apartment proposal and today we have the townhouses that blend into the neighborhood architecture. A similar issue is pending before you tonight. The HCC recommends to deny a Certificate of Appropriateness (COA) to two buildings that clearly exceed the height limit set for the South Side Historical District. One of those COA's was denied by a unanimous 5-0 vote. Those buildings do not belong because they are out of scale to the neighborhood. Mr. Yoshida mentioned that a document on the City of Bethlehem website entitled "Southside Bethlehem Conservation District Study" states 56% of the respondents stated the preservation of over buildings and features was the most important goal for the historic district. Concerning controlling building heights 41% stated it was extremely important and 37% stated it was moderately important. He urges council to reject the temptation to legislate by exception and to reinforce the specifics of the zoning regulations that have been established. Supporting that through a thoughtful process involving citizens and architectural experts reinforces the trust that citizens have in the process by which development will unfold in Bethlehem. Think about the developers that worked within the historical requirements and successfully completed projects. To grant an exception erodes trust within our citizenry and the trust of the developers who have worked within the process.

Louis James, 527 Center Street, explained he wanted to voice his great concerns over the proposal for these tall buildings. Mr. James informed he is the current President of the South Bethlehem Historical Society. These buildings are out of proportion to the already existing buildings in the Historic Conservation District and will change the landscape of the district and diminish the feel and character of the south side business district. Council should be sending a message to developers that they need to work on projects that compliment history and the community that is the south side. These proposed mini-skyscrapers will not do that, they will create a cold dark feel as these buildings block out sunlight from smaller buildings, block the view of south mountain as well as the Lehigh campus and the homes and church steeples that make up the south side. What would the Central Moravian Church look like from the Hill to Hill Bridge if a 90 foot tall building were built at the end of the Main Street ramp? Mr. James asked how would a building like the Benner building at Third and New Street fit in with the buildings on Main Street if it were built at the corner of Main and Walnut. There have been developers who were able to work within the parameters such as the First Hungarian Lutheran Church project at the edge of the historic district which has made great efforts to incorporate the front section of the former church into its apartment project. The Flatiron building which is being renovated, they seem to be working within the guidelines of the HCC as well as the Masonic Temple building which is restoring the Wilbur Mansion. These all do not take away from the south side but draw attention to its history and beauty. There is another issue, housing, and affordable housing in Bethlehem is difficult to find. The affordable units that are proposed appear to be apartments with minimal light or even windows. Realtors and developers are buying up properties at a rate and paying prices well out of the reach of many families. If you are trying to push low income people out of Bethlehem then your plan is working. There is already a large homeless population living along the Lehigh River and groups trying to help them like the Bethlehem Emergency Shelter and they cannot even find or afford a building on the south side due to the current market. Perhaps this should be a focus of the City Council and the new Mayor. Traffic is a continued issue on the south side and parking decks are not the answer. There needs to be a solution on how to handle the current traffic flow along Third and Fourth Street. People are not using the parking decks; they look for a parking space close to the store or area they want to go. Giving away parking spaces to developers and their new buildings do not promote the small businesses of the south side. Mr. James has heard this said that the new buildings have waiting lists for tenants, that may be so but you might want to look at those lists as several other new constructions have empty storefronts. He thinks Council needs to meet with the Chamber of Commerce and talk to them about promoting some of our smaller south side businesses and how to attract business to the existing storefronts along Third and Fourth Street. Mr. James noted speaking for himself he is also concerned that Council is looking at this proposed development as windfall for tax dollars. This is what happened to the steel property and the casino, it was not as big a windfall as the city thought it would be and our expenses went up as a result of the development. More development might bring in more tax dollars but it will also mean more infrastructure expenses. We have beautiful buildings in the Historic Conservation District so let's protect them and promote and support this rather than to continue to chip away at it until there is nothing left.

Bill Scheirer, 1890 Eaton Avenue, understands there are two denials from the Historic Conservation Commission on the agenda for tonight. He would like to express the hope that Council upholds each of these denials for two reasons, historic preservation and quality of life. Bethlehem is in a good place right now. People will be less inclined to want to visit historic buildings that are dwarfed by new 100 foot buildings. The historic tourists will not find that

interesting and that would cut down on tourism and that leads into tax revenue. From the tax revenue standpoint there is a cost as well as a benefit of taller buildings. When it comes to historic preservation it is not the same thing if you have historic buildings dwarfed by much larger buildings. He understands on the New Street case the developer is proposing to retain the façade but that is going to look silly if you look at the drawings. He can site an example from the District of Columbia and the 2100 block of Pennsylvania which is midway between the White House and Georgetown where a single family house in the Federal style is surrounded by glass on either side and above, which looks bizarre. We are hearing the developer on New Street is proposing affordable housing which he heard would rent at \$1,300 dollars a month. Mr. Scheirer noted that comes to \$15,600 dollars a year and there is a rule of thumb in the housing industry that one should not pay more than 30% of their income on housing. So that would \$15,600 dollars a year would translate to a household income of \$52,000 dollars. On the basis of a 40 hour week and 52 weeks a year that would be exactly \$25 dollars an hour. That is two thirds greater than the minimum wage being proposed for the country and much less attainable. Mr. Scheirer stated this is affordable housing but only if you have an income of \$52,000 dollars a year. As for quality of life more apartments mean more people and more cars with more congestion and more noise. He believes that people in the city would be willing to pay a little more in taxes in order to retain our present quality of life. Tax revenue is not a compelling argument because if you build in order to get tax revenues they you give up a lot. As for historic preservation if either one of these projects is approved he thinks we can stop pretending we care in this city about historic preservation and that it is trumped by development. Mr. Scheirer hopes Council turns down these two projects and backup the Historic Conservation Commission.

Mary Wright, 1820 West Union Boulevard, informed she lives on the west side of Bethlehem but she works on the south side and has for the past 24 years. One of the things about South Bethlehem that she has always loved is that idiosyncratic nature, the fact that it has a feel all its own. It does not feel like any part of this city or any other city. What she finds concerning is when tall buildings that will be primarily apartment buildings are being built they all kind of look the same and suddenly you lose the character and feel of a place. People who live in Bethlehem like it because it looks and feels like Bethlehem. The need for development is important but we need it to fit where we live and who we are as a community, not to try to turn us into something else. Ms. Wright encourages Council to uphold the rule of the Historic Conservation Commission when they said this does not fit any of the criteria and say we will not overturn that. There is a reason that Council created Historical Societies and it is to do that hard work for City Council. She encourages Council to take the word on the street of the people who live and work there and who care about it as well as the Historic Commission who said that this does not fit. She hopes Council understands the will of the people.

Affordable Housing

Sebastian Zawierucha, 341 Spring Street, stated he wanted to speak about the previous Council Meeting and the presentation that was given by the Lehigh Valley Regional Housing Advisory Board. He stressed the importance of the need to recognize our need to preserve mixed housing and income levels. The location of potentially a new Emergency Shelter was proposed to maybe move outside of downtown Bethlehem due to financial constraints and not finding a building. He stresses that even in this conversation about new development there is absent the dialogue of mixed income and ensuring that the benefits that would be brought in with development will not be delivered to the communities in need if they are pushed out. Those

resources, like schools, jobs, grocery stores, entertainment, increases reliance on cars and we have a pretty dismal public transportation infrastructure in Bethlehem. He asks Council to keep that in mind with respect to any development proposals. He asks Council to fight back for the members of the community who cannot fight for themselves and have been financially strained for many years.

Jennifer Labrador, 1758 Lynfield Drive, informed she works on the south side and is speaking tonight because she is concerned about the development of the new apartments in south Bethlehem that are not affordable for people who live here. She has lived on the south side since 2010 and housing has become less affordable for people like her and we have fewer options. She use to live in the Hayes Street Lofts which is technically an affordable housing community but even there apartments are actually not affordable for people like her who are working parents. She could not afford a 3 bedroom apartment so she had to move into public housing. When she sees all this new development on the south side she wonders if anyone is thinking about housing for her family. When she sees them talk about affordable units and the new buildings on New Street she wonders if they know that even affordable units are too expensive for the people on the south side who need housing. Ms. Labrador added she works for a non-profit organization that has seen an influx of low income households searching for affordable housing and it is almost impossible to help them find what they can afford. She wants her own place to raise her children in the community but every day that seems less and less of a possibility. We need actual affordable housing, rents that are less than \$850 a month. We need to support our small businesses that serve our residents and not knock them down and kick them out. Buildings like this one on New Street just tell us the south side is not the place for us anymore. We need to find somewhere else to go to raise our families. She does not want to leave but is lucky that she got into a home in South Terrace but what about the other families that cannot. We do not need any more new buildings that push people out and do not provide the kind of housing that we need on the south side. She wants Council to listen to what the people who live on the south side actually think and want and it is not buildings like the one proposed on New Street.

Delia Marrero, 607 Williams Street, informed she is calling to share her concerns about the south side new building proposal and the impact on the residents of south Bethlehem. This is the only south side residential project that she is aware of that would displace existing south side residents and businesses to make way for luxury development. The project would displace 3 currently occupied apartments and 3 women and minority owned businesses, one of which she does believe is relocating. Minimum wage workers who lived at former boarding house also slated for demolition were evicted when the developer's business partner acquired the property 3 years ago. This is a textbook definition of gentrification. She is concerned that affordable housing offered 6 to 7 units at medium rates is being used as a tactic to manipulate public opinion while offering no real relief to south Bethlehem residents. The data shows the primary need for affordable housing is for residents making less than \$35,000 dollars a year. For someone making \$35,000 dollars a year the maximum amount they can afford for housing is \$875 dollars a month including utilities. According to the requirement of the city's density bonus for affordable housing the developer could charge up to fair market rent and that is \$891 dollars for a one bedroom and \$1,139 for a two bedroom. It may be affordable for people coming from New York or New Jersey but it is not for our community. She is concerned that we do not have a comprehensive plan to guide the placement of luxury apartments in south Bethlehem. Ms. Marrero mentioned the south side is the most densely populated area of the city. She is not opposed to all luxury apartments but they need to be located in an area that does not negatively

impact the residents of small businesses that are already here. Please listen to the south side residents when we say we do not want this development for our community.

Carolina Hernandez, 2614 Bethlehem Fields Way, informed she would like to speak for herself as a proud south side resident for many years. She was moved by the speech from the resident from Lynfield and she wanted to say thank you for speaking out. It does not come as any surprise that numerous scholars of urban studies have identified and documented the negative effects of demolishing mixed use buildings or existing houses. These affects come from the way marginalized residents feel when their neighborhoods are redeveloped and when their stake in the communities is denigrated. Economically challenged residents in such places in fact experience negative physical and mental health impacts. If we want to keep the south side as a place that is welcoming to diverse populations which she is proud to say our City Council has always advocated for we need to commit to deeper community participation in our planning process. We need to work together to ensure that development enhances our city. We need to reject development that threatens to destruct community connections and which would produce social anxiety that would negatively impact the residents and south side regulars. The HCC have used their expertise to analyze two development proposals and had public comment through the course of 3 very long meetings. Their conversations have included analysis of the proposed buildings on a livable scale of streetscapes on the south side and welcomed public comment that bring to light problems. The Commission worked very hard to honor their guidelines which are designed to support a livable cityscape. Ms. Hernandez noted that Commission has offered their recommendations tonight to reject the south New Street and the West Third development proposals based on their expertise and the guidelines that undertake their decision making. These are proposals that would reshape the streetscape of the south side central commercial corridors and key gateway to the south side. As City Council you have the ability to consider multiple impacts and connect dots which other commissions cannot. Please honor the expertise of your Historic Conservation Commission and consider the negative impacts as you look at developments like these. Please vote to reject these out of scale massive development proposals.

Angelie Criollo, 620 Hayes Street, informed when she came to Bethlehem she decided to live on the south side because she liked the sense of community here. In 2018 she bought her house on Hayes Street. It is nice here, people sit on their porches and talk and houses are in good condition. This is her idea of a neighborhood where people look out for each other and where houses are close together with no big buildings and everyone feels welcome. We have people with Black Lives Matter flags, Pride flags, and even a few Trump flags. It is a welcoming place to raise a family. She does not want to see buildings that are high rises; those are what she left behind in New York City. That makes the street dark and stand above us so high. As residents we know that these are not being built for us. She wants a city that listens to its people. Ms. Criollo is asking Council to listen to us, we are speaking up for people who do not even know this is happening. Listen to us when we say we do not want to see unaffordable luxury high rises in our community, we want you to vote against them.

Dana Grubb, 2420 Henderson Place, explained as a past president, treasurer, and current advisory board member of the South Bethlehem Historical Society, a former City Administration who worked on developing the South Side Historic Conservation District Ordinance and a lifetime Bethlehem resident he is asking Council to support the HCC denial of a COA for both 14-18 West Third Street and 317-327 South New Street for the following reasons. First, that you would honor the vision of an earlier City Council who approved the districts creation and

processes for preserving its historic character, an ordinance supported by the Mayor when he was on Council. You would show your support for those HCC appointees that you confirmed and empower them to do what they and you are supposed to do, make sure a project is appropriate for development. You should adhere to the federal guidelines, the Secretary of Interior standards. Also, as doing this you should recognize that many projects are already in compliance, whether new construction or rehabilitation of an existing building, minor or large in nature and the fact that the ordinance should be applied equally. Mr. Grubb added that you should ensure that the impact on the environment and overall quality of life for the south side and for residents is improved by any proposed development. Also, reduce the impact of additional traffic in an area of already high traffic volume, and encourage much needed development to respect the south side community through the appropriate development, scale, mass, and height of new structures. Mr. Grubb added to recognize the short term benefit should be superseded by the long term impact. What we do not need in Bethlehem is a sanitized version of downtown business districts that our neighbor immediately to the west has adopted. Your confirmation of the HCC's denial will send developers in the future HCC meetings with reasonable expectations, desired by many residents of Bethlehem. However, if you must do more homework to better understand the impact of these two projects he suggests that Council consider tabling them until such time as the ultimate impact on the south side in particular is better crystalized in Council's minds.

Doug Roysdon, 421 Second Avenue, noted he is a long time member of the Outdoors and Wellness Committee of the Community Action Development Corporation of Bethlehem. He has followed the work of the HCC over the past 3 months and could not be more supportive of their conclusion. He believes they have done their work on a fair and professional level.

Kim Carrell-Smith, 833 Carlton Avenue, informed this is a significant evening for the future of the Southside. The decisions you make tonight will shape the physical, economic and social future of the Southside for decades to come. Each new development that is permitted in our city sets a precedent for others to come, whether we acknowledge that ahead of time, or not. As you consider the proposals in front of you this evening for the West 3rd Street and South New Street developments, please take into account that the Historic Conservation Commission, the only place where Southsiders have a voice in planning for our physical environment, voted to reject both of these large developments as out of scale, and basically inappropriate for their locations in our historic downtown. In fact they unanimously rejected the proposed 104 foot New Street building; even the city housing inspector who is on the HCC felt --after the long discussions in HCC meetings-- that rejecting that proposal was the right thing to do. The building is clearly extremely out of scale with the historic building stock in that area, and would break the continuity and historic fabric of that block. Shouldn't we want to support our historic district's connectivity between 4th and 3rd streets with appropriate building heights, rather than making an exception for an out-of-scale, towering high-rise, smack dab in the middle of a key walking and driving corridor? Ms. Carrell-Smith added that rejecting that out-of-scale building is also important for the people of the Southside who see that major high-rise proposals, and the sweeping change in a half a block of familiar historical streetscape as confirmation of their marginal status, when it comes to city planning, affordable housing, and the prioritization of small, locally-owned businesses in our community. Who wants to walk from vibrant, historic 4th Street down a light-starved, shadowed canyon of a street block, to access the next historic blocks on 3rd? How welcoming would it be, if the S. New Street building were to tower over the Greenway, right where it kicks off, and ushers walkers, bikers, joggers, students, tourists, and residents, into an amazing space --a horizontal park that provides people with a unique urban

environment that generates pride in our Southside community! Does a high rise say “Welcome to the Greenway?” Does a 104 foot building in a streetscape of far smaller buildings, despite the rules that govern everyone else, say, “We wanted to blend in and make this a better community?” And would rents that are pitched as affordable really serve Southside low income folks? Or does this building say, “Sorry, this space is not for you, even though it takes up a key half block of your commercial corridor...” Would a massive wall-of-a-building along the sidewalk and Third Street, as proposed in the W. 3rd apartment development, say “Welcome to the Southside?” It is taller and she believes, longer than the previous incongruously tall development at 3rd and New, and it certainly has been planned for “not Southsiders” since it’s a luxury student building. She has to wonder, why couldn’t this developer on Third Street emulate the 510 Flats development on the eastern fringe of the historic district, and build shorter structures with luxury apartments if that is his wish, as has been done by those other developers along the other gateway end of the Southside? Why must we bend the rules for this developer, when there are other options for apartment development that he has rejected in his conversations with the HCC? Please consider how your actions tonight will affect the people of this city, their sense of community, and the positive economic, social, and cultural connections that come from physical spaces we frequent. She urges Council to support the City’s Historic Conservation Commission, a trained group of folks with expertise in planning, architecture, real estate, and construction. They know what they are doing, and they bend over backwards to support developers and help them understand the wide range of elements that would fall within the historic district guidelines. When they recommend rejection, it is painstakingly explored, considered, and reconsidered as an option. They want to facilitate good development projects for our Southside. Please listen to the recommendations of our Southside Historic Conservation Commission, and vote to reject these building proposals.

Rachel Leon, 946 East 5th Street, informed this meeting tonight is a pivotal moment; the two projects proposed for the south side have been vetted by the Historic Conservation Commission and have been rejected by the HCC. The people you approved to vet these projects have rejected it, the 10 story project on New Street was debated at 3 detailed and extended HCC meetings. She attended these meetings as well as other residents. We gave arguments and the HCC has been doing its job and she commends them. She does not think it is hyperbole to say that you are voting against the people who live on the south side if you support these projects after they have been rejected by the commission that has been doing their job. The people who have shown up to these meetings have expressed their concerns. Regarding the 10 story building on New Street, this building is clearly too tall for the historic district and please do not be fooled by the developers proposal to include affordable housing in these proposals as well as make the outrageous height of these project more palatable. Ms. Leon added that several actually affordable housing units will be demolished and a small number of the reduced cost housing that the developers want to add will not be affordable to the residents on the south side, the majority of which cannot afford to spend \$1,000 to \$1,300 dollars a month on rent. The provision of non-luxury housing might be commendable if the building were not in such extreme violation of the historic district guidelines. The minimal contribution of non-luxury housing does not overcome the net loss that will result in putting a tower in the middle our downtown which creates canyons, blocks out the sunlight, and fosters a low density that will overwhelm the south side’s available infrastructure. The south side does not have the infrastructure to support this. Ms. Leon is worried about how much this will contribute to the poor air quality which already ranks amongst the worst air quality in Pennsylvania. We will be also then be expecting about 350 additional cars coming into our south side downtown area and the cars associated with these

projects being considered tonight will bring that number up to over 500, this means more traffic and more pollution and worse health for south side residents. We already have so much traffic on Route 412 and many of these vehicles are large tractor-trailers carrying freight and are heavy polluters. When you add more cars to the neighborhood even if those cars pollute less than diesel trucks they will still add to the traffic, slow down the trucks and keeping them in our neighborhoods longer. Ms. Leon added that taller buildings add to the problem because they make it harder for those pollutants to disperse in the air. If you want to put feet on the street you should avoid creating pollution corridors where you expect people to walk. The recently completed Climate Action Plan addresses some of these problems. She urges Council to hold true to what we aspire to accomplish with the Climate Action Plan and not approve these buildings tonight.

Anna Smith, 631 Ridge Street, explained she would like to speak about responsible, sustainable development and what it looks like. It can be easy to construe opposition to a particular project as opposition to development in general but the simplification of resident viewpoints at for or against development or progress in a whole ignores the nuance of discussions and whole consideration of folks who commit their time in reviewing and understanding the proposals put forth for our community. History has taught us that not all development is progress. We need to only look so far as the urban renewal period which left its mark on our downtown or the Federal Highway Administrations misguided projects that destroyed historically black neighborhoods throughout our countries major cities to remember this development. That is particularly development that demolishes historic neighborhoods in low income communities can have impacts on urban areas that can lead us toward decline. It is up to us to determine which direction development will take us on the south side when we have an opportunity to shape the future of our neighborhoods based on a vision of an inclusive community that is built for and by the folks who have made the south side what it is today. The residents and small business owners who have invested their time and money into constructing place developers are now clambering to have a piece of. Interest in the south side is booming, since 2014 including the 152 apartments that are being considered tonight there have been 392 new construction apartments that have been approved or are in the process of approval for the south Bethlehem downtown. Ms. Smith added that only 95 are occupied to date but the others will be occupied within the next 1-3 years. On top of that over 110 units are in planning stages or have been completed in older buildings that were not previously apartments, with likely more to come. With only one notable exception, the majority of these apartment buildings have respected the boundaries of the Historic Conservation District in their planning and will add to our neighborhoods by increasing foot traffic in our downtown while developing under-utilized sites. The dramatic increase of proposals for the south side downtown has demonstrated the serious interest in our community among developers and suggests that we are in a strong position to negotiate. These projects would look like projects that incorporate locally owned businesses in their plan and lead to net increase in small businesses. The Riverport Market and Flatiron Flats are great examples of vacant or under-utilized structures. Responsible projects prioritize the development of vacant industrial properties over demolish of historic properties. From the Factory to 510 Flats industrial sites have been developed into projects that add to our tax base. High quality projects encourage new development. The Polk Street building which is recently retrofitted includes 50 units of student housing blends in with the size and scale of the corridor. Responsible development on the south side means incorporating diverse residential and commercial offerings that are affordable to the south side population. Developers have shown that it may take a little more work but it is possible. Sustainable development projects

incorporate green space and/or the development of public spaces into their design. Look how Brinker Lofts opens onto the Greenway. The best projects are developed in response to community needs and engage residents and stakeholders in idea development and the design process. Responsible projects prioritize sustainable development practices. Just visit the Flatiron building to see this in action. Most importantly to the people of the south side responsible development does not displace longtime residents, low income residents, and locally owned businesses. Unlike most former industrial communities Bethlehem is unique in having the upper hand when it comes to development. In his recent book "The Divided City" scholar Alan Mallach identifies Bethlehem and Lowell, Massachusetts as two of the only mid-sized cities in the country that have defied the traditional path followed by former industrial cities. Ms. Smith added that we are truly special and unique and we have a lot of developers that recognize that and work hard with our Historic Conservation Commission to develop proposals that meet the high standards. Just look at local developers suitable proposals for two storefronts and two apartments on West Fourth Street which will be approved this evening, or Jack and Amy's incredible designs to restore Palace Row on Wyandotte Street. These developers set the bar for quality. Unfortunately the proposal for South New Street does not meet the requirements for a wide variety of reasons. We are fortunate to have had three nights of detailed discussion of this project at the Historic Conservation Commission and their decision to unanimously reject the proposal speaks to the inappropriateness of this project. Let's support the HCC's determination that the south side deserves better.

Beth Starbuck, 420 Rockhill Circle, explained she is a business owner and has a building on the south side at 315 West Fourth Street. She has been on the Historical and Architectural Board (HARB) for 23 years and on the Historic Conservation Commission (HCC) since its inception 20 years ago. The north side historic district has been a clear economic success; property values are higher in that district than those just outside of it. On the south side it is not as old, but these protections will continue to enhance the character. The guidelines at the HARB and historic commissions are not arbitrary; they were established by the Secretary of the Interior. These standards are adopted by the Pennsylvania Historic Museum Commission to be used by architectural review commissions in the state. The City of Bethlehem has incorporated these standards into their guidelines. While the HCC was intended to be less stringent than the HARB it is less stringent with regards to details such as paint color, lampposts and fences. On the other hand the most basic elements to be reviewed in a historic district are size, scale, and mass. These are not details, these are major factors in design and if you overlook these you are not adhering to the most basic principles of the Secretary of Interior standards. Ms. Starbuck pointed out that building out of scale will damage the inherent character in the district. Many other developers managed to build smaller projects that are successful that include the Polk Street Commons, 510 Flats, and Southside Commons. With regard to the 317-327 New Street proposal speaking as a citizen aside from the architectural inappropriateness the project is partially above public land, approximately 1,900 square feet per floor and if they built 12 stories, 10 of those floors would be above public property. They would be charging rent on space above public land assuming a going rate of about \$1,500 dollars a month for 1,000 square feet. That would be \$2,800 dollars per floor, per month or \$33,600 per floor per year. If you times that by 10 floors it would be \$336,000 dollars a year that they would be grossing over public property. Buildings are expected to last about 30 years which means that the owners over time would gross \$10 million dollars on that space that is over Graham Place by charging rent on space that would be built above public property. Ms. Starbuck added that they are including affordable housing in that proposal but they are tearing down what is affordable housing to build that building. The reality is that the

apartments they are designating for affordable housing would never be able to be rent because they have no windows in the living space. They have windows in the bedrooms as required by code but the kitchen or living room has any window in it at all. She pointed out that 14-18 West Third is also too tall and is across the street from the three story Banana Factory and to the west is the Comfort Suites with 4 stories and Lehigh Pizza is across the street at 3 stories. Although it is not taller than the adjacent building on the corner of Third and New Street that is not a contributing building. This project does not reflect the historic sense of living in its mass, size or scale. It is out of scale for the neighborhood in general and it is massive. It is 220 feet long. Ms. Starbuck noted that this will damage the character inherent in the district, please vote to uphold the HCC rulings on these two buildings.

Al Wurth, 525 6th Avenue, remarked he wanted to mention the issue of the city giving away air rights that are valuable but he could not do any better than Beth Starbuck. That is this developer is apparently going to be able to rent public land at almost no cost. He is familiar with air right sales in other places and typically they would recover for the community the equivalent value of what the developer would be using the public air rights for. This is a giveaway to the developer in addition to the already existing problems with the zoning that is out of character. This is an inappropriate approach to the development of this property because the law and the commission say one thing but the developer somehow expects another set of rules for that these two particular developments. Mr. Wurth noted that the HCC did the right thing about rejecting that and the City Council should join them for that. He is also dismayed to see the rush to vote these customized laws for particular developers for these two properties in part because it seems like there is a rush to get these buildings in under the wire before the new Climate Action Plan would begin to put in constraints and standards onto buildings that are going to be passed. He hopes the people who are supporting this Climate Action Plan would hold off on approving any new buildings that going to put 50 years of capital cost into development without giving any lip service to the kinds of new standards that a 21st century building should be meeting to meet the Climate Action Plan. Mr. Wurth is also particularly dismayed by the fact that this is a decision being made by a lame duck Council. It is probably not an accident that these buildings are coming before Council immediately after the Primary Election where we have determined that there will be a new Council coming on board. He hopes that is not the case. He is also concerned about Democrats, all of them look to be re-elected in the election in the fall, the Democrats seem to be betraying their constituencies here. We usually think of the Democrats as representatives of some of the more diverse, the rich and the poor, the multi-racial, multi-ethnic, women and men, all other diversity that makes America great. But here it seems like we are selling out to a few out of town developers who might not even be Democrats for all we know just to make a set of special rules for them. Mr. Wurth noted this development is troubling in a variety of ways. He thinks this decision should be postponed until there is a new Council. The Democrats should think about what a Democrat would vote on this as opposed to what a developer selling sweet nothings would suggest, in particular he totally thinks we should reject any giveaway on public property to developers. He would like to have some air rights over his property abutting the street and alley and they he could add a much larger room onto the second floor to his house. Mr. Wurth stated both of these are terrible plans and were rejected by the Historic Commission and they need to be supported. He hopes everyone on Council agrees.

Kathy Kimmock, 1424 Center Street, wanted to relate how much she appreciates all the speakers she heard since logging in at 7:30 tonight. She agrees with all of them that Council should vote with the Historic Conservation Commission's recommendations in mind. She also

wanted to express what a terrible night it would be to vote either way on this proposal because listening to this meeting on YouTube she sees 2 people in the room, she is not seeing a full Council, she is not seeing the deeper community participation that pre-pandemic meetings would allow, the conversation and the back and forth. She could look you in the eye and say what she is saying and you could see who is in support. We are missing all of that. She understands better than anyone due to her line of work what a difficult year it has been but she is hoping that Bethlehem City Council Meetings can be conducted in a way that becomes more open and even may allow people on the plaza somehow, outside or inside. This is not a good way to conduct a meeting. She feels like this is a failure and a bad decision should this Council approve this. Everything other speakers said ring true to her. Ms. Kimmock would also like to express her feeling of loss at the previous developments along Third Street, the parking garage, and the high rise on the corner. There is a loss of the fabric of the smaller community. She believes that the gentrification is killing south Bethlehem. She does not know if others feel this loss. Seeing that empty room in the rotunda does not speak to people having access to what they can learn by attending the meetings. It is not that easy to attend a Council Meeting, she has a laptop and she is watching it there and she has her phone. What if you are not hooked in that way and do not have those resources but bodily you could sit in a chair and attend a meeting and show support. This is a bad way to go about it and a bad time to vote on a very bad development proposal.

President Waldron noted if Mr. Roysdon would like to call in again he may, he had a poor phone connection. The technology here in City Hall has been working without a problem for months at this point so any issue we have with callers being dropped or not being heard is unfortunately on their end. Our IT Department has done a great job making sure we have a system that everyone can access and everyone can make a comment.

5. OLD BUSINESS

- A. Members of Council
- B. Tabled Items
- C. Unfinished Business

6. COMMUNICATIONS

- A. *Director of Public Works – Recommendation of Award – BRB Contractors – Rodgers Street Facility Demolition*

The Clerk read a memorandum dated May 25, 2021 from Michael Alkhal, Director of Public Works recommending a contract with BRB Contractors for the Rodgers Street Facility Demolition. The term of the contract is 30 days and the cost is \$87,000. There are no renewals.

President Waldron stated Resolution 10 A is on the agenda.

- B. *Chief Code Official – Amendments to Article 1739 - Regulated Rental Units to conform to recent changes to the Zoning Ordinance that created the Student Housing Overlay*

The Clerk read a memorandum dated May 26, 2021 from Michael Simonson, Chief Code Official, with attached proposed amendments to Article 1739, Regulated Rental Units, to bring it

in line with the recent changes to the Zoning Ordinance that created the Student Housing Overlay Zoning District. There are other revisions that are shown in black line in the body of the bill.

President Waldron stated the proposed bill will be placed on the June 15, 2021 Council agenda for First Reading.

C. *City Solicitor – Use Permit Agreement Amendment #2 – ArtsQuest – Musikfest 2021 Festival Sites and Streets*

The Clerk read a memorandum dated May 27, 2021 from City Solicitor William P. Leeson, Esq., with an attached resolution and associated Use Permit Agreement amendment. The Permittee is ArtsQuest and the event is 2021 Musikfest. The amendment makes some changes to the covered premises along with other changes as shown in the amendment.

President Waldron stated Resolution 10 B is on the agenda.

D. *Assistant Solicitor – Ordinance Amending Article 145 – Bethlehem Human Relations Commission*

The Clerk read a memorandum dated May 27, 2021 from Assistant Solicitor Matthew Deschler, Esq., with a proposed ordinance amending Article 145 (“Bethlehem Human Relations Commission”) to authorize the electronic filing of discrimination complaints with the Human Relations Commission. At its monthly meeting on May 26, 2021 the Human Relations Commission voted unanimously to recommend that Council enact the proposed ordinance.

President Waldron stated the proposed bill will be placed on the June 15, 2021 Council agenda for First Reading.

7. REPORTS

A. *President of Council*

B. *Mayor*

1. *Administrative Order – Joseph McGavin – Board of Historical Architectural Review*

Mayor Donchez appointed Joseph McGavin to membership on the Board of Historical Architectural Review to fill the role of Real Estate Broker effective through January, 2025. Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-099 to confirm the appointment.

Voting AYE: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The Resolution passed.

8. ORDINANCES FOR FINAL PASSAGE

None.

9. NEW ORDINANCES

- A. *Bill No. 17-2021 – Amendment to Article 1713.04 – Relating to Composition of Historical Architectural Review Board*

The Clerk read Bill No. 17-2021 – Amendment to Article 1713.04 – Relating to Composition of Historical Architectural Review Board sponsored by Ms. Negrón and Mr. Waldron and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
ARTICLE 1713 OF THE CODIFIED ORDINANCES
OF THE CITY OF BETHLEHEM
RELATING TO HISTORIC BETHLEHEM

Voting AYE: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. Bill No. 17-2021 was passed on First Reading.

- B. *Bill No. 16-2021 – Zoning Text Amendment request by the property owner related to the OMU (Office Mixed Use) zoning district at the Martin Tower site at 1170 8th Avenue*

The Clerk read Bill No. 16-2021 – Zoning Map request by the property owner related to the OMU (Office Mixed Use) zoning district at the Martin Tower site at 1170 8th Avenue sponsored by Mr. Callahan and Mr. Waldron and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF
LEHIGH AND NORTHAMPTON, COMMONWEALTH OF
PENNSYLVANIA, AMENDING PART 13 OF THE CODIFIED
ORDINANCES RELATING TO ZONING WITH RESPECT TO
PROPERTIES IN THE OMU DISTRICT BY AMENDING SECTION
1311(a)-(b) PERTAINING TO THE CONFIGURATION OF OFF-
STREET PARKING AND DRIVEWAY ACCESS ONTO ARTERIAL
STREETS AND SECTION 1314.02(b) (5) TO LESSEN THE
MINIMUM REAR YARD SETBACK.

President Waldron remarked there was quite a bit of back and forth today on this ordinance between Council's office as well as the Administration and the developer who owns the site and generated this zoning text amendment on whether this would be considered this evening. As soon as something is listed on Council's agenda it is at the discretion of Council as a whole to consider that and what actions to take. We had this zoning text amendment go through the typical process of going through the Lehigh Valley Planning Commission as well as the Bethlehem City Planning Commission. Council then held a Public Hearing in which we heard from the developer and also one month ago we had a First Reading of the ordinance and that was postponed until this evening in order to have Members of Council have more time but more importantly have the developer and Administration continue some conversations that had been ongoing the past few years. As any project of this size will require a lot of back and forth between those in the office of Community and Economic Development as well as the applicant and in this case is the property owner of the Martin Tower site. This left us up in the air as to what our options would be moving forward. Typically we have First Reading and if that passes we have a Second Reading. There are other options that we as a Council can take which is what we did two meetings ago when we postponed this in order for those conversations to continue. President

Waldron is not sure where we are at this evening as far as there was a potential of an amendment floating around within Council that can come forward which is challenging to do to add an amendment to a First Reading of an ordinance. That is because typically those amendments have to be vetted by not only the city planners but how it would affect the zoning within that site. Also, any changes that Council decided to make would start this process over and kick everything back to the two planning commissions and then back to Council again. President Waldron explained this is a long process to get where we are at and we have what could be a few options in front of us this evening as to how we will continue with this. He knows that hopefully in the past month he had encouraged the developer to sit down with the Administration to continue those conversations. There was a lot of feedback when we first had our public hearing from Members of Council and different priorities they would like to see included in what is a quite large development project, a 52 acres in the center of Bethlehem. Everyone can agree this is an important site to make sure we get that zoning correct and we get that plan in place that will give a best result to the development that will happen there. As those conversations went on it was pretty clear there may be a little disconnect between what was being proposed and some of the priorities that Council was hoping to see. However, it is not within Council's purview to make those changes, those conversations have to continue between the Administration as well as the developer. Hopefully some of those things can get worked out and some of those priorities can get discussed. This evening we do have Mr. Wagner on a GoToMeeting as a representative of the developer in case any Members of Council have questions for Mr. Wagner.

Mr. Colón noted we had the public hearing and then we had the First Reading in early May and we postponed it to now. At those meetings one of the things he had alluded to was that he was in favor of two of the three text amendments that were in front of us. He was agreeable at the time and still is to the addition of making it a four way by the CVS along with reduction of the setback from 30 feet to 20 feet. He also alluded to previously not being comfortable with deleting from the existing ordinance the cap which currently reads on driving aisle and one row of parking on the arterial street, essentially 8th Avenue to the building. He thanked our City Clerk, he had reached out to Members of Council individually just to make everyone aware, he does not know what everyone's thoughts are but it would be a good time to have discussion to talk about different options. Mr. Colón stated one of the things he looked at was just bringing the amendment as it relates in Section 1 to the placement of the parking spaces. Instead of simply removing the restrictions to where there were none, capping it specifically to what we had discussed at the public hearing. We touched on this at the First Reading a little bit, and he has an amendment drafted and he is not proposing it until he hears from other Members of Council. He mentioned essentially going back to the current reading instead of deleting the limit of one driving aisle and one row of parking spaces, capping it at 2 driving aisles and 4 rows of parking spaces which would be able to move those buildings forward along 8th Avenue. He has not had any personal discussions with the developer in terms of their feedback. He has had brief discussions with the Administration but in terms of his viewpoint what we have in front of us that is something that would bring what is in front of us more in line. He would be more comfortable with instead of deleting the restrictions putting a cap on there more suitable for what the need is on 8th Avenue. He would like to defer briefly to our City Clerk. We touched on it at the last reading but if Mr. Vidoni could give us some insight into the process if we were to make any amendments tonight what kind of timeline we would be looking at as it relates to the process before it would come back to Council.

Mr. Vidoni stated we would need to immediately send this to the Lehigh Valley Planning Commission and the City Planning Commission. We would need to advertise this twice. It is realistic this could add 2 months to the process. He cannot give an exact date; it depends upon when the meetings are for the City Planning Commission and the Lehigh Valley Planning Commission. He thinks 45 to 60 days is a possibility.

Mr. Colón remarked this is just for general discussion to have an idea of what the process would look like. If there was will and support there on Council for an amendment like this with the understanding that it still has to come back before Council. This would simply amend it and bring it back to us on a later date. That is his thought process and he appreciates Council Solicitor Spirk and the Clerk's Office for putting this together in a better format. This is an idea he has floated but he wants to hear feedback from other Members of Council.

President Waldron queried if there are any additional thoughts on the ordinance that is in front of us. He noted that Mr. Colón had worked on that amendment as he mentioned. If we were to proceed with this ordinance in front of us he thinks limiting that parking to what is requested by the developer would be prudent and to have unlimited parking in the front he thinks would not be appropriate for the zoning that is there. If we decided to go down that road he would be in support of that amendment.

Mr. Callahan stated he is still trying to figure out what is still on the table, and what are still the concerns of the rest of the Council Members. The owner and the developer Mr. Ronca addressed a lot of the concerns that Council Members had as far as the tree canopy, he does not think that is on the table any more. We can all agree that the EPA and DEP guidelines that had to be submitted to the city were done and our engineers reviewed it. He has gone above and beyond what he has to do not only with the retention pond but adding that sprayer that will help disperse the water over a large area. Mr. Callahan remarked there was some discussion about him hiring some type of environmental expert but there is nothing left to do, that is all that can be done for that area right now. That property never even had a retention pond to control the water flow into the Monocacy. He also addressed all of the walkability, he agreed at his expense to increase the length of the sidewalks all the way down to Burnside Plantation. At his expense he also agreed to pay for the crosswalk for the trail going from Burnside to the opposite side of Eaton Avenue. He also agreed at his expense to help repair and maintain the walking trail along the Monocacy. Mr. Callahan remarked what it comes down to is the affordable housing which he said he cannot do because of the economics of the project. He is not sure what is left on the table for him to discuss. Mr. Callahan appreciates Councilman Colón's efforts today in reaching out today but he is afraid that this project is heading south. He will not be on Council come the first week of January and it will be a burden that will have to be lifted by them. This is too big of a project and what the developer is asking is a small ask. It is not even his ask, it is the end user. He is telling us the end user needs that additional parking in the front. The developer has been working on this for over two years and according to him there are 10,000 man hours into it. He is at the point now where we have to make a decision. Mr. Callahan remarked if it goes down and does not pass we are losing about \$2.5 million dollars a year in taxes between the School District taxes, city taxes, and county taxes. That is an enormous amount of money we are looking at. If this gets shut down they are moving onto other projects. If we are looking five years down the road we are looking about \$13 million dollars in lost tax revenue. Mr. Callahan related that he wants the newer Council Members who were not on Council five years ago to understand that some of the discussion now is about making it more urban and that is exactly what we were told

by our citizens 5 years ago when we were doing this, they did not want another third downtown. The current zoning and the layout is because we did not want a third downtown and that is how it got passed back then. The developers plan reflects the will of the people and the compromise that Council made at that time not to create a third downtown. At one point we were asked not to make it a third downtown and more urban and now we are asking to make it more urban and more walkable. That area is not going to be a very walkable area, it is not now. The other three corners of that area of the city are already developed. If you go over there and spend an hour there you would be lucky to see one or two people walking by. Mr. Callahan is confused as to why we are where we are considering the fact that all the neighboring buildings have the same setback that he and the end user is requesting. Passing this is basically coming down to the Council Members that will remain on Council in the new year and it will be up to them to answer to the taxpayers of Bethlehem if it passes or does not.

President Waldron noted that Mr. Callahan did touch on some of the issues that Members of Council had brought up the last time we were having this conversation about what they would like to see in such a large and important development. Those concerns were genuine and were reflecting what our constituents have been telling us for year. You have to look no further than all the phone calls we had this evening talking about affordable housing. One thing that is near and dear to many Members of Council is affordable housing and what that will look like. He believes there are 300 units proposed on this site of housing and he does not believe any of those had included affordable housing. President Waldron knows that Members of Council were hoping that issue of affordable housing as well as walkability, greenspace, environmental impact, were all under consideration after our last discussion. He had encouraged the developer and the Administration to sit down and continue those conversations about what that master plan would look like and how those priorities would be considered. President Waldron would turn to Mayor Donchez if he is able to help us out here and understand what if any of those conversations looked like over the past few weeks with the developers on some of those priorities that Council had expressed were important to them.

Mayor Donchez stated if we go back to the meeting about a month ago when the developer sent City Council the memorandum addressing certain issues, that came out of a result of meetings with the Administration where we felt it was important to address the issues that were raised by City Council. That is the genesis of that memorandum. Since that time last Thursday, Member of the Administration, he and Alicia Karner, Darlene Heller, Eric Evans, and Alex Karras sat in on a meeting with the developer reviewing the project. What it came down to is that Mayor Donchez asked him specifically if he would consider hiring a third party professional planner to review the master plan of the current proposal. He is not saying that buildings would be eliminated but just to have fresh eyes to review the master plan and talk about greenspace and walkability, etc. Also to have a professional engineer to address in a memorandum to Council and the Administration the water issue dealing with the runoff down by Burnside, to get a professional opinion. As of today the developer does not really want to move in that direction, although he can speak for himself. But we did make the request that a third party would just review with fresh eyes the master plan, the layout of the proposal and that took place last Thursday.

President Waldron thanked Mayor Donchez for that information. What he is hearing is that some of those concerns that were important to Council and the master plan in general was something that the Administration and Council had some concerns about. At this point it does

not seem as if on the other side that some of those concerns would be revisited and that the proposal we have in front of us is the best option that they feel they want to present to us moving forward.

Mayor Donchez agrees with that interpretation but if the developer is on the line he will let him speak for himself.

Mr. Callahan asked Mayor Donchez if he is in support of the plan.

Mayor Donchez remarked since the master plan was made public going back in 2017 the issues he has discussed with Mr. Ronca are the same issues he raised back in 2017 about the plan. Needless to say the issues are still relevant today. All of us are for seeing that project move forward and seeing that site develop. As he was candid with Mr. Ronca about the layout of the plan, he will not go into any more details about that conversation that is private. But we want to see the best plan today for the city and the best layout because economic development and tax revenue is important. Having fresh eyes look at the layout of the project, a third party professional opinion to review the master plan would not hurt.

Mr. Wagner related that as Mayor Donchez stated we did have several conversations and meetings regarding the project since the last Council Meeting. We do have a professional third party engineer engaged handling the storm water design and that will be designed in accordance with Pennsylvania DEP as well as any Federal requirements for storm water. We are already doing that, it is not an in-house design, it is going to be handled by a professional third party firm and will meet all the requirements by state and federal guidelines for storm water management. With regards to the professional planner on the master plan we have discussed with Mayor Donchez that regarding the undeveloped portions that remain after the several buildings we have planned that we would certainly entertain going back to a planner to see how we can improve those. But where we are at with the plan now we need to proceed with what we have on the plan. The plan meets the zoning ordinance requirements except for this one issue we are dealing with this here with the setback on the parking along 8th Avenue. They are all permitted uses, the density meets the zoning requirements. Mr. Wagner added they are open coming in and discussing how to modify the balance of the plan but we are at a point where we need to proceed with the plan we have in front of us right now, for the portions that are committed at this time.

President Waldron thanked Mr. Wagner for that information. As we move forward we are at a kind of crossroads where it is up to Members of this Council to decide if we want to proceed with this zoning text amendment as requested by the property owner as is. Obviously this is the First Reading of this ordinance so we would have a Second Reading also. We also could make an amendment as Mr. Colón had proposed or if we felt that more time was necessary to gather more information or continue this discussion before we take a vote or any action that would be a possibility too.

Mr. Colón stated if we do postpone this again, hearing what is in front of us is locked in with what we reviewed already at the public hearing and the discussion we had at the beginning of May then down the road he would still be in favor of the amendment he read earlier. If there will be no change to the configuration of what has already been proposed with the medical office buildings and such what he had alluded to earlier he would still be coming to Members of Council with to put a cap on the aisles and rows of parking along 8th Avenue.

President Waldron related the question would be is that potential amendment Mr. Colón shared with us, is that something that you think would be able to be presented tonight or is that something you think would require more vetting by the Administration as well as an opportunity for the developer to weigh in on that, the impact that would be. Any time we make an amendment on our end there is the consideration of how it affects what our goals are but it is important to allow feedback from the Administration and those planners as well as any feedback from the developer. They are the ones who will ultimately be impacted by that amendment.

Mr. Colón is open to hear feedback from the developer if we were to move forward with this amendment. It is amended to fit specifically the needs of the buildings that we talked about. Instead of deleting any restrictions on limiting the rows of parking and aisles of driving, again it would be to raise it to 2 aisles of parking and 4 rows of parking. He is open to hear feedback from Mr. Wagner with his thoughts on that amendment, limiting the parking.

Mr. Wagner stated that is something as Mr. Colón described with 2 drive aisles and 4 rows or parking, that is something that works based on the plan we have before you. That would also allow us to salvage the transactions that are in front of us to have the project advance. So if that is something that you and your fellow Council Members would consider we would be in favor of that as well.

Mr. Callahan informed he is what he calls a Kennedy Democrat, he is generally fiscally conservative and a social liberal and he is always concerned about raising taxes on people, especially our senior citizens and the poorest of our residents. He thinks it is fair to say that the person that has the most at stake here is Mr. Reynolds, being the Democratic nominee in the General Election and he would be curious to hear his thoughts on this before we move forward.

Mr. Reynolds thanks Mr. Callahan for those kind words. He would say that this is an important project for the city moving forward. We have talked before about how important this 53 acres is. One thing that you have said over and over again and Mr. Reynolds agrees on is how important it is to develop this site as far as the tax revenue that will come forward, not just for the city but also for the school district and county. We received that letter last week from Mr. Faccinetto and Dr. Roy from the school district that wanted to see the project move forward in a way, he is not sure of the exact words but with one that was consistent with doing what is best by the community. Not doing anything here or having this break apart as far as something that is not going to move forward is not an option. Mr. Reynolds believes that Mr. Colón's idea is not one that he is necessarily against. He would like some time to personally review it, understanding what exactly that means. One thing he would suggest to us is even the consideration of postponing this a couple of weeks. Mr. Reynolds noted that Mr. Vidoni had said this would take 45 to 60 days possibly for a review so the difference between that 60 day period and two week period is worth it; this is not a small change. One of the things that happens with these changes is that they start the process over. So if this were to be an amendment made by Mr. Colón and a month down the road or a few weeks down the road or whatever it might be would be something where for whatever reason we wanted to tweak it or the Planning Department or the Mayor might have different thoughts, we would have to start this all over again. Mr. Reynolds does not think we want to start that process over twice, we do not want to move down that road and have to amend what we tried to do. If it was just up to him, he would postpone this to allow us to individually consider what Mr. Colón had suggested but also allow what appears to be a conversation between the Administration and the developer with moving forward as far

as what they think a good plan would look like. He would somewhat agree with what you said before, the conversation we had 6 or 7 years ago came down to the uses over there and it was clear that people did not want what was in that proposed zoning, the traditional neighborhood development that some viewed as a threat to our downtowns. He does not think that means we cannot take the current uses here, the medical office buildings and the other things that were suggested and not do them in the most sustainable way possible. That is one thing everyone can agree upon about what they want. Mr. Reynolds believes judging by what Mayor Donchez had suggested, that was a conversation he had as well. If we postpone this again to allow us to consider the ramifications of Mr. Colón's amendment but also allow those further conversations between the Administration, the Planning Department, and the developer, that is what he personally thinks is the best way forward. That is because he does think we do not just want to let those 53 acres sit over there not being redeveloped but we also want to do this in the smartest and most sustainable way possible.

Mr. Callahan agrees with Mr. Reynolds. He does not want to put words into Mr. Colón's mouth but from what he understood his amendment was going to address basically the needs of what the developer needed a month ago, that he needed that extra row of parking in front of the building because the end user wanted frontage on 8th Avenue. It is important also to understand that all those buildings over there have the same setback other than the CVS. There is a St. Luke's building in the back of that which has a large setback and even further than what this end user is asking for. The CVS wanted to be out front a little more. Mr. Callahan explained he talked to Mr. Benner about that because it was his project. He is pro-development but to jeopardize the end user walking away from this because they are pressed with timelines, he does not know what that timeline is but Mr. Ronca had said the end users have timelines where they need to move on. Mr. Callahan stated this end user is probably one of the largest employers in the Lehigh Valley. It is amazing that we are where we are over and additional double row of parking and that we would even think of jeopardizing the amount of tax revenue. We have two individuals here who are investing \$200 million dollars in the City of Bethlehem which he thinks Easton and Allentown or any other city in the state would have open arms for \$200 million dollars-worth of development. He does not think the ask is that great, maybe other Council Members think it is, if this additional row of double parking is the deal breaker on \$2.5 million dollars a year coming in, \$1.7 for the school district and \$560,000 dollars extra for the city. That is an enormous amount of money. If this parking issue is that big of a deal and is the will of the new Council and the Council Members that are going to be on the new Council are going to have the bare the brunt of the criticism. Mr. Callahan thinks it would be very fool heartedly for us to turn this down. If he was a developer his head would be spinning around right now because for years prior to the rezoning of it all we heard was we do not want a new urban downtown and he and Mr. Evans negotiated a compromise which everyone was happy. The school district did not want all housing because they were already in deep plans about the new Nitschmann Middle School and did not want all housing and a lot of children being added into that territory. The downtown businesses and the Downtown Business Association did not want a third downtown. Many of the neighbors wanted mixed use and that is what we ended up doing. Mr. Callahan applauded Mr. Evans for his leadership back then. There will be a new Council and now we are telling the developer, we do not like the suburban feel of it we want more urban and more density. We need to make up our minds. We are telling one developer we want more density and more walkability in an area that is not very walkable. This discussion on these buildings on the south side, it will be very interesting to see how everybody votes because you will never get affordable housing without density and height. Mr. Callahan remarked if he was a developer he would not know what to

think at this point and that is why he is contemplating pulling it at this point because he has other potential projects he needs to get moving on. Mr. Callahan believes this is the second largest economic development in the City of Bethlehem.

President Waldron reminded Council that any time we are talking on an ordinance there is a rule that states that each Member of Council will have 3 opportunities to speak before it would require a majority of Council to vote to allow further discussion by a specific Member of Council. He just wants to make sure everyone has an opportunity to speak.

Dr. Van Wirt informed she has a very different perspective on this and her perspective is that this hardship is self-imposed. If these medical office buildings are so important than Mr. Wagner and his employers could go down to the Zoning Hearing Board and request a variance. It is a very elegant and simple solution to this pressing problem of needing to make the hospital happy. Go down to the Zoning Hearing Board, get the two variances because what she is seeing now and is worried about and would like Solicitor Spirk to comment on this is that we are talking about a zoning text change to the OMU District for the entire city. We are carving out changes within an OMU District for the entire city for one user which is spot zoning; she thinks there is a risk of it at least. So she thinks this is an entirely self-created hardship because it can easily be solved by the Zoning Hearing Board for these two buildings and she has concerns that we are creating spot zoning in the OMU District of the City of Bethlehem. Dr. Van Wirt asked Solicitor Spirk to comment on that.

Solicitor Spirk related first of all to speak four times on a subject requires not a majority vote but unanimous consent from all of Council to speak for the fourth time on one issue. The danger is more of contract zoning than spot zoning. That is to say if you are talking about zoning for a specific end user the risk is you may not get that specific end user. You change the zoning for me here and I will promise it will be this user that is a promise you cannot enforce. So as he has mentioned when this was discussed previously just bear in mind you could be changing the zoning with a specific end use in mind and wind up getting a barber shop or something like that and there would be nothing you could do about it. That is what contract zoning is, it is unenforceable. On the other hand if you are looking at the whole property along 8th Avenue and saying you know what one row of parking and one aisle is kind of tough for people who are mobility challenged and tough for wheelchairs and vans whether they are coming to a grocery store or a medical building or a barbershop. Maybe it would be better to be more consistent with the rest of the neighborhood to have two driving aisles and an extra parking aisle then that is not contract zoning because you are doing what the courts want you do to which is zone for the property not zone with a particular end user in mind. So, yes, Dr. Van Wirt as I have heard comments a lot of focus on the end user, he winced a little bit because that is not what the courts want us to do, they want us to zone with the whole property in mind no matter who the end user winds up to be because we are not able to control that.

Dr. Van Wirt stated as much as she appreciates Mr. Colón trying to find a compromising solution she thinks there is an easier compromise solution right in front of us which is to say no to this zoning text change request and ask that the developer go the appropriate route. That is to go in front of the Zoning Hearing Board because the only reason we have been given that we are asked to have a zoning text change in the OMU District is that it is inconvenient for the developer to go in front of the Zoning Hearing Board a number of times. Then it always boils down to these two buildings and how do we solve the parking needs of these two buildings that is what the

Zoning Hearing Board is for. It is to solve the needs of individual properties that have some factor to them that need to have consideration taken for a zoning variance or relief from the overall zoning imposed on the district. We have the solution right in front of us and she would urge Council to consider the elegance of that solution and the brevity of that solution in solving everyone's concerns here tonight.

Ms. Crampsie Smith remarked she was thinking the same thing. We have to think about development and certainly we need to think about our tax base, the bottom line is that we cannot cave into the whim and desire of every developer just because we want that tax money. If we go down that road she thinks we are going down a dangerous road. It is important we do not go that route and we keep things balanced. She is disappointed that it seems for whatever reason that the developer has met with the Administration and had asked to compromise and meet in the middle and it does not seem like that is happening. She agrees with Dr. Van Wirt and she is afraid that we are being asked to amend a zoning law and it is basically for the end user and are we then going to be amending zoning laws at the specifications of different end users? That is a very slippery slope and a role we do not want to go down. Ms. Crampsie Smith feels like it is important that we keep in mind in what Dr. Van Wirt and Solicitor Spirk said in that is very important and the bottom line is that we are being faced with amending a zoning law and the Lehigh Valley Planning Commission and the City Planning Commission do not recommend that we amend it. That is a lot of weight and these are the experts. There is a reason why this zoning law was written the way it is so she has strong concerns about this.

Ms. Negrón agrees with Dr. Van Wirt in that the easiest thing that should have been done was to go to the Zoning Hearing Board and request a variance. She recommends that they go to the Zoning Hearing Board.

President Waldron remarked that puts us in some mixed company.

Mr. Wagner stated he wanted to follow up on the comments regarding the specific user being the driving force of the zoning amendment. The zoning amendment proposed fixes the overall zone. This is not a zoning amendment for a specific use on that particular lot. All of the lots along 8th Avenue, there are multiple users on 8th Avenue, there is a user on Eaton Avenue and they all have the same issue with the setback requirement. So it is not an amendment driver for a specific user but the fact that we have a user who is echoing the concern that validates the request to understand it is not just the developer wanting to make a change because they think it is necessary. We are trying to come to you showing you that it is a necessary request for multiple users. It is not one single user and as he believes Solicitor Spirk mentioned it fixes the zone itself. We are not trying to target how do we fix this lot, how do we fix the zone to allow the best development to occur and that is what is driving the request. It is not a specific user here for the request.

President Waldron stressed we are at the point where we exhausted our discussion about the issue at hand and come to the point where we have a few different options. We can vote on the ordinance as it stands, we can make an amendment to the ordinance, or we can postpone the ordinance and continue this discussion at a further time, unless there are any additional comments from Members of Council.

Mr. Callahan appreciates President Waldron's thoughts on this. He wanted everyone to understand that the City Planning Commission did approve this and if we did approve it he is not sure what we are caving into. He would not call getting an end user and one of Lehigh Valley's largest employers an extra row of parking as caving especially with amount of tax revenue we are talking about and the \$200 million dollars in economic development projects. As far as the OMU District, there is only one OMU District and he seriously doubts there would ever be another one again. This was basically created for the Martin Tower Site. It is also important to understand the amount of hours that we all put in many years ago probably was something that was an oversight of Council at that time. This is probably something we should have addressed at that time but it was something we missed. Mr. Callahan reiterated he is not sure we are thinking clearly about possibly jeopardizing this economic development product and the tax revenue it is about to bring in over an extra row of double parking which the neighbors already have in the surrounding area.

Mr. Colón noted he is not opposed to potentially tabling this and if we do want to review the amendment do we want to vote on this tonight with the understanding that it is the First Reading and then we have two weeks and then he would forward out the amendment as proposed and give Members of Council opportunity during the broader conversations to speak. Then we revisit it in two weeks for Second Reading and then at that time take a vote or postpone it indefinitely. He would be in favor of that to at least keep it on the agenda for now and see if two weeks-time would be enough time for those interested in looking at the amendment to look at the amendment before we get back together again in two weeks. Even if it is the will of Council to simply table this again for the time being then he would have the City Clerk forward out the amendment if that is where this is going.

President Waldron would say to Mr. Colón if it is his intention to introduce that amendment that he discussed to limit parking number of rows he thinks allowing for more time for that discussion behind the scenes would be helpful to make sure that everyone is on the same page to understand what the impact might be. He explained not just for that corner lot user but the entire property and how that would affect the entire district. If it is his intention to bring that motion forward, which he would support that change. A motion to postpone would be more appropriate. Just to clarify, a motion to postpone would have to be picked to a specific date whereas a motion to table would ultimately end discussion on the bill and further the point a motion to table does not allow for any discussion on that said motion but a motion to postpone would do so.

Mr. Callahan asked if Mr. Colón proposed his amendment tonight and we had 4 votes it is not finalized with approval of it but we would just keep the process moving and it would give us 2 weeks or a month to review the amendment more in depth.

President Waldron stated no, if Mr. Colón proposes his amendment and it passes this evening it would automatically kick the entire amended text amendment back to the Planning Commissions for further review.

Mr. Callahan remarked it would go to the Lehigh Valley Planning Commission in a month and then come back to the City Planning Commission.

President Waldron stated it would go to the Lehigh Valley Planning Commission as soon as the Clerk's Office could send it over and they would review it whenever they get to it.

Mr. Callahan related that would give everyone at least a month and a half to review the amendment as he proposed it.

President Waldron remarked we would be voting on it.

Solicitor Spirk stated he does not know about the discussion, there is the vote to amend but then you still have First Reading tonight on the ordinance as amended. If he moves to amend it, now you have amended it but you still have First Reading on the ordinance as amended.

President Waldron was under the understanding if we make any amendment, a comma change to this that it would automatically go back to the Planning Commissions but we would also have to pass the First Reading too.

Solicitor Spirk stated no, you would not, once you amended it then it would go because you have an amendment that is true. He was merely suggesting after doing that were you going to stop there, then you might have to do First Reading some time and Second Reading another time. That is the only point he was trying to make. He agrees, once you have amended something that is now your position, this is the amendment we want, he would think you would have to send it to the two Planning Commissions. He did not mean to confuse, he just was trying to not forget First Reading.

President Waldron remarked we would also have to make a motion for First Reading whether that is postponed indefinitely. He asked if that would be most appropriate in his opinion if we did make an amendment that passed.

Solicitor Spirk believes once you have amended the proposed amendment it has to go back to the Planning Commissions because you have changed something on it and the Planning Commissions get to review each and every proposed zoning amendment. So once you have amended this proposed amendment he believes it has to go back. He asked Ms. Karner if she agrees.

Ms. Karner stated she agrees, it has to go back through the process of the Planning Commission at the city level and the Lehigh Valley Planning Commission.

President Waldron remarked as he sees this it gives us the option to introduce Mr. Colón's amendment and have discussion and vote on that amendment. If it were to pass that would end our conversation on the Martin Tower issue that is in front of us and force it back to the Planning Commissions for review and then it would come back to us again for a Public Hearing and First and Second Reading.

Solicitor Spirk stressed just hope you do not get any further amendments because then you will have to do it again.

President Waldron noted that is the process. The other option would be to vote on it as is, which some Members of Council are ready to do this evening. The other option would be to

postpone to a future date to allow more time for discussion behind the scenes. President Waldron remarked to Mr. Callahan that we are at the point after having spoken half a dozen times on this topic that it would be germane to turn to Council for approval to continue allowing you to speak individually.

Ms. Negrón advised it might be best not to amend now because with starting the process it seems to her it would be longer but to postpone with a date. Even the amendment that Mr. Colón offered tonight, she would like feedback from the Administration on it. We said a few things tonight that really makes her feel like we need to flush this out a little more. She will say to postpone with a date so the conversations can happen, that is her opinion.

President Waldron stated he would turn to Ms. Karner for some input and if she is familiar with the amendment that Mr. Colón has proposed and how much she thinks her department might like to have to review that and give comments back to Council.

Ms. Karner informed we can have comments back to Council for the next meeting. Mayor Donchez, Ms. Heller, and I have not sat down and discussed it. Typically what happens is the Director of Planning, the Mayor and I will talk through any amendment if you want an official response and craft it from there. We just did not have the time today to have any conversations comprehensively about it. She stated they can do this in the next two weeks.

Mr. Colón remarked with that feedback from Council and Ms. Karner and just to draw this conversation to a close he would make the motion to postpone the First Reading for this ordinance for our next Council Meeting which will be Tuesday, June 15, 2021.

Ms. Negrón seconded the motion.

Voting AYE to postpone Bill No. 16-2021 to June 15, 2021: Mr. Reynolds, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. Voting NAY: Dr. Van Wirt, 1.

President Waldron announced the ordinance will be postponed until June 15, 2021 for First Reading.

10. RESOLUTIONS

A. *Approve Contract – BRB Contractors – Rodgers Street Facility Demolition*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-100 that authorized to execute an agreement with BRB Contractors for the Rodgers Street Facility Demolition.

Voting AYE: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The Resolution passed.

B. *Approve Use Permit Agreement Amendment – ArtsQuest – Musikfest*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-101 that authorized to execute a Use Permit Agreement Amendment No. 2 with ArtsQuest for 2021 Musikfest.

President Waldron stated he will turn to Kassie Hilgert, President and CEO of ArtsQuest if she would like to make any comments on the Use Permit Agreement that is in front of Council or any comments pertaining to Musikfest, we would be happy to hear them.

Ms. Hilgert first wanted to thank Mayor Donchez and the Department of Health. Throughout all of the Covid pandemic, anything we have done either at Steel Stacks or with contemplating Musikfest last year and this year our first phone call has been to both the City of Bethlehem and the Department of Health. We had a very different plan for Musikfest until the latest CDC changes which literally had us throw out what we were planning for the last 12 months and reconstruct the festival in about 13-14 days. Our hope here as we have been in talks with the businesses on the north side is to be able to return the festival to the historic Moravian District and also have the festival on the south side Arts District as well. The footprint is about the same although parts of it will be used for different things. We will have 12 of the 17 venues in operation. There are many reasons why we do not have all the venues in operation and she can say when you have lost the money we have you need to hedge our bets going into the festival this year to try to put on something which we do not want to have a gate, it does not have a gate and we are thrilled with that. But then again when you have to make that infrastructure investment in those venues you do not recoup any of that until the actual festival starts. Just trying to stay alive for the last 14 months has been our first priority. We are trying to put on a festival that attracts tourists, supports small businesses and vendors, pays artists, and brings the community back together. So that is the permit that you see in front of you this evening and again she wanted to thank the city and all their efforts to work with us in pulling this together.

President Waldron noted he was quite glad to see the CDC guidelines change and the immediate response that ArtsQuest took to adapt those and bring back the Musikfest that everybody has desperately been missing. He can say that he will be a personal supporter of Musikfest this year and he hopes that many others in the city as well around the state, country, and world for that matter are able to come visit Bethlehem and enjoy the best music festival in the country.

Ms. Hilgert appreciates that and added that this could not have happened had we not had the ongoing relationship with the city and certainly with all of the support of City Council. This is a testament to the community pulling this together and not just ArtsQuest.

President Waldron added that he looks forward to those 10 great days in August.

Ms. Hilgert noted, so do we.

Voting AYE: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The Resolution passed.

Motion – Considering Resolutions 10 C through 10 F as a group – Certificates of Appropriateness

Mr. Callahan and Dr. Van Wirt moved to consider Resolutions 10 C through 10 H as a group.

Voting AYE: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The Motion passed.

C. *Certificate of Appropriateness – 1 West Fourth Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-102 that granted a Certificate of Appropriateness to replace existing signage at 1 West Fourth Street.

D. *Certificate of Appropriateness – 202 East Third Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-103 that granted a Certificate of Appropriateness to add a gold vinyl decal on the large window, add two gold stencils on two small windows and add a metallic black and gold painted sign on metal or wood at 202 East Third Street.

E. *Certificate of Appropriateness – 409-411 Wyandotte Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-104 that granted a Certificate of Appropriateness to renovate, remodel and partially demolish portion of these buildings at 409-411 Wyandotte Street.

F. *Certificate of Appropriateness – 306 South New Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-105 that granted a Certificate of Appropriateness to replace the existing sign for a new business at 306 South New Street.

G. *Certificate of Appropriateness – 337 Wyandotte Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-106 that granted a Certificate of Appropriateness to replace the existing asphalt shingles and the flat (low-sloped) EPDM roof area at 337 Wyandotte Street

H. *Certificate of Appropriateness – 315 West Fourth Street*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-107 that granted a Certificate of Appropriateness to replace the existing garage door with a Clopay Bridgeport steel door at 315 West Fourth Street.

Voting AYE on Resolutions 10 C through 10 H: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The Resolutions passed.

I. *Certificate of Appropriateness – 14-18 West Third Street – (Denial from the HCC)*

Ms. Negrón and Mr. Waldron sponsored Resolution No. 2021-108 that granted a Certificate of Appropriateness to demolish two properties for future development based on the demonstrated lack of structural integrity of the properties and construct an 88-foot high mixed-use building on these two parcels and the abutting lots at 14-18 West Third Street.

President Waldron related that obviously there is a lot of community input on this. We have had over an hour of public comment which was mostly dedicated to this which has been a long process and has gone through many steps. The person that would most be appropriate to bring us up to speed of how we got to what is in front of this evening is Ms. Karner. He would

ask if she could give an abridged history step by step of what the process had been from original plan to what is in front of us this evening.

Ms. Karner informed she will add that Ms. Heller should also chime in here. This was quite a long process with this building on West Third Street specifically. She apologizes that she did not know she would be asked about the chronology of this but she can say that the building started out as a higher structure than what is ultimately in front of Council with this COA. They had made three appearances, one was discussion only and then three in which there was the potential for action. At each of those intersections with the HCC there were various requests by members which were really good requests to modify the design. The property owner and the architect did make the adjustments including adjustments to height so that the building that started out as being higher than the adjoining property ultimately landed as a building several feet lower. Ms. Karner remarked if she recalls correctly the commission was split on this project. While they appreciated all of the efforts, they stated repeatedly they appreciated the efforts of the architect to make modifications to both the mapping and the design of the building that they would only support the building if it was three or four stories which is not something that the developer or the property owner felt they could do at that point.

Ms. Heller remarked she does not know that the height was brought down all that much; she thinks the major changes had to do with the façades and the materials when it was revised from an office use to a residential use. The number of stories did change because the ceiling heights were a little bit different. They are a little bit lower than the abutting building. She will say that the facades were significantly changed from meeting to meeting to try to accommodate some of the suggestions of the HCC members. The HCC members did acknowledge that even in their final vote but they still felt that the height was something they could not get around and that was still an issue.

President Waldron mentioned an obvious question is what is the height of the building at Third and New Street?

Ms. Heller stated at the highest point it is 90 feet.

President Waldron remarked when that went through the HCC process, if you can recall, was that the original proposed height that the applicant was looking for.

Ms. Heller does not remember what the initial request was but it was not the initial proposed height.

President Waldron mentioned it was a higher height that the HCC encouraged that number to be brought down to 90 feet and that came to Council with a positive recommendation is that correct?

Ms. Heller stated for the building at Third and New Street, yes she believes it did.

President Waldron related that was approved by the HCC at 90 feet. He noted that is the kind of elephant in the room we are talking about, it is not the design. He did not hear anyone call this evening about that with criticisms of the design of the building, it was the height of the building. If you look at what was proposed at 88 feet, just 2 feet lower than the building that was

approved at 90 feet on the corner from the recommendations of the HCC he thinks that puts it in line to the scope of the building that is right next to it. He asked if those two buildings will be adjoined, would they be abutting or would there be a space between those two.

Ms. Heller stated it would be joined.

Mr. Callahan asked what the zoning is right now for this area.

Ms. Heller informed the entire historic district is commercial, it is either CB or CL and this particular property is in the CB, Central Business District.

Mr. Callahan asked what the zoning for the height is what is allowed.

Ms. Heller stated the maximum height in the zoning ordinance for the CB district is 150 feet.

Mr. Callahan remarked according to the zoning he is allowed to do 150 feet and he is asking for 88 feet. As President Waldron said, Mr. Callahan believes that the HCC approved the height of the 90 foot Benner building.

Ms. Heller believes that came to Council with a recommendation for approval.

Mr. Callahan does not know if everybody who called in tonight knows where this building is, it is in one of the worst areas of the south side. There is a building where a side of it fell down a few years ago and is being held up right now by four by fours. The building is almost a nuisance building and as you come into the south side on Third Street that is one of the first properties that you see. Mr. Callahan does not see a problem with the height at all. Someone cannot expect to live in an urban environment in the middle of a central business district and not have a building next to them over 5 stories tall. The closest neighbor 20 feet away from where he lives he has 2 twelve story buildings that are right next to him and he has no problem with that. If you live in the city you have to expect height. He is not saying 15 or 20 stories. The zoning for this area says it can be 150 feet and he is only asking for 88 feet and the building next to it is 90 feet and there are other multiple buildings in the same area that are 10 or 12 stories tall, much taller than what they are asking for. One caller had said tonight that they need to follow the rules but they are following the rules, the zoning says they are allowed to put something 150 feet in there. Mr. Callahan thinks they are way below the rule. There are already building in that neighborhood that are much taller than the ask on this one. No offense to the south side but the Main Street historic district has more historic value to it than the south side does, that will not be pleasing to some people but that is a fact. The north side has buildings that are much higher in height than what this individual is asking for. It is not like we are against one area of the city, it is within the ask and way below the ask. Mr. Callahan stated he is 100% in favor of this and he thinks if we keep on saying no, the signal that is going out to everyone now is that the city is shut down with economic development. Any time anyone proposes anything you have the same callers, the same people who called in tonight were the same people who called with all 4 meetings when we went over the Benner building and they were upset about the loss of the garden, which the city owned that 20 by 20 garden. Then they tried to stop it with the height of the development, then they tried to stop it with the parking garage and then they tried to stop it with the closing of the street, the street vacation of the little alleyway. It is like every time you

turn around there someone comes up with a reason to stop economic development in the city and we need to bring in \$2 million dollars extra and you either bring it in with tax revenue or in economic development. It looks like people want to choose raising taxes rather than economic development.

Dr. Van Wirt thinks there is an enormous part of our city that is missing in this discussion which is the fact that this is within the south side historic district. That is a zoning overlay district, it is an overlay on top of our downtown and we had a very vigorous Community and Economic Development Committee Meeting where she had grave concerns about the recommendations for changes to the downtown zoning because it was not clear what type of position this would leave the HCC guidelines in. In certain circumstances she thinks this Council and herself included have not followed HARB recommendations particularly when it came to the Benner/Parks project over on West Broad Street. There was a reason for that, it is because she did not feel that the HARB itself was threatened but now she is feeling very much that the economic development pressure threatens the very existence of the historic district and the HCC. This makes her incredibly uncomfortable that we have not had any acknowledgment of the fact that the current guidelines that the HCC follows are set out by a state mandate. Dr. Van Wirt explained that means that the buildings that are built have to be in context with other buildings. The fallacy that we have in front of us is that the approval of the Benner building at New and Third somehow unlocks the ability for every other building to use that as saying well they let that one in so let's go ahead. Dr. Van Wirt believes that one was a mistake and she thinks everyone who understands historic development acknowledges that buildings aesthetically bulk density was a mistake. To say that because the HCC allowed that one building, which she will add was done under duress, means that we now have to compare every other building that asks approval to this one mistake, that is the problem here. She has a lot of concern over the fact that we are undermining the power of our own historic district and our HCC and using a poorly built building as a litmus test of what is acceptable downtown. Dr. Van Wirt will not be supporting this tonight.

Ms. Crampsie Smith is wondering if we have any insight into why the HCC agreed to 90 foot for the Third and New Street building but why they are not in favor of the 88 feet for this building.

Ms. Heller stated it is actually probably 86 feet. She does not know how to answer that and added that we should probably talk to the members of the HCC. It was approved at the time, there were some buildings taken down to build that structure. She noted that lots were consolidated; there were some vacant lots in there. She believes that honestly they look at every project individually; they all have their own unique circumstances. Some of the members feel that although they did permit it that the building they see right now is higher than what they would have allowed if they would have been able to imagine that building at that time.

Ms. Karner added one of the comments at that time was the location; it is in a prominent location on two prominent streets, Third Street and South New Street. This resulted in conversation around the ability of those streets to handle it. You come over the bridge and to create a structure there was a good location, to put that kind of height. It is hard to say, we have a main street on the south side but with the frequency of use of South New Street and of what is the intersection of East and West Third Street it was the right location. There was a lot of talk about it being the right location for a building of that size. There had also been an approval at Fourth and

Vine for a taller building than that so this was not the first significant structure with some height. Ms. Karner added they worked a lot with the Historic Officer at the time to come up with the design they felt was appropriate for that position of prominence.

Ms. Crampsie Smith mentioned we are at stalemate here because the HCC is not in favor of it even though it was a 3-2 vote for this building and the developer obviously wants the height and density. Do we have any idea on how low the developer would be willing to go?

Ms. Karner does not know, she did not have that conversation with them. She thinks they had it at 10 feet higher back in December of last year so they have come down 10 feet to be in a lower position. She does want to suggest that the HCC members had discussed coming to a point and coming down in height that was considered. The design, although she does not want to speak for the architect, but the impression she got at the subsequent meetings was that would diminish the property, again we are talking about a busy street, that is very active and a main street in an area in which we are really designing another flatiron building. That is the shape and design that has been presented to the HCC. To make that a smaller building would take away from that. There was also conversation about the wall that would be exposed on the 306 building if the heights did not match. There is a faux-window wall there and just how much smaller buildings tend to look awkward adjacent to that when it appears to be something that is more of a match architecturally than to see a shorter building at that location.

Ms. Crampsie Smith asked what is the recommendation for height; she is not sure if she saw that, are they saying 4 stories?

Ms. Karner remarked there are general comments by individual members but there is not a consensus that we have heard with this project or actually the other project that will be before Council next. There is a lack of a specific recommendation of what that height should exactly be.

Ms. Crampsie Smith remarked this is a tough call, she can see both sides of it. She feels like she needs to say, which has been repeatedly said tonight, that we are anti-development and the talk of tax base. She has to clarify from her end that is not the case but how many developments go up in a city no matter how large or small they are and they do not need variances, they go through. She thinks there is a difference between developing occurring and developers coming before us because they need amendments or variances in existing law and that is a difference. She needed to clarify that because she does not want this to continue to be repeatedly said that we are anti-development when if you are a developer and you are going to follow the laws and the rules, then it will happen. But when you need an amendment to the law, there is a process and that is what we are doing here, we are going through the process.

President Waldron then turned to Solicitor Spirk because Ms. Crampsie Smith brought up a point as far as the HCC recommendations. What we have in front of us is we have two recommendations for denial by the HCC and it is his understanding when we have those the HCC usually points to something specific within the proposal in front of them to say this is the reason why. He added that Ms. Karner talked about this as well, we do not have a specific reason from the HCC that they are denying this. He wondered if his understanding is correct that in theory we should be seeing that in front of us.

Solicitor Spirk stated yes, even more than what President Waldron said. State law and city ordinance require the HCC if they recommend denial to provide the developer what they would accept. That is part of the process sketched out in both state and city law, when they recommend a denial. The same thing is true for City Council, if the City Council votes for a denial they are obligated to tell the developer, here is what we would accept. Solicitor Spirk noted he touched base with Ms. Karner this morning just on that very issue to verify whether there was anything with that degree of specificity and as she just explained it was more just individual comments but nothing of that specificity that was lacking.

President Waldron remarked we do not have that information from the HCC specifically regarding height and if Council was to adapt the denial that the HCC recommended to us we would have to provide a height that we were comfortable with.

Solicitor Spirk stated yes, if you were to vote to deny the COA you would be obligated to tell the developer, but this is what we would accept.

Mr. Colón queried in terms of the actual existing structure, are those vacant?

Ms. Karner stated yes.

Mr. Colón mentioned in reading something in the local newspapers online when they were covering the HCC meetings, he does not have that in front of him but they referenced potential height limits of 90 feet. He asked if there was an ongoing study that was referenced talking about limiting height to 90 feet in the historic district, he asked if Ms. Heller could elaborate on that a little bit.

Ms. Heller stated they just recently completed a study for the south side because it is clear there is a disparity between what the zoning ordinance allows for height and massing and what the historic district ordinance recommends and allows for infield development in that same area. We wanted to look at how we can mesh those ordinances. Currently the maximum height in zoning is 150 feet and in this area where this building is there are some vacant lots, there is some very urban infill like the Comfort Suites and our recommendation for that area because it was less historic than the core of the area of the historic district our recommendation was a 90 foot building height in that area. That brings down the 150 fee by basically a third. For the balance of the CB zone the recommendation in the plan is that the maximum height would come down to 60 feet, which is two thirds and the 60 foot height mirrors what is in the CL or the Limited Commercial Zoning District which extends down Fourth Street to the east. Ms. Heller stated there was a Community Development Committee Meeting where we discussed it further. It is really very difficult to get to a place in the middle where people are comfortable with some compromise. We have found that people sit at different extremes of that idea and we have not really come to a place where there is general compromise. But that is what we were trying to work towards. So the recommendation in this area was a 90 foot height and in some of the other areas further east in the historic district the recommendation is a 60 foot height.

Mr. Colón mentioned one of the commissioners referenced the neighboring building at Third and New Streets and talks about stating the design proposal is compatible with the adjacent 6 story commercial building and then in parenthesis it says non-contributing. He asked what the

significance of non-contributing as it relates to this proposal when talking about the neighboring building to it.

Ms. Karner explained buildings in a district are evaluated individually and are considered non-contributing to the historic character of the district. That is a new structure and would not be considered a historic structure or contributing to the overall character of the South Bethlehem Historic Conservation Districts.

Mr. Reynolds remarked we understand the height or as they say in the Certificate of Appropriateness the size, the scale and the proportion of the building. What are some of the other major guidelines that the HCC takes a look at when deciding whether or not to recommend a project or not, other than the height.

Ms. Heller stated for the infield development the height seems to be the hot button issue. They also look at proportion; they look at the base of the building, the proportion of the windows and the doors. Also trying to pay more attention to the first floor, the storefront areas and how that interacts with the street. They will take a look at the materials so that there is some variation in materials and are they compatible with some of the surrounding buildings. They also look at roof lines, cornices, things like that. There are a lot of different components that they certainly look at but for infield development it starts with proportion and mass.

Mr. Reynolds noted when he looks at this COA; it says "Those voting in support of denying a recommendation to issue a Certificate of Appropriateness express support for developing the project location, including potential demolition of two existing contributing structures." He is asking if he is reading that correctly in that it says 3 out of the 5 people that voted against the recommendation express support for the potential demolition of those two structures. It seems a little confusing the way the wording is concerned.

Ms. Heller remarked they only made one motion but she does not think they were opposed to the demolition of the two buildings. She thinks the denial really was based on more of the massing of the building and the height in general.

Mr. Reynolds noted it says that the proposal to replace two 3 story buildings with an 8 story structure and he knows one thing that has come up and he has learned over the past few meetings whether or not it was the Community Development Meeting or a few of the public meetings was the difference in stories between residential and commercial. It is hard for us to know what is summarized here in this COA but when it is talking about replacing two 3 story buildings with an 8 story structure it does not seem to him that if someone sees that one building is 6 stories and it is commercial and those heights are 14 to 15 feet versus residential which are lower. It does not seem like it is comparing apples to apples. Going forward one thing that makes these conversations clearer is when we have an understanding about what type of stories are being discussed that are being replaced, what types of stories are being proposed. If not, it makes the comparison more difficult to see as to what we have there versus what is suggested versus what is proposed. Mr. Reynolds is not sure what is able to be done there but the more we are able to deal with feet or the more we are able to deal with the combination here explaining commercial stories are a certain number of feet versus residential, that would make these conversations clearer for both City Council and the community.

Ms. Heller agrees, there are differences in height or ceiling height for commercial versus residential. At one point there was a similar structure proposed on this site but it was all office building and that was a 6 story building but it was basically the same height. She noted that Mr. Reynolds is correct and what is important is what we see from the street, what is the bulk and the massing we see from the street.

Ms. Karner added that when comparing stories what you do not want to do is limit that because when you are talking about residential then you will artificially depress residential, those stories are typically a lot shorter, several feet shorter than commercial stories. If you are really saying you could only go to so many stories or height as opposed, purely talking about height, residential will lose out because you do not have the same height of the structure. Ms. Karner added when we are trying to encourage more residential units, when we refer to density that is an important consideration.

Mr. Reynolds related there has been a lot of conversation about housing and affordable housing and density. From the planning perspective what is the advantage of putting more people living in our downtown core areas.

Ms. Heller stated it is true, you have heard the public say there is quite a bit of new residential proposed for the area but the core areas of the city is where we want new development to occur so that residents are able to walk to businesses and support local businesses. They are able to hopefully walk to their jobs as well and support the community. There was a study done in the eastern gateway area and it goes back 5 or 6 years now but the study did show that there is a considerable amount of additional capacity for residential units in a 15 minute drive time from south Bethlehem. So there is a high demand for new residential and as long as it is quality residential development we think that only supports the downtown businesses and other stakeholders.

Mr. Reynolds mentioned this is the one that is currently held up by wood which look like crutches for a building. He saw somewhere in the COA that one of the two members that voted about the positive nature of the rear facing façade. He asked if Ms. Heller or Ms. Karner could speak to that.

Ms. Karner stated this is one of the buildings that have two long facades because it is a flatiron building. The front door is clearly on the street but it also faces the Greenway so there was a lot of conversation at the HCC about the design of the Greenway because of the visibility, on foot or on bike accessing the Greenway even if there was a commercial opportunity on the first floor to come out onto the Greenway. This would be just making sure that façade was given the attention that you do not typically give to things not visible from the street but to make sure that façade was something that was attractive and considered throughout the process.

Mr. Reynolds remarked that most of us have been a part of the south side cleanups at some point that go back into that area in between those buildings and it is like a landfill back there. He would suggest that whatever happens with that building that the Greenway is taken into account. He asked if there has been any conversation about the development of the Greenway and that portion between both the owner of this building and the owners of the building at Third and New. He remembers we had that conversation a few years ago when that building was approved that was going to be something. He understands from a practical point of

view we are not going to do a lot of work back there while we still have this awful wood bracing. He wondered if there were any conversations about timelines to improve that area back there which is so barren and negative to that particular area.

Ms. Karner expressed they have had conversations recently with the owner of 306 South New Street. If this project is approved that will be part of the construction staging area, that is our expectation just as it was with the corner Third and New Street building. She would not expect there to be actual construction activity or redesign of that section of the Greenway until we get through that construction process. We have always insisted upon a public process that engages the community to make sure there are amenities that the community wants to see and that is hard to do when we are not quite sure even what the first floor uses are going to be if this building will be something that happens and what it looks like. We can better plan when we know what is happening with the site.

Mr. Reynolds asked how high the parking garage is on that side that is closest to Third Street.

Ms. Heller stated she does not know off hand, she would have to look that up.

Mr. Callahan mentioned there is a difference between the two historical areas versus the historic area on the north side and the rules that pertain to that and also the rules that pertain to the other historical area which he believes the south side and the Mount Airy are under the same rules, is that correct.

Ms. Heller stated yes.

Mr. Callahan asked what the difference is and noted that one is stricter than the other.

Ms. Heller answered yes and she thinks that the South Side Historic District was created purposely as a conservation district. She was not with the city at the time but she believes at the time there was some concern that a very strict historic district ordinance might deter or slow development on the south side. So there was some flexibility created within the guidelines. There are things like paint color and some minor things, some smaller additions, accessory buildings; they are not reviewed on the south side. There is more flexibility on the south side than there is with the historical district on the north side.

Mr. Callahan asked if the historical board on the north side binding, or is that just a recommendation to City Council like the one on the south side is.

Ms. Heller stated yes, they are both recommending bodies, the process is the same.

Mr. Callahan noted this building they are coming to us with is 86 feet, the building next to it the other Benner building, is 90 feet but what is the height of the hotel on the opposite side.

Ms. Heller stated for the Comfort Suites hotel she does not know, she believes that is a three story building.

Mr. Callahan asked if the Comfort Suites hotel is taller than the proposed building.

Ms. Karner stated no, she would venture to guess it is 40 feet or less in height.

Mr. Callahan asked how many stories the Rooney building is, and if it is 10 or 12 stories.

Ms. Karner informed because it is outside of the district or a non-contributing structure it is not something that we tend to draw comparisons to. She honestly does not know.

Mr. Callahan asked if the GSO building is in the same district.

Ms. Heller stated no.

Mr. Callahan believes there is a 10 story low income housing either on Third or Fourth Street. He drove by that the other day and he asked if that is also in the district.

Ms. Heller believes it is and added those were built not within a historic period of significance in the district, so they are non-contributing buildings so we usually do not compare. We do not use those as a barometer of what is appropriate development.

Mr. Callahan noted there are already buildings inside that district that are exceed that height of the proposed building.

Ms. Heller stated yes, but they are non-contributing buildings.

Ms. Negrón remarked she was a member of the Planning Commission before she was on Council so she took her time and her job there very seriously. We have a great group of volunteers doing this at the HCC and she likes to support completely what they come up with but she is a little disappointed this time because they usually have their recommendations, that there is not a little more guidance for us. She wishes we could just take it back and give us a recommendation, not just a denial or a reason why the definite sentence of the denial. She feels it is like a loss at this point.

President Waldron related it seems like that is something moving forward that we need to re-emphasize in the role of what is expected of the HCC and their recommendations to City Council. Specifically when they recommend a denial to us of a COA that they allow us and more importantly the developer those reasons and how they could earn that positive recommendation from the HCC. It is not just a no, it is a no but, or a yes and, conversation that we want to make sure we are honoring our historic legacy in the city and honoring that district. At the same time we are looking forward to have appropriate development within both of our historic districts in the city. President Waldron remarked that at this point we have the denial in front of us, the recommendation of a denial for 14-18 West Third Street. A vote in favor of that denial would essentially say that we as a Council are taking the recommendation of the HCC and we are not in favor of the project. The other option would be a motion and a second to amend the COA denial to make it an approval. Then we would have discussion on that and a vote. That would be Council essentially saying that we are in favor of the project and we would like to see it move forward. President Waldron personally thinks that the height is appropriate to the scale of the surrounding buildings. That empty lot on Third Street is one that has been starved for development for many years. He welcomes anyone who is willing to invest that kind of money and invest in our community to put a building there that will put more feet on the street and

increase the tax role to the City of Bethlehem. President Waldron stated he would be in favor of reversing the recommendation of the HCC and moving the project forward.

Mr. Callahan mentioned he was away from his computer and asked if a yes vote would be to approve the height of this.

President Waldron stated no, a yes vote would be to agree with the recommendation of the HCC. If it was your intention, and he believes it is, to move the project forward we would need a motion and a second to amend the COA denial to make it an approval. If that were the will of Council and a majority, we would need a motion and a second to amend the COA denial to make it an approval.

Mr. Callahan made the motion to make this an approval. Mr. Waldron seconded the motion.

Ms. Crampsie Smith wanted to clarify, if we are in favor of amending it then we have to come up with a specific height, is that correct?

President Waldron stated no, we need to do nothing, the height as proposed to us was 88 feet which is what was read by Mr. Vidoni and if you go to Resolution 10 I on the front page.

Ms. Crampsie Smith thought that Solicitor Spirk said if we do vote to override it then we have to make recommendations on that.

President Waldron believes he said if we were voting to deny a recommendation we would need to give reasons why. If it was our intention not to move this project forward we would have to give our reasons why we are voting against this project to move forward. So the height as proposed is 88 feet.

Voting AYE to amend Resolution 10 I: Mr. Reynolds, Mr. Callahan, Mr. Colón, Ms. Negrón, and Mr. Waldron, 5. Voting NAY to amend: Dr. Van Wirt and Ms. Crampsie Smith, 2. The Resolution passed.

Ms. Negrón feels the fact that there was no explanation or possible resolution; she is disappointed at that fact. What she has in front of her is the fact that it should be approved but she does not have the guidelines and not enough information so she is a little at ease about saying that or doing so, she is not sure.

Voting AYE on the resolution as amended: Mr. Reynolds, Mr. Callahan, Mr. Colón, and Mr. Waldron, 4. Voting NAY: Dr. Van Wirt, Ms. Crampsie Smith, and Ms. Negrón, 3. The Resolution passed.

J. *Certificate of Appropriateness – 317-327 South New Street (Denial)*

Ms. Negrón and Mr. Waldron sponsored a Certificate of Appropriateness to demolish four buildings to construct a multi-story mixed-use building at 317-327 South New Street.

President Waldron remarked this project is similar but different obviously to the conversation we just had. The process has been a long one with some back and forth conversation. Again, he would turn to Ms. Karner and Ms. Heller for any background information they can provide us to get us where we are today.

Ms. Karner related this project went before HCC on a number of occasions. It had some ups and downs literally and figuratively. It was introduced as a high height and got back to the HCC at a higher height arguably because of just some lack of attention to detail by the applicant. Then it came down to a point that was about 105 feet at its last iteration before HCC. It is a first floor commercial building with residential units above. Originally it had a staggered roof line to include a roof top amenity for the residents of the building on one side. It includes the demolition of 3 non-contributing structures and one structure they had indicated they would do everything they could to save at least the façade. There was some talk about saving the entire building but she thinks they landed on an attempt to save the façade. They are building on the footprint, on the parcel, the maximum allotment of those parcels. Then they are proposing to build over Graham Place which is a public street. Certainly there would be any commercial space above it but a residential component would also be above Graham Place. There was a commitment of 10% of the units as being affordable based on HUD standards. When we talk about affordable units it is based on HUD establishment and guidance which is one of those things where they look at what our poverty rate is, it is changing on an annual basis and it is a nice way for us to guide private development and utilizing what is considered affordable. Certainly affordable also is 30% or less of your income related to housing costs. So it is the expectation of not just the HUD guidance but it is based on household size, your income, and then what you can pay.

Ms. Heller would say that some of the discussion about this project was similar to the other project in that it was before the HCC for 3 meetings or it might have been 4. The applicant did make façade revisions to be responsive to the original comments from the HCC members. Generally in the discussion they were supportive of a lot of the effectual elements and the materials, the inclusion of the one façade they can retain. There were some things they were certainly complimentary of but again it went back to generally the height that was the sticking point.

President Waldron asked what the height is that is proposed at this point, the tallest point on this building at 317-327 South New Street.

Ms. Heller stated the height when the HCC took a look at it was 104 feet.

President Waldron reiterated that the building slightly to the north on the corner of Third and New Street is 90 feet and the one next to it we just approved and is 88 feet.

Ms. Karner stated that is correct.

Dr. Van Wirt believes one of the big considerations she would give to the effect of the height of this building and this very particular spot has to do with something that has not been brought up much. The people who live on the south side are aware of this and they feel that the amount of shadow that this building would cast for the majority of months of the year in the Greenway is a huge consideration. We should follow the HCC guidelines tonight. One of the hallmarks in city planning in terms of making sure that you are building buildings that are

contributing to the quality of life to the people who live there are how much shadow they cast and where they cast it. One of the guiding principles of urban planning, she is not lecturing Ms. Karner and Ms. Heller because they are aware of this, but it is not to have buildings that shade our public parks. Sunlight is an important component of the health of our parks and the health of our citizens. Allowing a building this tall at this location, south of the Greenway is going to provide constant shade. She wondered if they could address this particular concern to the Members of Council in terms of its impact on the Greenway itself.

Ms. Heller remarked just like with the Third and New project and the projects that Council just looked at previously we do try to take into consideration any project that about the Greenway and how they would be affecting the Greenway. That has to do with the facades facing it, etc. It does create shadow in some areas and at that height it would. This building is part of the area and in the south side plan we still recommend would be a 90 foot height. We took into consideration there where the contributing buildings are in the historic district and where they are not. We really tried to separate those out. This area still includes our recommendation from 90 feet. We have not moved any of that ahead, it is really just a plan and a recommendation at this point but it is an area we are trying to look at where we can support some infill on the south side and do it a reasonable way because there is a lot of development on the south side now, it is a desirable place for people to build and to live and to create jobs. Ms. Heller stated it is part of the 90 foot area. She will say we try to look at buildings that face the Greenway so they do not have a backdoor to the Greenway and still incorporated in the Greenway and with some connection to that space. But it is challenging in the urban core.

Ms. Van Wirt argued that 90 foot designation is a dog like cutout that should not have been done, that there is a contributing building that was not taken in to consideration when that presentation was made to us. If we sacrifice our parks for tall buildings we will lose the very thing that makes our community livable and desirable. She is flummoxed that we are even talking about building a building that would cast this type of shade on one of the main arteries, a greenery that is health for our south side. She does not understand and thinks it is in violation of the best principles in zoning and she cannot support it.

Ms. Negrón informed she had a conversation with Mr. Rafael Palomino earlier today and he had said to her that he has sent changes that he did. She understands this should have happened in front of the HCC rather than to the Administration before our meeting. She is confused about why that happened now. According to what she saw what he presents now is that it is a few inches lower than the Benner building. She wonders if he waited too late and he should have presented that to the HCC. Where are we at with this?

Ms. Karner stated she was out Friday and also was surprised today to look at her email and see there was a design change. She did not have an opportunity to look at it in any great detail. It was not accompanied by an application; she did not take that as anything but probably good faith on the part of the developer to come to a height that was less than the building across the street. She would be doing a disservice if she said she reviewed it thoroughly in advance for tonight's meeting.

Ms. Crampsie Smith remarked the fact that the HCC unanimously voted against this COA says a lot versus there was a split vote for the other property. She pointed out that 10 stories does seem high especially for where this building is positioned. She does applaud the developer that

he does want to consider affordable housing that is a plus because we have not had many developers volunteer to consider that. She asked what he may be looking at as far as charging rent for every unit that would be considered affordable.

Ms. Karner stated it is not a specific price point, you have to look at the household size, so it is dependent upon how many people live in the unit and it is no more than 30% of the income of the folks that live in the unit including then there is an allowance for what would be heat, water, garbage the other things associated with housing costs. All of our conversations were limited to what the HUD guidance is and based off of the regional poverty rate and would be calculated that way. That is the standard formula we use when we do a project with any kind of federal funding.

Ms. Crampsie Smith then asked about the non-affordable units, the market rate units, is there any idea of what he will charge for those.

Ms. Karner does not recall hearing what that price point would be. She does not think that came out of any of the HCC meetings. If that was mentioned in one of our meetings it was one of those things that it really comes down to what is the cost of development. As with any other project if there are variables that come up during construction those price points could come up and down. It depends on what the market bears at the time; it depends on the degree of amenities associated with the project. For instance one of the things she was able to pick up on with the plan she saw today was the lack of a rooftop amenity. So when you take amenities out certainly what you charge tends to go down.

Ms. Crampsie Smith remarked that Ms. Negrón indicated that he may be interested in conceding a little bit on the stories but do we have any idea of what the developer has in mind as far as the height goes.

Ms. Karner pointed out that is always a question that is answered by the developer. This has been an up and down project and as we continue to talk about 306 South New as the project to prepare against right or wrong, that is a 90 foot structure.

Ms. Crampsie Smith is concerned because the HCC unanimously voted against it and 10 stories for that location is very concerning for various reasons.

Mr. Callahan asked how many units total is with this proposed property.

Ms. Heller does not have that number offhand.

Mr. Callahan remarked from what he understands this developer is proposing to do 10% of affordable housing.

Ms. Karner stated that is correct.

Mr. Callahan asked if he was willing to lower the height but without the affordable housing but he added more height because we wanted affordable housing.

Ms. Karner explained the conversations on affordable always remained at 10% of the total unit count. So certainly the more units there are the higher the number. That is partially why we tend to not talk about the commitment of the number of units as opposed to the percentage.

Mr. Callahan wondered if there was ever discussion of not having any affordable housing where the height was lower and then we asked for affordable housing or he just proposed 10% affordable housing on his own or was it our ask.

Ms. Karner believes it was our ask and it was our ask from the outset. So it was proposed as an entirely market rate project at a higher number of stories and we requested the affordable housing consideration.

Mr. Callahan stated before we asked for the 10% of affordable housing was his height lower at some point or no.

Ms. Karner informed it was higher than the last plan that was shown to the HCC that is the denial in front of you.

Mr. Callahan is in favor of this and he will support this tonight. He knows it is a little bit higher, an extra 18 feet than the building we just proposed. He is not that concerned about the look of the height of the building that was one of the arguments that was used for the Benner building. When you come across the bridge it really has no impact especially on all the buildings that are behind it and up on the hill and you can still see those buildings. He will also support it because of the 10% affordable units which he will applaud Ms. Crampsie Smith for pushing. He thinks it might be 60 units and 6 units for affordable housing. He noted that 6 units for affordable housing is substantial. We probably are not going to have 6 units any time soon proposed for affordable housing anywhere in the city. This is a big step for the builder. He does not know who the builder is but he supports this based on the fact that it is only 18 feet higher and he is providing affordable housing, which is an important thing.

Ms. Negrón proposes that we postpone this to another date so that the Administration can take a better look at the changes that he proposed and decide that this needs to go back to the HCC with the new proposed numbers that were provided. We can hear from the HCC again, their feedback on the changes.

President Waldron asked if there is somewhere in writing the changes that were made that Ms. Negrón is referring to.

Ms. Negrón stated she will gladly send that to Members of Council, she does not know the proper order for Ms. Karner to take care of that.

President Waldron remarked that Ms. Negrón had mentioned some changes that the developer had brought forward and giving the Administration more time to review them.

Ms. Karner reiterated that she had not looked at the plan more than an FYI when she got it. She added that it was not accompanied by an application and there was no desire for this to go back to the HCC so she did not view it much more than a memo from the developer to come down in height.

President Waldron noted just to clarify he asked if there are any changes in what we are referencing right now other than the height that the developer was seeking to change.

Ms. Karner explained the other thing she had noticed was instead of the current roof, the roof was a story lower on the northern side than on the southern side. That was the most obvious change otherwise it looks similar. Again, she did not pull out the plans and look at them side by side.

President Waldron noted that change was generated by the decrease in height.

Ms. Karner stated yes.

President Waldron asked what the height was that was proposed in those changes. He has a plan in front of him and on page 6 it has a height of a penthouse roof at 98 feet and the roof plan of 87 feet 4 inches. So that is lower than 104 feet and that would be the most updated plan that was submitted by the developer but did not go through the HCC.

Ms. Karner noted with the penthouse usually the mechanicals or the roof access we do not consider as part of the height. So it would be the 87 feet 4 inches.

President Waldron explained the roof plan as proposed was 87 feet 4 inches where we have in front of us with the HCC for a denial recommendation of 104 feet. So that 87 feet 4 inches is on par with the 90 foot building at Third and New and then the 88 foot building that we just voted on. We have a few options. We can make an amendment as we did with the last one to bring the height down. But the other option would be to send this back to the HCC for review as this plan is not one that they have considered.

Mr. Colón remarked while they are similar but different he would not be in support of what is in front of us now given the scale at 104 feet but it sounds like the developer attempted to reach out and timing is everything with the holiday weekend. He would be in favor of following the process for the HCC to take another look at this. With the developer coming forward with revisions to this project he would want the communication from the HCC in front of us after they got the time to hold a meeting to review those most recent revisions. If those are his intentions, and not that he just communicated those to the Administration and Council but actually go through the process again with these revisions which he presented to some others already.

Mr. Callahan asked if the height is 87 feet 4 inches in the proposal or is it 104 feet.

President Waldron remarked it was sent to the HCC and they voted unanimously to deny at 104 feet and that was forwarded to us. After that happened there was a revision that was sent through Ms. Negrón that we have which is now proposed at 87 feet 4 inches.

Mr. Callahan remarked that the 87 feet 4 inches did not go through the HCC, is that correct?

President Waldron stated that is correct.

Mr. Callahan made an amendment to reverse this; if they are now saying 87 feet 4 inches he does not know how we can shoot the down based on the fact that we just passed another building at 88 feet.

President Waldron explained the only consideration that Mr. Colón made is that the HCC has not looked at the plan that we are considering if we are considering the 87 feet and 4 inches. The other option, which his time on Council we have not done, is to send something back to the HCC with our thoughts and opinion on the amendments that the developer was searching for, giving them our feedback and asking them to review it again.

Mr. Callahan noted that the other building that came to us was 86 feet and the HCC denied that one also, is that correct?

President Waldron stated yes but we do not know why they denied it because they did not include their comments. That would be the other point that I would like to press the HCC on, not to just give a denial but give council some guidance as to why they are recommending a denial. As Solicitor Spirk they are required to do this by the state law.

Mr. Callahan asked if we have to take a vote on this to send it back to the HCC.

Solicitor Spirk informed if you want to send it back to the HCC you would have to have a motion, a second, and vote. Our ordinance says that if the commission gives a negative recommendation it shall indicate to the applicant which changes, if any, would result in a positive recommendation. As best he can tell they did not do that.

Mr. Callahan asked if anyone who represents the developer are on the GoToMeeting tonight.

President Waldron stated they are not on the GoToMeeting.

Mr. Callahan remarked we do not know if they have any time constraints or things like that.

President Waldron is sure they would say they did.

Mr. Callahan would make a motion to change it now, he does not think the HCC is going to budge, they already voted no against an 86th foot building. If it is the will of Council to send it back to them to see what their recommendation would be, so be it but he would propose that we make an amendment now to reverse the decision.

President Waldron asked Mr. Callahan if he is proposing to make an amendment or is he making a motion.

Mr. Callahan is making a motion to make an amendment for approval.

President Waldron asked if he is making a motion to change the denial to an approval.

Mr. Callahan stated yes.

President Waldron remarked with no second, the motion dies.

Mr. Reynolds asked if new plans exist do those new plans have to go back to the HCC.

Solicitor Spirk stated once they have made their recommendation to City Council, the City Council can according to our ordinance vote to approve, vote to approve with conditions, vote to postpone for further consideration or vote to deny. As Council sits here they do have the power to not only amend the denial to an approval but you could also add conditions. That is what our ordinance says, we can approve with conditions. We got the recommendation, such as it was, they did not give an indication of what they would accept but they have given them what they were going to give us. Solicitor Spirk stated based on his reading of the ordinance and state law if Council wished to change the denial language to an approval you could also put conditions on that. Council could set a height limit, put whatever other conditions you want, it seems to him. Their role is recommending and they have given us what they wanted to give us. Solicitor Spirk remarked Mr. Reynolds question is has he come forward with something new and is that in the nature of a new application, he is kind of negotiating against himself because he has not heard from the HCC as to what they would rather have. He certainly could go back before them again. As he reads the city ordinance, Council can approve, approve with conditions, table it, or postpone it, or deny it. So you could just go ahead and approve with conditions.

Ms. Crampsie Smith remarked there is new information that has come to the table. The developer might be interested in looking at revising his proposal. In her mind she is thinking that the smartest thing to do then is that we either delay until the developer talks to the HCC or we send it back to the HCC. It sounds like some negotiating and changing of the terms can happen here and that would be in the best interest of all. She is in favor of either delaying it or bringing it back to the HCC.

Ms. Negrón is okay with delaying this and she will say for two reasons. We got this late but it is important that all groups involved especially the Administration have time to revise this. She feels this should be postponed and it will be the best we can do. This is important for everyone to take the time to revisit.

Mr. Callahan thinks we have already seen what we have accepted and what the HCC has accepted and is not in favor of. In order to get this moving forward he proposes one of the options of Solicitor Spirk to approve with conditions. He would propose to make an amendment to approve this with the condition that it not exceed 88 feet in height. Right now it is at 87 feet 4 inches but he is going up to 88 feet. That is his amendment.

President Waldron remarked Mr. Callahan has made a motion to limit the maximum height of the building to 88 feet.

President Waldron stated with no second the motion dies.

President Waldron remarked it seems the will of Council is that we respect the process that has been laid out and if the applicant is willing to make a reduction in the height then that should be considered by the HCC. He thinks it is appropriate that we send it back to the HCC with our comments saying we are in support potentially, if that is the will of Council, to have that reduction. Just for the record, he does agree with Mr. Callahan in passing it at 88 feet but he

thinks there is a process that we need to respect and hear from the HCC because the height was not the only change. He added that Ms. Karner was referencing some architectural changes as well. We should also have the HCC provide to us as well as the applicant the reasons for their denial and what they would accept. If we send this back to the HCC the expectation was that they give us a recommendation for what they would accept. If they are not willing to accept anything then we should know that as well and then we can revisit this conversation.

Mr. Callahan stated he agrees.

President Waldron asked Solicitor Spirk if he thinks it is necessary that Council makes a motion to send this back to the HCC and what we can do to work with them in order to get the guidance not only for this COA but moving forward. If a denial is recommended to City Council they should include the reasons and what they would accept.

Solicitor Spirk thinks it would be appropriate to make a motion to send it back to the HCC and direct their attention to Ordinance 1714.07 and ask them to comply with that.

President Waldron stated he is seeking a motion and a second to take Resolution 10 J and return it to the HCC.

Mr. Callahan and Mr. Colón made the motion to send Resolution 10 J back to the HCC.

Voting AYE on the motion: Mr. Reynolds, Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 7. The motion passed.

11. NEW BUSINESS

Mr. Callahan remarked that he had some new business but because of the late hour he will wait until the next meeting.

12. ADJOURNMENT

The meeting was adjourned at 11:08 pm.

ATTEST:

Robert G. Vidoni, Esq.
City Clerk