

*Wilmington, Delaware
Louis L. Redding
City/County Building
August 21, 2014*

Council met in regular session on the above date at 6:30 p.m., President Theopalis K. Gregory, Sr. presiding.

Invocation was given by Joe Garcia.

The Pledge of Allegiance was recited by City Council.

ROLL CALL

The following members responded to the Call of the Roll: Council Members Congo, Darius Brown*, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, eleven. Absent, Council Members Chukwuocha and Cabrera. Total, two.

MINUTES

After reading a portion of the minutes of July 10, 2014 and July 29, 2014, upon a motion of Ms. Walsh, seconded by Mr. Freel, it was moved they be accepted as written. Motion prevailed.

REPORT OF COMMITTEES

The City Clerk read the following committee report:

<u>Public Works & Transportation Committee Member</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Hanifa G.N. Shabazz, Chair	X		
Michael A. Brown, Sr.		X	
Nnamdi O. Chukwuocha	X		
Samuel Prado		X	
Robert A. Williams	X		

President and Members of Council of
The City of Wilmington

Date: July 23, 2014

Ladies and Gentlemen:

We, your Public Works & Transportation Committee, met on the above date at 4:30 p.m., Councilwoman Hanifa G.N. Shabazz presiding. The following items were discussed:

- Discuss recent issues surrounding Public Works contracts
 - A. Stalled contracts and Increased Costs
- Presentation on Clean Waterways Wilmington

Respectfully submitted, Members of
/s/Hanifa Shabazz
/s/Nnamdi O. Chukwuocha
/s/Robert A. Williams

Upon a motion of Ms. Shabazz, seconded by Ms. Walsh, the above aforementioned Report was received, recorded and filed. Motion prevailed.

The City Clerk read the following committee report:

<u>Finance Committee Member</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Charles M. "Bud" Freel	X		
Michael A. Brown Sr.	X		
Samuel Prado		X	
Hanifa G.N. Shabazz	X		
Loretta Walsh		X	

President and Members of Council of
The City of Wilmington

August 19, 2014

Ladies and Gentlemen:

We, your Finance Committee, to who was referred **Ordinance No. 14-038** entitled:

AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO EXTEND
CONTRACT PD05006 – PARKING VIOLATION PROCESSING AND
COLLECTION SYSTEM – WITH XEROX STATE AND LOCAL
SOLUTIONS

Have given this Ordinance careful study and recommend Council vote on it accordingly.

Respectfully submitted, Members of
Finance Committee
/s/Charles M. Freel, Chair
/s/Michael A. Brown
/s/Hanifa Shabazz

Upon a motion of Mr. Freel, seconded by Ms. Walsh, the Report was received, recorded, and filed. Motion prevailed.

TREASURER'S REPORT

The following Treasurer's Report dated August 21, 2014 was read into the record by the City Clerk, and upon a motion of Ms. Walsh, seconded by Mr. Freel, the Report was received, recorded and filed. Motion prevailed.

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF WILMINGTON August 21, 2014

102	Community Development Block Grant	M & T Bank	\$ 1.00
104	Old Non-Uniform Pension Account	M & T Bank	\$ 1,963.81
105	Police Pension Account	M & T Bank	\$ 35,649.36
106	Fire Pension Account	M & T Bank	\$ 4,249.65
107	Evidence/Found Currency Account	M & T Bank	\$ 36,834.76
108	Rent Withholding Escrow	M & T Bank	\$ 4,137.97
110	Capital Projects Account	M & T Bank	\$ 44,645.69
113	Non-Uniform Pension	M & T Bank	\$ 1,111.82
114	Central Deposit	M & T Bank	\$ 11,395.45
117	Cement Workers	Wilmington Savings Fund	\$ 33,400.83
118	Worker's Comp. 3 rd Party Account	M & T Bank	\$ 13,003.23
124	Non-Uniform Pension Act of 1990	M & T Bank	\$ 2,943.04
130	Payroll	M & T Bank	\$ 123,461.94
131	Pension Payroll Account	M & T Bank	\$ 13,431.90
139	Pension Healthcare Account	M & T Bank	\$ 4,110.73
	Total Cash on Hand		\$ 330,341.18

FUND CODE	FUND	INSTITUTION	INVEST. TYPE	MATURITY DATE	INTEREST RATE	INTEREST RECEIVABLE	INVESTMENT AMOUNT
116	General	M&T Bank	RP	08/21/14	0.01%	\$ 2.03	\$ 7,383,989.00
116	General ¹	TD	CD	08/22/14	0.25%	\$ 3,631.58	\$ 10,003,965.00
116	General ¹	TD	CD	08/22/14	0.25%	\$ 479.46	\$ 5,000,000.00
116	General	WSFS	CD	08/22/14	0.30%	\$ 1,742.46	\$ 2,000,000.00
124	Non-Uniform 1990	WSFS	CD	08/28/14	0.30%	\$ 1,030.89	\$ 4,325,000.00
106	Fire Pension	WSFS	CD	08/28/14	0.30%	\$ 183.53	\$ 770,000.00
105	Police Pension	WSFS	CD	08/28/14	0.30%	\$ 255.04	\$ 1,070,000.00
116	General	WSFS	CD	08/29/14	0.30%	\$ 431.51	\$ 2,500,000.00
110	Capital ²	TD	CD	09/15/14	0.25%	\$ 1,107.68	\$ 1,540,195.00
116	General	WSFS	CD	09/19/14	0.30%	\$ 2,071.23	\$ 2,000,000.00
116	General	WSFS	CD	10/01/14	0.30%	\$ 965.75	\$ 2,500,000.00
116	General	WSFS	CD	10/01/14	0.30%	\$ 2,013.69	\$ 3,500,000.00
116	General	WSFS	CD	10/17/14	0.30%	\$ 986.30	\$ 2,000,000.00
116	General	TD	CD	10/28/14	0.25%	\$ 1,839.73	\$ 1,700,000.00
116	General	TD	CD	10/31/14	0.25%	\$ 2,465.76	\$ 5,000,000.00
110	Capital	WSFS	CD	11/21/14	0.30%	\$ 21,927.81	\$ 24,476,000.00
514	Risk Management	WSFS	CD	07/10/15	0.35%	\$ 14,938.32	\$ 4,279,819.74
515	Worker's Comp.	WSFS	CD	07/10/15	0.35%	\$ 14,938.32	\$ 4,279,819.74
104	Escrow Pension	Affinity Wealth					\$ 1,478,765.00
104	Escrow Pension	Vanguard					\$ 34,095,523.00
104	Escrow Pension	Black Rock					\$ 26,924,172.00
104	Escrow Pension	Edgar Lomax					\$ 21,150,095.00
104	Escrow Pension	Wilmington Trust					\$ 46,212,970.00
104	Escrow Pension	Manning & Napier					\$ 23,204,428.00
104	Escrow Pension	Earnest Partners					\$ 16,842,594.00
104	Escrow Pension	GMO					\$ 12,068,589.00
104	Escrow Pension	MFS Management					\$ 20,100,898.00
139	Medical Escrow	Black Rock-OPEB					\$ 12,570,080.00
116	Deferred Comp.	MassMutual					\$ 39,076,862.00
	Total Investments						\$ 338,053,764.48
	Total Cash on Hand						\$ 330,341.18
	Grand Total						\$ 338,384,105.66

¹ Budget Reserve

² SEU

/s/Henry W. Supinski
City Treasurer

NON-LEGISLATIVE BUSINESS

Upon a motion of Mr. Freel, seconded by Ms. Shabazz/Mr. M. Brown, the following non-legislative resolutions were accepted into the record and motion prevailed:

All Council	Sympathy Alice J. Greer
All Council	Salute former Wilmington Mayor James M. Baker
All Council	Sympathy Michele Antoinette Pray Griffiths
D. Brown	Best wishes Mary E. Winston – 92 nd birthday
D. Brown/Council	Retirement Estella “Stella” Dunning
D. Brown	Best wishes Dr. Joseph E. Johnson
Cabrera	Recognize One Village Alliance - 20 th Annual People’s Festival 4Peace and Tribute to Bob Marley
Chukwuocha	Best wishes Mother Mary Ruth Boyce
Dorsey Walker	Sympathy Terry Kimble
Gregory	Commend Dr. Nina Anderson
Gregory	Congratulate Tywan Rashad Brooks
Gregory	Retirement Audrey Brooks
Gregory/M. Brown	Sympathy Shirley Lee Gregory
Gregory	Congratulate Eagle Scout Matthew J. Graesser
Shabazz	Retirement John Barnes
Williams	Sympathy Jalil Louis Bryant
Wright	Recognize Dwight-Womack family
Wright	Recognize Pastor Robert J. Goodman

LEGISLATIVE BUSINESS

President Gregory: Mr. Congo.

Mr. Congo: Yes Mr. President, I have a Resolution to present.

Mr. Congo presented Resolution No. 14-038 (Agenda #3968) as follows:

WHEREAS, pursuant to Wilm. C. (Charter) §1-101, the City of Wilmington (the “City”) may acquire, hold, manage, and dispose of property on such terms as it deems proper for any municipal purpose; and

WHEREAS, the City, through its Department of Real Estate and Housing (the “Department”), has expressed an interest in obtaining ownership of the property known as Tax Parcel No. 26-015.30.130 being located at 509 Concord Avenue, Wilmington, Delaware (the “Property”); and

WHEREAS, US Bank National Association Trustee, being the current legal owner of the Property, has agreed to donate the Property to the City with a \$10,000 cash contribution; and

WHEREAS, the acquisition of the Property by the City is a part of the Neighborhood Community Stabilization Trust program.

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF WILMINGTON that Council, acting pursuant to Wilm. C. (Charter) § 8-204, hereby authorizes and approves the acceptance of the Property and the cash donation by the City from the current owner, US Bank National Association Trustee, and authorizes the Department to execute any and all documents and to take all actions necessary to effectuate the acceptance of the Property, including any and all further undertakings and assurances that may be appropriate.

Mr. Congo: Yes Mr. President, as just was read, this is just allowing the City to obtain the property of 509 Concord Avenue and to also giving us a \$10,000 contribution to its rehabilitation.

President Gregory: Clerk call the roll.

Mrs. Seijo: Council President.

President Gregory: Does someone have something?

Mr. Williams: Mark him present.

President Gregory: Who? Mr. Brown.

Mrs. Seijo: Can he be....

Mr. Darius Brown: Absent to present.

Mrs. Seijo: He wants to be marked present.

President Gregory: Oh, I'm sorry. Mark Mr. Brown present please.

*Note: Mr. Darius Brown was marked present at this time.

Mrs. Seijo: So noted. Thank you. Roll call.

President Gregory: Clerk, call the roll.

Upon a motion of Mr. Congo, seconded by Mr. Williams, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Darius Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, eleven. Nays, none. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Mr. Darius Brown.

Mr. Darius Brown: Yes Mr. President, I have a Resolution to present.

Mr. Darius Brown presented Resolution No. 14-039 (Agenda #3969) as follows:

WHEREAS, pursuant to Wilm. C. (Charter) §1-101, the City of Wilmington (the “City”) may acquire, hold, manage, and dispose of property on such terms as it deems proper for any municipal purpose; and

WHEREAS, the City, through its Department of Real Estate and Housing (the “Department”), has expressed an interest in obtaining ownership of the property known as Tax Parcel No. 26-036.30.479 being located at 1024 North Spruce Street, Wilmington, Delaware (the “Property”); and

WHEREAS, Mr. Thomas Henry, being the current legal owner of the Property, has agreed to donate the Property to the City; and

WHEREAS, after acquisition of the Property, the City intends to transfer or redevelop the Property to assist with eastside revitalization efforts.

NOW, THEREFORE, BE IT RESOLVED BY COUNCIL OF THE CITY OF WILMINGTON that Council, acting pursuant to Wilm. C. (Charter) § 8-204, hereby authorizes and approves the acceptance of the Property by the City from the current owner, Mr. Thomas Henry, and authorizes the Department to execute any and all documents and to take all actions necessary to effectuate the acceptance of the Property, including any and all further undertakings and assurances that may be appropriate.

Mr. Darius Brown: Yes Mr. President, Mr. Henry – Mr. Thomas Henry is the owner of 1024 North Spruce Street and he would like to dispose of the property in which he owns and so he is donating it to the City of Wilmington at no cost.

President Gregory: Clerk will call the roll please.

Upon a motion of Mr. Darius Brown, seconded by Ms. Walsh/Mr. Prado, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Darius Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, eleven. Nays, none. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Ms. Shabazz.

Ms. Shabazz: Nothing tonight. Thank you.

President Gregory: Mr. Prado.

Mr. Prado: Yes Mr. President, I have an Ordinance to present and call for the third and final reading.

Mrs. Seijo: You have to dissolve into the Committee of the Whole.

President Gregory: Move to dissolve into the Committee of the Whole.

Mr. Prado: I do that first?

Mrs. Seijo: Yes.

President Gregory: Yeah.

Mr. Prado: Okay. That's all right. I would - - Ok, I would...

President Gregory: I move to dissolve.....

Mr. Prado: I move Council dissolve into a Committee of the Whole for purpose of holding a public hearing on Ordinance #3950.

President Gregory: Second.

Ms. Walsh: Second.

Upon a motion of Mr. Prado, seconded by Ms. Walsh/Ms. Shabazz, Council dissolved into the Committee of the Whole for the purpose of having a public hearing on Ordinance No. 14-030. Motion prevailed.

PUBLIC HEARING
AN ORDINANCE TO AMEND CHAPTER 48 OF THE WILMINGTON CITY
CODE REGARDING MULTI-FAMILY CONVERSIONS (ORD. NO. 14-030) AND
THE RESPECTIVE TO THE DELAWARE AVENUE/BANCROFT PARKWAY
NEIGHBORHOOD COMPREHENSIVE DEVELOPMENT PLAN

The City Clerk read the Affidavit of Publication. Upon a motion of Mr. Prado, seconded by Ms. Walsh, the Affidavit of Publication was made a part of the record and is on file in the City Clerk's Office. Motion prevailed.

The City Clerk read the Planning Commission Report. Upon a motion of Mr. Prado, seconded by Ms. Walsh, the Planning Commission Report was made a part of the record. Motion prevailed.

**Note: The Planning Commission Report was added into the record and is attached herein as an insert from Page 9-30.*

DENNIS P. WILLIAMS
MAYOR

City of Wilmington
Delaware



LOUIS L. REDDING - CITY/COUNTY BUILDING
800 FRENCH STREET
WILMINGTON, DELAWARE
19801-3537
WWW.WILMINGTONDE.GOV

July 17, 2014

The Honorable Maribel Seijo, City Clerk
Louis L. Redding City/County Building
800 N. French Street
Wilmington, DE 19801

Dear Ms. Seijo:

Attached for City Council's consideration is Planning Commission Resolution 5-14, along with the related Department of Planning analysis. At their July 15, 2014 meeting, the Planning Commission voted to recommend the following measure to City Council:

Resolution 5-14; ZA 539-14: A proposal to amend Chapter 48 of the City Code (Zoning Code) regarding the conversion of single family residential dwellings to multi-family uses. This housekeeping measure serves to resolve existing ambiguities in the Zoning Code by requiring that all single family conversions be approved by the Zoning Board of Adjustment and that the conditions of Section 48-67 (f) and (g) are met.

This constitutes the report and recommendations of the Mayor's Office on the above referral.

Sincerely,

A handwritten signature in cursive script, reading "Gwinneth Kaminsky".

Gwinneth Kaminsky, Planning Manager
Department of Planning

Attachments

cc: Honorable Members of City Council
Romain Alexander
Leonard Sophrin
Michael P. Migliore
Tom Carney
Faye Oakes

**CITY PLANNING COMMISSION
OF THE DEPARTMENT OF PLANNING
CITY OF WILMINGTON
RESOLUTION 5-14**

WHEREAS, Article II, Section 48-51 of the Wilmington City Code provides for amendments by City Council to Chapter 48 of said Code; and

WHEREAS, the City Planning Commission is authorized to review proposed Zoning Code amendments and make recommendations to City Council; and

WHEREAS, Ordinance 14-030 was introduced on July 3, 2014 by Council Member Samuel Prado to amend Chapter 48 of the City Code (Zoning Code) for the purpose of correcting inconsistencies in the Zoning Code pertaining to single-family to multi-family conversions, with the proposed amendments intended to make it clearer that all applications for single-family to multi-family conversions must first be approved by the Zoning Board of Adjustment and that these conversions are subject to the conditions found in Section 48-67 (f) and (g); and

WHEREAS, in December 2002 Substitute No. 1 to Ordinance 02-094 was adopted to require Zoning Board of Adjustment approval for all single-family to multi-family conversions and also to require conditions for those conversions adding Section 48-67 (f) and (g) to the Zoning Code; and

WHEREAS, Section 48-67 (f) requires that any building that had been designed for single-family use but has been converted to multi-family use shall return to single-family use after one year of vacancy; and

WHEREAS, Section 48-67 (g) requires that applicants seeking single-family to multi-family conversions are required to submit an affidavit stating that the property has been actively marketed for single-family use; an affidavit certifying that the applicant is not delinquent in payment to the City for property taxes, water or sewer billing or other accounts; and plans showing the dimensions and square footage; and in addition the conditions state that the Zoning Board of Adjustment shall consider the proposed conversions impact on the future development and the character of the neighborhood; and

WHEREAS, upon the adoption of Substitute No. 1 to Ordinance 02-094 the Code amendment was placed under the administrative section of the Code but the use provisions under the relevant Zoning District categories were not amended accordingly; and

WHEREAS, the use provisions within these sections of the Zoning Code are currently inaccurate in that they allow conversions as permitted uses, which is in conflict with Section 48-67 (f) and (g) and the intent of Substitute Number 1 to Ordinance 02-094; and

CPC Resolution 5-14

Page 2

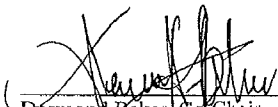
WHEREAS, three types of changes are being proposed to correct these inconsistencies as follows:

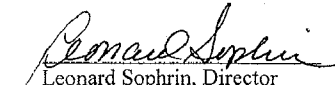
1. Zoning districts that currently include conversions as matter of right uses are being amended to reflect that conversions actually require ZBA approval. Affected districts which were not properly amended in 2002 include R2-A, C-1, C-1A, C-2, C-3, C-4, and C-5.
2. In zoning districts which permit "apartment houses" and "multi-family residential uses," language will be added which clarifies that single-family dwellings are not permitted to be converted to create an "apartment house" or a "multi-family residential use". Affected districts which were not properly amended in 2002 include R-5B, R-5A1, and W-4.
3. References to Section 48-67 (f) and (g) will be provided throughout the Zoning Code to direct constituents to the required conditions for conversions. Affected districts include R2-A, R-4, R-5B, C-1, C-1A, C-2, C-3, C-4, and C-5.

WHEREAS, Ordinance 14-030 is intended as a housekeeping measure which makes it clearer that all applications for single-family to multi-family conversions must first be approved by the Zoning Board of Adjustment, subject to the conditions outlined in Section 48-67 (f) and (g), and with appropriate cross references added; and

WHEREAS, the proposed amendments are not changing the intent of the original legislation but rather are clarifying the purpose, which is to require Zoning Board of Adjustment review of all single-family to multi-family conversions.

NOW, THEREFORE, BE IT RESOLVED, that the City Planning Commission recommends that Ordinance 14-030 be approved by City Council for the purpose of amending the Zoning Code so that it accurately reflects the intent of Substitute Number 1 to Ordinance 02-094, as adopted in 2002, relating to single-family to multi-family conversions.


Desmond Baker, Co-Chair
City Planning Commission


Leonard Sophrin, Director
Department of Planning

Date: July 15, 2014

MEMORANDUM

TO: Wilmington Planning Commission

FROM: Department of Planning and Development

DATE: July 11, 2014

RE: **Resolution 5-14, ZA 539-14:** A proposal to amend Chapter 48 of the City Code (Zoning Code) regarding the conversion of single-family residential dwellings to multi-family uses. This housekeeping measure serves to resolve existing ambiguities in the Zoning Code by requiring that all single-family conversions be approved by the Zoning Board of Adjustment and that the conditions of Section 48-67 (f) and (g) are met. Ordinance 14-030.

SPONSOR: The Honorable Samuel Prado, Council Member, Fifth Councilmanic District

I. PURPOSE

Ordinance 14-030 was introduced on July 3, 2014 by Council Member Samuel Prado for the purpose of amending Chapter 48 of the City Code (Zoning Code) to correct existing inconsistencies related to single-family conversions (see Attachment 1). In 2002, the Code was amended to require that applicants seek Zoning Board of Adjustment (ZBA) approval when proposing single-family to multi-family conversions. Under Article II, Division 3, Zoning Board of Adjustment, Sections 48-67 (f) and (g) were added to outline the requirements for these conversions (see Attachment 2). This language was adopted for the purpose of treating single-family conversions as uses permitted only with ZBA approval. However, under the use provisions for the various zoning district classifications, several districts still include references to single-family conversions as being matter of right uses, which is inconsistent with the intent of Section 48-67 (f) and (g). The purpose of the proposed amendment is to make it clear that all applications for single-family to multi-family conversions must be approved by the Zoning Board of Adjustment.

II. BACKGROUND

In December 2002 City Council adopted Substitute No. 1 to Ordinance 02-094 adding Section 48-67 (f) and (g) to the Zoning Code to require Zoning Board of Adjustment approval for the conversion of single-family to multi-family dwellings and also to require conditions for those conversions. Section 48-67 (f) requires that buildings designed for single-family use, but which had been converted to multi-family use, be returned to single-family use after one year of vacancy. Section 48-67 (g) outlines several conditions which must be met when seeking to convert single-family dwellings to multi-family dwellings.

CPC Resolution 5-14
July 15, 2014
Page 1

This legislation was intended to require that all single-family to multi-family conversions be reviewed and approved by the Zoning Board of Adjustment. Upon the adoption of the legislation, the amendment was placed in an administrative section of the Code (Section 48-67), however the use provisions for each of the relevant zoning categories were not amended accordingly.

As a result, there are zoning categories which still reference conversions as permitted uses, which is inaccurate, and creates ambiguity and the potential for confusion. In addition, under the use provisions where conversions are currently allowed as Zoning Board of Adjustment uses, there are no references to the conditions required under Section 48-67 (f) and (g).

III. Analysis

Ordinance 14-030 proposes to amend the Zoning Code to reflect that all single-family to multi-family conversions require the review and approval of the Zoning Board of Adjustment, and that these conversions must meet certain conditions for this approval.

Three types of changes are being proposed to the various sections of the Zoning Code, as follows:

1. Zoning districts that currently include conversions as matter of right uses are being amended to reflect that conversions actually require ZBA approval. Affected districts which were not properly amended in 2002 include R2-A, C-1, C-1A, C-2, C-3, C-4, and C-5.
2. In zoning districts which permit "apartment houses" and "multi-family residential uses," language will be added which clarifies that single-family dwellings are not permitted to be converted to create an "apartment house" or a "multi-family residential use". Affected districts which were not properly amended in 2002 include R-5B, R-5A1, and W-4.
3. References to Section 48-67 (f) and (g) will be provided throughout the Zoning Code to direct constituents to the required conditions for conversions. Affected districts include R2-A, R-4, R-5B, C-1, C-1A, C-2, C-3, C-4, and C-5.

The specific changes to the Zoning Code being proposed are outlined below. [Note that proposed language is underlined; language "struck through" is proposed to be deleted.]

A. Proposed Amendments to the Residential District Use Provisions

Sec. 48-133. - R-2-A districts. One-family detached and semi-detached dwellings with conversions

- (a) *Purpose.* The R-2-A district, one-family detached and semidetached dwellings with conversions, is designed to preserve certain areas which were originally developed with one-family detached dwellings and one-family semidetached dwellings, in which some such buildings have been converted for the use of two or more families, and which areas constitute an irreplaceable part of the city's limited supply of fine residential housing. It would retain the general one-family detached and semidetached character of these areas, permitting conversions for an additional family or families with zoning board of adjustment approval. New apartment houses with not more than two families on each story are also permitted.

Rationale: As written, the R-2-A provisions currently permit single-family conversions as a matter of right. This change clarifies that these uses actually are not permitted as a matter of right, but require zoning board of adjustment approval.

- ...
- (c) *Uses permitted as matter of right.*
- ...

- (8) A two-family dwelling, ~~[either]~~ in the form of a new building ~~[or through conversion of an existing one-family dwelling for the use of two families];~~ provided, that there shall be a lot area of not less than 2,500 square feet and a gross floor area of not less than 2,000 square feet.

Rationale: The R-2-A provision currently indicates that two-family dwellings created from a single-family conversion are permitted as a matter of right. This change clarifies that these uses are not permitted as a matter of right by removing them from the matter of right provisions.

- (9) The conversion of a building housing ~~[one or]~~ two families to an apartment house or the creation of additional units in an apartment house; provided, that:

Rationale: This provision currently indicates that single-family conversions to apartment houses are permitted as a matter of right. This change clarifies that these uses are not permitted as a matter of right by removing them from the matter of right provisions.

...

(d) *Uses permitted under zoning board of adjustment approval.*

...

- (6) A two-family dwelling, through conversion of an existing one-family dwelling for the use of two families; provided, that there shall be a lot area of not less than 2,500 square feet and a gross floor area of not less than 2,000 square feet. (See Section 48-67)

Rationale: This type of conversion is being removed from the use provisions as a matter of right use [Section 48-133(c)(8)], and is being added as a use permitted with Zoning Board of Adjustment approval, along with a reference to Section 48-67.

- (7) The conversion of a building housing one family to an apartment house (See Section 48-67); provided that:

- a. There shall be a lot area of not less than 1,000 square feet per family;
- b. There shall be a livable floor area, excluding common halls and stairways, of not less than 800 square feet per family; and
- c. There shall not be more apartments than the number of stories in each building.

Rationale: This type of conversion is being removed from the use provisions as a matter of right use [Section 48-133(c)(9)], and is being added as a use permitted with Zoning Board of Adjustment approval, along with a reference to 48-67.

...

Sec. 48-135. - R-4 districts. Row houses with conversions

- (a) *Purpose.* The R-4 district, row houses with conversions, is designed to include those areas which were originally developed with one-family row houses but where many such buildings have been converted for the use of two or more families. It would retain the general row house character of these areas, permitting conversions for an additional family or families only if approved by the zoning board of adjustment. To encourage assembly and rebuilding, new apartment houses with not more than two families on each story are permitted. Some institutions excluded from the one-family districts are permitted.

...

(d) *Uses permitted under zoning board of adjustment approval.*

- ...
- (3) A two-family dwelling, either in the form of a new building or through conversion of an existing one-family dwelling for the use of two families (See Section 48-67 if converting from single to multi-family); provided that:

***Rationale:** This type of conversion is currently listed as a use permitted with Zoning Board of Adjustment approval, but does not reference the necessary conditions under Section 48-67. This change adds the necessary reference.*

- (4) The conversion of a three-story building housing one or two families for the use of more than two families (See Section 48-67 if converting from single to multi-family); provided, that:

***Rationale:** This type of conversion is currently listed as a use permitted with Zoning Board of Adjustment approval, but does not reference the necessary conditions under Section 48-67. This change adds the necessary reference.*

...

Sec. 48-137. - R-5-A-1 district

- ...
- (c) *Uses permitted as matter of right.* The following uses are permitted as a matter of right:

- ...
- (2) Apartment houses without limit as to the number of families to be accommodated, excluding the conversion of one-family dwellings; provided, that:

***Rationale:** This provision currently indicates that single-family conversions are permitted as a matter of right under the R-5-A-1 district. This change clarifies that while apartment houses are permitted, they cannot be created from a single-family dwelling.*

Sec. 48-138. - R-5-B districts. Medium Density

. . .

- (c) *Uses permitted as a matter of right.*

. . .

- (3) Apartment house without limit as to the number of families to be accommodated, provided that the building is not a converted single-family dwelling.

Rationale: This provision currently indicates that single-family conversions are permitted as a matter of right under the R-5B district. This change clarifies that while apartment houses are permitted, they cannot be created from a single-family dwelling.

. . .

- (d) *Uses permitted under zoning board of adjustment approval.*

. . .

- (13) Apartment house created by the conversion of a one-family dwelling or a two-family dwelling for the use of additional families if there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways provided (See Section 48-67 if converting from single-family to multi-family), that:

Rationale: This type of conversion is currently listed as a use permitted with Zoning Board of Adjustment approval, but does not reference the necessary conditions under Section 48-67. This change adds the necessary reference.

B. Proposed Amendments to the Waterfront District Use Provisions

Sec. 48-339. - W-4 district

. . .

- (b) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

- (1) Single-family and multifamily residential use, excluding detached single-family dwellings and the conversion of one-family dwellings, but including bed and breakfast guest facilities as provided in section 48-193

Rationale: This provision currently indicates that single-family conversions are permitted as a matter of right under the W-4 provisions. This change clarifies that single-family conversions are not permitted as a matter of right.

C. Proposed Amendments to the Commercial District Use Provisions

Sec. 48-191. - C-1 districts

- (c) *Uses permitted as matter of right.* The following uses are permitted as a matter of right; provided that not more than two amusement devices shall be located on the premises:

- (2) The conversion of a three-story building housing ~~one or~~ two families for the use of more than two families; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways.

Rationale: This provision currently indicates that single-family conversions are permitted as a matter of right under the C-1 district. This change clarifies that while the conversion of a three story building is permitted under C-1, it cannot be created from the conversion of a single-family dwelling.

- (d) *Uses permitted under zoning board of adjustment approval.*

- (7) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This type of conversion was removed from the use provisions as a matter of right use [Section 48-191(c)(2)], and is being added as a use permitted with Zoning Board of Adjustment approval, along with a reference to Section 48-67.

Sec. 48-192. - C-1-A districts

(c) *Uses permitted as matter of right.* The following uses are permitted as a matter of right:

- (2) The conversion of a three-story building housing ~~one or~~ two families for the use of more than two families; provided, that there shall be a lot area of not less than 1,000 square feet per family and that each individual apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways.

Rationale: This provision currently indicates that single-family conversions are permitted as a matter of right under the C-1-A district. This change clarifies that while the conversion of a three story building is permitted under C-1-A, it cannot involve the conversion of a single-family dwelling.

(d) *Uses permitted under zoning board of adjustment approval.*

(7) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This type of conversion was removed from the use provisions as a matter of right use under C-1-A [Section 48-192 (c)(2)], and is being added as a use permitted with Zoning Board of Adjustment approval, along with a reference to Section 48-67.

Sec. 48-193. - C-2 districts

(d) *Uses permitted under zoning board of adjustment approval.*

(5) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This type of conversion was removed from the use provisions as a matter of right use under C-2 by means of a reference to the matter of right uses under C-1. To remain consistent with the C-1 amendments, this use is being added as a use permitted with Zoning Board of Adjustment approval under C-2, along with a reference to Section 48-67.

• • •
Sec. 48-195. - C-3 districts

• • •
(d) *Uses permitted under zoning board of adjustment approval.*
• • •

(2) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This use was removed from the use provisions as a matter of right use under C-3 by means of a reference back to the matter of right uses under C-1. To remain consistent with the C-1 amendments this use is being added as a use permitted with Zoning Board of Adjustment approval under C-3, along with a reference to Section 48-67.

• • •
Sec. 48-196. - C-4 districts

(d) *Uses permitted under zoning board of adjustment approval.*
• • •

(2) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This use was removed from the use provisions as a matter of right use under C-4 by means of a reference back to the matter of right uses under C-1. To remain consistent with the C-1 amendments this use is being added as a use permitted with Zoning Board of Adjustment approval under C-4, along with a reference to Section 48-67.

Sec. 48-197. - C-5 districts

- (d) *Uses permitted under zoning board of adjustment approval.*

(4) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67)

Rationale: This use was removed from the use provision as a matter of right use under C-5 by means of a reference back to the matter of right uses under C-1. To remain consistent with the C-1 amendments this use is being added as a use permitted with Zoning Board of Adjustment approval under C-5, along with a reference to Section 48-67.

Summary of Proposal: The proposed changes referenced above have been incorporated into Ordinance 14-030 for the purpose of eliminating the ambiguity and inaccuracies within the Zoning Code as they relate to single-family to multi-family conversions.

IV. INTERDEPARTMENTAL COORDINATION

The Planning Department worked together with the Zoning Manager from Licenses and Inspections to develop the proposal to correct the inaccuracies in the Zoning Code. Meetings were held with City Council staff and Council Member Prado, the legislation sponsor, to discuss the necessary changes. The legislation was prepared by the Law Department.

V. SUMMARY/RECOMMENDATIONS

In 2002, the Zoning Code was amended to require that single-family to multi-family conversions be reviewed and approved by the Zoning Board of Adjustment. Language related to these conversions, including conditions for approval, were incorporated into an administrative section

CPC Resolution 5-14
July 15, 2014
Page 10

of the Code (Section 48-67), but the relevant use provisions under each of the zoning district classifications were not amended accordingly. This resulted in an inconsistency within the Zoning Code which has led to problems in applying the regulations. Ordinance 14-030 sets forth a housekeeping measure which corrects these inconsistencies and eliminates the ambiguity between Section 48-67 (f) and (g) and the use provision sections of the Zoning Code. Resolution 5-14 recommends to City Council the approval of Ordinance 14-030.

On July 10, 2014 City Council approved Resolution 14-033 scheduling a public hearing on August 21, 2014 to consider Ordinance 14-030.

Attachments: Ordinance 14-030
Code Reference Article II, Division 3. Zoning Board of Adjustment. 48-67 (f) and (g)

CPC Resolution 5-14
July 15, 2014
Page 11

Attachment 1

ORD 14-030

AN ORDINANCE TO AMEND CHAPTER 48 OF THE WILMINGTON CITY CODE REGARDING MULTI-FAMILY CONVERSIONS.

#3950

Sponsor:

Council
Member
Prado

WHEREAS, Council of the City of Wilmington (the "Council") has enacted the provisions of Chapter 48 of the Wilmington City Code (the "Zoning Code") setting forth regulations related to zoning; and

WHEREAS, Council in 2002 approved Ordinance No. 02-094, which added subsections 48-67(f) and (g) to Chapter 48 of the Zoning Code; and

WHEREAS, subsections 48-67(f) and (g) set forth certain requirements for the conversion of single-family to multi-family dwellings; and

WHEREAS, the intent of subsections 48-67(f) and (g) is to require all single-family to multi-family conversions to be reviewed and approved by the Zoning Board of Adjustment ("ZBA"); and

WHEREAS, the relevant "Permitted Use" sections of the Zoning Code were not, but should have been, amended to reflect the amendments made by subsections 48-67(f) and (g), which is in the "Administration and Enforcement" section of the Zoning Code, thereby creating an inconsistency in the Zoning Code; and

WHEREAS, Council, upon recommendation of the City Planning Commission, desires to amend the appropriate Zoning Code provisions in order to reflect that all applications for single-family to multiple family conversion require ZBA approval.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 48, the Zoning Code, is hereby amended at Section 48-133 (R-2-A districts) by deleting the language within brackets and by adding the underlined language to read as follows:

(7) The conversion of a building housing one family to an apartment house (See Section 48-67); provided that:

- a. There shall be a lot area of not less than 1,000 square feet per family;
- b. There shall be a livable floor area, excluding common halls and stairways, of not less than 800 square feet per family; and
- c. There shall not be more apartments than the number of stories in each building.

SECTION 2. Chapter 48 is hereby amended by adding the underlined language to Section 48-135 (R-4 districts) so that it reads as follows:

Sec. 48-135. - R-4 districts. Row houses with conversions.

- (a) *Purpose.* The R-4 district, row houses with conversions, is designed to include those areas which were originally developed with one-family row houses but where many such buildings have been converted for the use of two or more families. It would retain the general row house character of these areas, permitting conversions for an additional family or families only if approved by the zoning board of adjustment. To encourage assembly and rebuilding, new apartment houses with not more than two families on each story are permitted. Some institutions excluded from the one-family districts are permitted.

...

- (d) *Uses permitted under zoning board of adjustment approval.*

...

- (3) A two-family dwelling, either in the form of a new building or through conversion of an existing one-family dwelling for the use of two families (See Section 48-67 if converting from single to multi-family); provided that:
- (4) The conversion of a three-story building housing one or two families for the use of more than two families (See Section 48-67 if converting from single to multi-family); provided, that:

(See Section 48-67 if converting from single to multi-family), that:

SECTION 5. Chapter 48 is hereby amended by adding the underlined language to Section 48-339 (W-4 districts) so that it reads as follows:

Sec. 48-339. - W-4 district.

...

(b) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

- (1) Single-family and multifamily residential use, excluding detached single-family dwellings and the conversion of one-family dwellings, but including bed and breakfast guest facilities as provided in section 48-193.

SECTION 6. Chapter 48 is hereby amended by deleting the language within brackets and by adding the underlined language to Section 48-191 (C-1 districts) so that it reads as follows:

Sec. 48-191. - C-1 districts.

...

(c) *Uses permitted as matter of right.* The following uses are permitted as a matter of right; provided that not more than two amusement devices shall be located on the premises:

...

- (2) The conversion of a three-story building housing ~~[one or]~~ two families for the use of more than two families; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways.

(d) *Uses permitted under zoning board of adjustment approval.*

...

SECTION 8. Chapter 48 is hereby amended by adding the underlined language to Section 48-193 (C-2 districts) so that it reads as follows:

Sec. 48-193. - C-2 districts.

...

- (d) *Uses permitted under zoning board of adjustment approval.*

...

(5) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67).

SECTION 9. Chapter 48 is hereby amended by adding the underlined language to Section 48-195 (C-3 districts) so that it reads as follows:

Sec. 48-195. - C-3 districts.

...

- (d) *Uses permitted under zoning board of adjustment approval.*

...

(2) The conversion of a three-story building housing one family for the use of more than one family; provided, that there is a lot area of not less than 1,000 square feet per family and each apartment or dwelling unit shall consist of not less than 600 square feet of livable floor area, excluding common halls and stairways. (See Section 48-67).

SECTION 10. Chapter 48 is hereby amended by adding the underlined language to Section 48-196 (C-4 districts) so that it reads as follows:

SECTION 13. This ordinance shall be deemed effective upon its passage by Council and approval by the Mayor.

First Reading.....July 3, 2014
Second Reading.....July 3, 2014
Third Reading.....

Passed by City Council

President of City Council

ATTEST: _____
City Clerk

Approved as to form this 1st day of
July, 2014

Danyu Chatazo
Assistant City Solicitor

Approved this _____ day of
_____, 2014

Mayor

SYNOPSIS: This ordinance amends Chapter 48 of the Zoning Code to correct an existing inconsistency so that all applications to convert single-family dwellings to multi-family dwellings will now require approval by the Zoning Board of Adjustment.

Attachment 2

Article II, Division 3. Zoning Board of Adjustment.

Chapter 48-67 addresses conversions as follows:

- (f) *Multi-family conversions.* Any building that had been designed for use as a single family residence but has been converted to a multi-family use and has been vacant for one year or more shall not thereafter be used for multi-family use, but may continue to be used as a single-family residence.
- (g) *Applications for single-family to multi-family conversions.* The applicant for a single-family to multi-family conversion shall be required to submit:
 - (1) An affidavit from a licensed realtor stating that the proposed property has been actively marketed as a single-family dwelling for at least six months, unless the zoning administrator deems it unnecessary;
 - (2) An affidavit certifying that he/she is not delinquent in payment of city property taxes, water and sewer billing, or any other account or loan for which amounts are past due to the city, subject to verification by the city department of finance; and
 - (3) Plans at a scale of not less than 1/4 inch to the foot, showing the dimensions and square footage.

In addition, such application shall be approved only if in the opinion of the zoning board of adjustment the proposed activity will not adversely affect the character and future development of the neighborhood within which it is proposed to be located and such use will not increase motor vehicle parking problems and congestion in the neighborhood. The board in its determinations shall consider the cumulative effect on the availability of motor vehicle parking spaces particularly in light of all other existing uses within a radius of 300 feet of the proposed location.

Per Substitute No. 1 to Ordinance 02-094, December 16, 2002.

President Gregory: Can we get the Planning Commission representative to come forward at this time please?

Department of Planning Representative: Thank you, good evening. My name is Matthew Harris, I'm with the Department Planning. The Ordinance before you today is being presented as a housekeeping measure to correct an inconsistency in the Zoning Code related to single-family to multi-family conversions. In December of 2002 Wilmington City Council adopted legislation with the intention of requiring all single-family conversion applications be reviewed and approved by the Zoning Board of Adjustment. When this measure was adopted it was basing an administratively section of the Code, which identified criteria for Zoning Board of Adjustment approval. However, the relevant sections of the Zoning Code which identified permitted uses were not amended accordingly. This resulted in several zoning districts still including references to single-family conversions as being matter of right uses when they were actually changed to special exception uses requiring review and approval by the Zoning Board of Adjustment. The Ordinance will amend the Zoning Code as it should have been in 2002 to make it clear that single-family conversions must be approved by the Zoning Board of Adjustment. In summary, these amendments will correct the inconsistency and eliminate the ambiguity that was created in the Zoning Code when the 2002 legislation was adopted. The Ordinance is not changing the current conditions related to conversions in Wilmington. It's simply providing clarification and correcting the Zoning Code. These changes were developed in conjunction with the Zoning Manager from L&I. We have reviewed the proposal with the sponsor, Council Member Samuel Prado and Council staff as well as the Law Department. City Planning Commission at their public hearing on July 15th adopted Resolution 5-14, which recommended approval and the Ordinance was also presented at the Housing, L&I Committee on August 18th. If anyone has any questions, I can address them at this time. Thank you.

President Gregory: Thank you. Anyone want to speak for this legislation? Anyone want to speak against the legislation? You have to come up to I think and speak here if there's anyone who want to speak for or against it. Otherwise, thank you.

Mr. Matthew Harris: Ok, thank you.

Upon a motion of Mr. Prado, seconded by Ms. Walsh, Council returned to Regular Order of Business. Motion prevailed.

REGULAR ORDER OF BUSINESS

The City Clerk read the following committee report:

<u>Housing, Licenses & Inspections Committee Member</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Samuel Prado	X		
Darius J. Brown	X		
Maria D. Cabrera		X	
Nnamdi O. Chukwuocha		X	
Hanifa G.N. Shabazz		X	
Sherry Dorsey Walker	X		

August 18, 2014

President and Members of Council of
The City of Wilmington

Ladies and Gentlemen:

We, your Housing, Licenses & Inspection Committee, to who was referred
Ordinance No. 14-030 entitled:

AN ORDINANCE TO AMEND CHAPTER 48 OF THE WILMINGTON
CITY CODE REGARDING MULTI-FAMILY CONVERSIONS

Have given this Ordinance careful study and recommend Council vote on
it accordingly.

Respectfully submitted, Members of
Housing, Licenses & Inspections Committee
/s/Samuel Prado, Chair
/s/Darius J. Brown
/s/Sherry Dorsey Walker

Upon a motion of Mr. Prado, seconded by Ms. Walsh, the above
aforementioned Report was received, recorded, and filed. Motion prevailed.

President Gregory: Any Findings?

Mrs. Seijo: Yes.

Upon a motion of Mr. Prado, seconded by Ms. Walsh, the Findings were
made a part of the record. Motion prevailed.

**Note: The Findings was added into the record and is attached herein as an insert from
Page 33-35.*

MEMORANDUM

TO: The Honorable Theopolis K. Gregory, President of City Council
Members of City Council

FROM: Sanjay Bhatnagar, Esq., Assistant City Solicitor

DATE: August 20, 2014

RE: City Council Findings Supporting the Enactment of Ordinance No. 14-030,
Amending Chapter 48 of the Wilmington City Code regarding Single-Family to
Multi-Family Conversions.

Enclosed please find a copy of the Findings prepared in connection with Council's scheduled Public Hearing on August 21, 2014, regarding the above referenced ordinance. The Findings supplement the record of the Planning Commission and its report, as well as the record of the Council's Public Hearing, and the Law Department advises their inclusion in the record as a means of complying with Delaware Court decisions that involve zoning ordinances of County governments, but the principles of which also apply to the City.

In this instance, the Findings support the provisions of the ordinance. The Findings and the Ordinance reflect the recommendations approved by the City Planning Commission at its regular meeting following its Public Hearing on July 15, 2014. At that meeting, the Planning Commission approved its Resolution 5-14, which recommended that the Zoning Code text be amended as a housekeeping measure found necessary to accurately reflect the intent of Substitute No. 1 to Ordinance 02-094, as adopted in 2002, related to single-family to multi-family conversions. These changes will correct the inconsistencies that are currently found within Chapter 48 of the City Code (Zoning Code) with respect to these conversions.

The enclosed Findings support the Commission recommendations.

Should you have any questions regarding this matter, please do not hesitate to contact me.

cc: Cleon Cauley, Chief of Staff
Romain Alexander, City Council Chief of Staff
Maribel Seijo, City Clerk
Leonard Sophrin, Planning Director
Gwinneth Kaminsky, Planning Manager
James G. DiPinto, Zoning Manager
Michael P. Migliore, City Solicitor

FINDINGS SUPPORTING ENACTMENT OF ORDINANCE 14-030

CITY COUNCIL'S FINDINGS SUPPORTING ENACTMENT OF ORDINANCE 14-030, which provides for Zoning Code text amendments that constitute a housekeeping measure found necessary to correct inconsistencies within the Zoning Code as they relate to single-family to multi-family conversions, sponsored by City Council Member Samuel Prado, August 21, 2014.

The Council makes the following Findings regarding the Zoning Code amendment action in support of enactment of Ordinance 14-030, as set forth in the sections of Findings attached hereto and made a part hereof.

Chapter 48 Zoning Code Text Revisions:

Amendments to various sections of Chapter 48 to correct an existing inconsistency that was created when Substitute No. 1 to Ordinance 02-094 was adopted, in which all applications for the conversion of single-family dwellings to multi-family dwellings require the approval by the Zoning Board of Adjustment, and in which the changes were referenced as an amendment in an administrative section of Chapter 48, as Section 67 (f) and (g), but whereby the appropriate use provisions for the applicable zoning districts in which these uses are permitted were not amended accordingly to show the change from matter of right to special exception uses.

1. The proposed change to the Zoning Code is consistent with the original intent of Substitute No. 1 to Ordinance 02-094, which provided that all single- to multi-family conversions be approved by the Zoning Board of Adjustment and added Section 48-67 (f) and (g) to the administrative section of the Zoning Code for that purpose.
2. The relevant use provision ("permitted use") sections of the Zoning Code for the relevant zoning classifications were never amended in conjunction with the provisions of Substitute No. 1 to Ordinance 02-094, and accordingly do not reflect the amendments made by Section 48-67 (f) and (g), which resulted in an inconsistency between the various sections of the Code.
3. The Code does not currently reflect that Zoning Board of Adjustment approval is required and necessary when converting single-family dwellings, and in fact the Code still includes original language under the use provision sections that refers to these uses as matter of right uses, which is in conflict with Section 48-67 (f) and (g) of the Code, which states that these uses properly require Zoning Board of Adjustment approval.
4. The amendments afforded by Ordinance 14-030 do not change the intent of the original legislation, being Substitute No. 1 to Ordinance 02-094, but rather clarify the purpose and intent of that ordinance which is to require Zoning Board of Adjustment approval of all single- to multi-family conversions, and adds the necessary cross-references between the various provisions of the Code as they relate to the conditions for approval.

5. The Planning Commission, at their meeting held after a duly publicized public hearing, recommended by means of Resolution 5-14, the approval of Ordinance 14-030 to correct the inaccuracies and inconsistencies found in the language within the Code.

President Gregory: Your Ordinance.

Mr. Prado: Okay.

Mrs. Seijo: You present it now.

Mr. Prado: Do I have to....

President Gregory: There were Findings, right?

Mrs. Seijo: Yes.

President Gregory: So, you have to state your reason for your vote.

Mrs. Seijo: We have to present the Ordinance now in a formal matter.

President Gregory: Present the Ordinance.

Mr. Prado: Mr. President, I have an Ordinance to present and call for a third and final reading.

Mrs. Seijo: Thank you.

Mr. Prado presented and called for the third and final reading Ordinance No. 14-030 entitled:

AN ORDINANCE TO AMEND CHAPTER 48 OF THE WILMINGTON CITY CODE REGARDING MULTI-FAMILY CONVERSIONS

Mr. Prado: This is regarding the changes to the Code regarding multi-family dwellings.

President Gregory: And since there were Findings, you have to state why your voting the way you're voting. Okay.

Upon a motion of Mr. Prado, seconded by Ms. Walsh, the above aforementioned Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo (based on the findings), Darius Brown (based on the findings), Shabazz (based on the findings), Prado (based on the findings), Dorsey Walker (based on the findings), Williams (based on the findings), Freel (based on the findings), Michael Brown (based on the findings), Walsh (based on the findings) and Wright (based on the findings), and Council President Gregory (it's consistent with the

growth of that community and direction it is moving in). Total, eleven. Nays, none. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Ms. Dorsey Walker.

Ms. Dorsey Walker: Nothing tonight Mr. President. Thank you.

President Gregory: Mr. Williams.

Mr. Williams: No legislative business this evening. Thank you sir.

President Gregory: Mr. Freel.

Mr. Freel: Mr. President, I have one Resolution and one Ordinance for third and final.

Mr. Freel presented Resolution No. 14-040 (Agenda #3970) as follows:

WHEREAS, Ordinance No. 14-026, which proposes amendments to the Zoning Map by rezoning property comprising the former Wilmington Finishing Company, from C-6 to W-4 and R-2 zoning classifications, was introduced by City Council at its regular meeting of June 5, 2014; and

WHEREAS, pursuant to Wilm. C. '48-52, the City Planning Commission has 90 days (on or before September 3, 2014) to review and submit a report to the Mayor concerning that Ordinance; and

WHEREAS, City Council introduced a resolution on July 10, 2014 scheduling a public hearing for review of Ordinance No. 14-026, or a Substitute thereto, and the respective amendments to the Delaware Avenue/Bancroft Parkway Neighborhood Comprehensive Development Plan for September 18, 2014, at 6:30 p.m., to be duly advertised in conformity with Wilm. C. '48-51, by publication in any newspaper of general circulation, at least once, not less than fifteen (15) days prior to the date of the public hearing; and

WHEREAS, City Council believes it is necessary and desirable to extend the City Planning Commission's time for review by an additional 90 days and, as a result, cancel the previously scheduled public hearing; and

WHEREAS, Council believes it is necessary to advertise said cancellation by publication in any newspaper of general circulation, at least once, not less than fifteen (15) days prior to September 18, 2014.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that the time for review and submission of a report by the City Planning Commission on Ordinance No. 14-026 is hereby extended an additional 90 days to on or about December 2, 2014, and the public hearing for review of Ordinance No. 14-026, or a Substitute thereto, and the respective amendments to the Delaware Avenue/Bancroft Parkway Neighborhood Comprehensive Development Plan is hereby cancelled.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to publish notice of the cancelation of said public hearing in the manner and form required.

Mr. Freel: Yes Mr. President, this just extends my ninety-days, the period for the Planning Commission to review the rezoning of the Wilmington Finishing site.

President Gregory: Clerk, call the roll.

Upon a motion of Mr. Freel, seconded by Mr. Williams, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Darius Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, eleven. Nays, none. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Mr. Freel.

Mr. Freel: One additional, one Ordinance for third and final.

Mr. Freel presented and called for the third and final reading Ordinance No. 14-038 (Agenda #3963) entitled:

AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO
EXTEND CONTRACT PD05006 – PARKING VIOLATION
PROCESSING AND COLLECTION SYSTEM – WITH
XEROX STATE AND LOCAL SOLUTIONS

Mr. Freel: Yes Mr. President, as discussed at the Finance Committee this is a present contract. We're only extending for an additional six months to take us to the end of the year. In that six month period the Finance Department will be preparing a package to go out to bid for - - to re-bid this contract which then will start at the end of this year early next year and there's no additional cost by extending this six months.

President Gregory: Clerk, call the roll.

Upon a motion of Mr. Freel, seconded by Ms. Walsh, the above aforementioned Ordinance was read for the third and final time and was adopted by title and section recurring to the Enacting Clause and was passed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, ten. Nays, Council Member Darius Brown. Total, one. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Mr. Brown – Michael.

Mr. Michael Brown: Yes Mr. President, I have two Resolutions, two. Mr. President, I have a Resolution to present.

Mr. Michael Brown presented Resolution No. 14-041 (Agenda #3971) as follows:

WHEREAS, on April 9, 2014, the Court of Common Pleas for the State of Delaware (the “Court”) issued an Order directing that \$33,311.00 obtained through a seizure be forfeited to the Wilmington Police Department (“WPD”) and the United States Department of Agriculture; and

WHEREAS, the WPD’s share of the seizure funds, or \$16,655.50, is arguably considered a “special fund” for purposes of the annual operating budget; and

WHEREAS, Section 2-300(a)(7) of the City Charter, relating to the annual budget ordinance, requires that all “special funds” be approved by Council resolution prior to being appropriated or spent; and

WHEREAS, the WPD seeks to comply with the Court order; and

WHEREAS, out of an abundance of caution, because it is not clear that the seized funds would qualify as “special funds” for purposes of the annual budget, the WPD seeks approval by way of this resolution; and

WHEREAS, the Council deems it necessary and proper to authorize the WPD to comply with the Court order and accept the seized funds in the amount of \$16,655.50.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that the WPD is hereby authorized to receive and spend the seized funds, in the amount of \$16,655.50, which was ordered by the Court to be forfeited to the WPD.

Mr. Michael Brown: Yes Mr. President, this Resolution and this money is part of a seizure and so this Resolution authorizes the Wilmington Police Department to receive and spend \$16,655.50 that was obtained through a seizure and directed by the Courts ordered to for forfeit to the Wilmington Police Department as discussed in Public Safety/Finance joint meeting yesterday.

President Gregory: Clerk will call the roll.

Upon a motion of Mr. Michael Brown, seconded by Mr. Williams, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Shabazz, Prado, Dorsey Walker, Williams, Freil, Michael Brown, Walsh and Wright, and Council President Gregory. Total, ten. Nays, Council Member Darius Brown. Total, one. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Mr. Brown.

Mr. Michael Brown: Yes Mr. President, I have another Resolution to present.

Mr. Michael Brown presented Resolution No. 14-042 (Agenda #3972) as follows:

WHEREAS, by its Ordinance No. 97-051, amending Section 2-363 of the City Code, the Council deemed it necessary and proper to specify the requirements for review and approval of City-sponsored grant applications and proposals, including a requirement for Council approval by resolution, and including authorization for expedited grant applications in any situation in which a City office or department is required to file an application or proposal for grant funds prior to the next regular meeting of Council, in which case the application may be submitted to Council for its approval and ratification subsequent to its submission to the issuing agency; and

WHEREAS, the City, through the Wilmington Police Department, has sought to obtain grant funding from the State of Delaware Special Law Enforcement Assistance Fund ("S.L.E.A.F.") in the amount of \$100,200.00; and

WHEREAS, the said grants will provide funding for Forensic Optical Comparison Equipment, Lifepak 15 External Defibrillator, Forensics Fuming Chamber, Fatal Accident Investigation Equipment, Explosives for EOD Unit, and K9 Training; and

WHEREAS, the said grants do not require a local match; and

WHEREAS, in order to qualify for the grant and receive the funding, the application for said grant had to be submitted in advance of City Council approval by resolution; and

WHEREAS, the Council deems it necessary and proper to authorize the Wilmington Police Department to accept the grants from the State of Delaware S.L.E.A.F. for \$100,200.00 for the aforesaid purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Wilmington Police Department is hereby authorized to accept grant funding from the State of Delaware S.L.E.A.F. in the amount of one hundred thousand, two hundred dollars (\$100,200.00).

Mr. Michael Brown: Yes Mr. President, as discussed at the Public Safety joint Finance Committee meeting the other day, this is a grant from the S.L.E.A.F. project that totals \$100,200.00 and it's for five projects - - five grants for the Wilmington Police Department, which totals that amount of money. One is for the Forensic Optical Comparison Equipment, Lifepak 15 External Defibrillators monitors, Forensic Fuming Chamber, Fatality Accident Investigation Equipment and Explosives for EOD Unit, and K-9 unit. It all totals \$100,200.00 as discussed in the joint Finance/Public Safety meeting.

President Gregory: Clerk will call the roll.

Upon a motion of Mr. Michael Brown, seconded by Mr. Williams, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Congo, Darius Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, Michael Brown, Walsh and Wright, and Council President Gregory. Total, eleven. Nays, none. Absent, Council Members Chukwuocha and Cabrera. Total, two.

President Gregory: Declare it adopted. Petitions and communications, Mr. Congo.

Ms. Walsh: Excuse me Mr. President.

President Gregory: I'm sorry. Ms. Cabrera, Ms. Walsh and Mr. Wright.

Ms. Walsh: Oh thanks. I don't have any legislation. Thank you.

President Gregory: Okay.

Mr. Wright: Nothing tonight Mr. President. Thank you.

President Gregory: Okay. Petitions and communication.

PETITIONS AND COMMUNICATIONS

Council Members announced committee meetings, civic association meetings and community events/programs in their districts. Council Members spoke about the following matters: the start of school and the need of traffic safety cautiousness of students and school buses; Happy birthday wishes were expressed and including but not limited to sympathies were expressed.

Council Member Shabazz made the following formal statement:

Pursuant to Council Rule No. 9, I hereby give notice that at the next City Council meeting (August 28th), I will be introducing an ordinance to repeal a previous ordinance (#12-028). That Ordinance amended Chapter 3 of the City Code regarding ***"The Keeping of Livestock at Inspection or Resting Facilities within the City Limits"***.

Council Member Walsh requested a letter be sent to Wilmington Police Department to provide an update as to the camera equipment to be installed in police vehicles.

President Gregory mentioned a new program called WETV and suggested that folks tune in to review.

ADJOURNMENT

Upon a motion of Mr. Wright, seconded by Mr. Freel/Ms. Walsh, Council adjourned at 7:26 p.m. Motion prevailed.

Attest: Maribel Seijo
Maribel Seijo, City Clerk