

**CITY OF NEWARK
DELAWARE
PLANNING COMMISSION
MEETING**

March 2, 2010

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present: Ralph Begleiter
Patricia Brill
Angela Dressel
Mary Lou McDowell
Kass Sheedy

Commissioners Absent: Peggy Brown

Staff Present: Roy H. Lopata, Planning and Development Director
David Athey, Councilman, District 4

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE FEBRUARY 2, 2010 PLANNING COMMISSION MEETING.

MOTION BY DRESSEL, SECONDED BY SHEEDY, THE MINUTES OF THE FEBRUARY 2, 2010 PLANNING COMMISSION MEETING ARE APPROVED AS RECEIVED. THE MOTION PASSED UNANIMOUSLY.

[Secretary's note: Chairman Bowman asked that Item #3 of the agenda be heard first on recommendation from members of the Commission as Item #2 may take a considerable amount of time to review. The agenda order was reversed by approval of the Commission].

3. REVIEW AND CONSIDERATION OF ADDING CONTINENTAL AVENUE TO THE ROADWAYS EXEMPT FROM THE STUDENT HOME ORDINANCE.

Mr. Lopata summarized his report to the Commission which reads as follows:

"The Planning and Development Department has received the attached letter and supporting petitions regarding a request that the Zoning Code Student Home Ordinance's list of "exempt" streets be amended to include Continental Avenue. The attached tax parcel map shows the properties that front on Continental Avenue for which the Code Enforcement Division of the Department has issued rental permits.

If the Student Home Ordinance list of exempt streets is amended to include Continental Avenue, single family detached dwellings on this roadway could be rented to up to four students; without this Zoning Code change no more than two students can occupy such dwellings (other than those that were "grandfathered," with additional student tenants prior to the adoption of the Student Home Ordinance).

Recommendation

The Planning Department suggests that following its review of this request and its consideration of public comment, the Planning Commission make a recommendation to

City Council on this matter. If this Commission wishes to recommend in favor of including Continental Avenue as an exempt street from the Student Home Ordinance, the Commission should **recommend that City Council amend Zoning Code Section 32-4(a), Definitions, subsection 123.1 Student Home, by adding the words, “Continental Avenue.”**

Mr. Lopata: We also received a petition from several of the property owners. The initiator of the petition is here. I am sure he will be glad to answer any questions, if you have any.

Mr. Brian Leshar: 217 Vassar Drive, owner of 29 Continental Avenue. I come before you for support of a recommendation to City Council to add Continental Avenue to the exempt street list of the Student Home Ordinance. Currently Continental Avenue is zoned RM which allows for four unrelated tenants which of two can be students. Approval of adding Continental Avenue to the exempt street list would allow for me and owners alike to rent to four students. In this process, I have petitioned all property owners on Continental Avenue and all the petitions I have received back have been in support of adding Continental Avenue to the exempt street list. 11 of the 15 property owners on Continental Avenue currently do have rental permits. The surrounding area is very geared toward University students including the apartments at University Commons, Continental Court Apartments and University Courtyard and many other homes on Chapel Street, Haines Street and the surrounding area. If you have any questions, I will try to answer them.

Mr. Bowman: Are there any members of the Commission who have questions for Roy or Mr. Leshar? Hearing none, I have one written request to speak to this issue.

Ms. Mary Ellen Green: 22 Continental Avenue. I have also been asked by Robert Grundy, who lives at 22 ½ Continental Avenue to represent him, and I serve as Executive Director of Homeward Bound, which is at 34 Continental Avenue. We are all in favor of this change.

Mr. Bowman: Are there any other folks in the audience who wish to address this issue? Seeing none, we will bring this item back to the table for any further discussion.

Ms. Angela Dressel: I drove around the area and it is right there in and among all the student housing so it makes sense to me to approve this change.

Mr. Bowman: Are there any other comments? The Chair will entertain a motion.

MOTION BY DRESSEL, SECONDED BY MCDOWELL, THAT THE PLANNING COMMISSION RECOMMEND TO CITY COUNCIL TO AMEND THE ZONING CODE SECTION 32-4(A), DEFINITIONS, SUBSECTION 123.1 STUDENT HOME, BY ADDING THE WORDS, “CONTINENTAL AVENUE.”

VOTE: 6-0
AYE: BEGLEITER, BOWMAN, BRILL, DRESSEL, McDOWELL, SHEEDY
NAY: NONE
ABSENT: BROWN

MOTION PASSED UNANIMOUSLY

2. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION AND A PARKING WAIVER FOR A PROPOSED BARNES AND NOBLE BOOK STORE AT THE 1.73 ACRE PROPERTIES AT 83 AND 87 E. MAIN STREET; 78 E. DELAWARE AVENUE; AND 16, 20, 22 AND 26 ACADEMY STREET.

Mr. Ralph Begleiter: Mr. Chairman, may I ask to make a statement before we proceed with this item?

Mr. Chairman, I want to note for the record that I am a fulltime employee of the University of Delaware. My entire financial livelihood is earned through the University of Delaware. There are many University employees who interact on a daily basis with the City government. In this case, I am obviously a member of this Commission and have an official responsibility in that regard. There are many more Newarkers who depend for their livelihoods on the University even though they are not direct employees of the University, including all of those along Main Street whose businesses and rental apartment businesses, and so on, are dependent on the University.

My understanding is that the University is not required to submit this proposal to City review but is doing so voluntarily. I do not believe that there is any actual or perceived conflict of interest in my participation in this matter and my record on the Commission has been crystal clear for several years, so I don't think there is any mystery about my behavior on the Commission or any participation of that sort. But, if any citizen or member of the Commission, or you Mr. Chairman, or if the Planning and Development Director feels that I would be in a conflict of interest situation, I would be happy to recuse myself from this consideration. I don't feel the need to do so unless someone feels that there is a conflict.

Mr. Bowman: Thank you, Ralph. I think this matter has been discussed with the City Attorney, has it not?

Mr. Lopata: The City Attorney has looked into this both in Ralph's case and Kass Sheedy's case who also is a part-time employee at the University of Delaware, and he has opined that the fact that their income is not even remotely related to the approval or disapproval of this project, that is, they have no financial gain from the project and, therefore, they do not have a conflict, but they should disclose their employment. Ralph has already done so.

Ms. Kass Sheedy: I am a part-time employee of the University of Delaware. As Roy said, the City Solicitor has looked at the matter and sees no conflict of interest. As a part-time employee, my income from the University is not the major portion of my income and I don't feel any impediment to my being objective about the situation.

Mr. Lopata summarized his report to the Planning Commission which reads as follows:

"On December 30, 2009, the Planning and Development Department received applications from the University of Delaware for the major subdivision and a parking waiver for the properties at 83 E. Main Street [parcel # 18-020.00-055]; 87 E. Main Street [parcel # 18-020.00-054]; 78 E. Delaware Avenue [parcel # 18.020.00-073]; and 16, 20, 22, and 26 Academy Street [parcels # 18.020.00-051, 050 and 049]. The applicants are requesting development approval to demolish the existing buildings at 87 E. Main Street, the rear portion of the building at 83 E. Main Street and the building at 78 E. Delaware Avenue, in order to replace these facilities with an approximately 60,000 sq. ft. Barnes and Noble bookstore. The existing tax parcels will be combined into one property through this process. While the site will continue to be owned by the University of Delaware, because of the project's commercial nature the development will be subject to all applicable Municipal Code regulations.

Please see the attached Apex Engineering, Inc., major subdivision and parking waiver plan, property description, attorney's letter regarding the proposed parking waiver, and building elevation drawings.

The Planning and Development Department's report on the Barnes and Noble project follows:

Property Description and Related Data

1. Location:

83 and 87 E. Main Street; 78 E. Delaware Avenue, and 16-26 Academy Street.

2. Size:

1.73 Acres

3. Existing Land Use:

The old and now owned by the University of Delaware one and one half story Christina School District (previously the Newark School District Main Office) building is located at 83 E. Main Street with associated parking to the rear, running to E. Delaware Avenue. As the “Newark School District” building (the front brick portion of the existing structure) this facility is included on the City’s and the National Register of Historic Properties list of historic buildings. A three and two-story “L” shaped building is located at 87 E. Main Street with a small parking area on Academy Street. The remaining Academy Street parcels are also used for parking. Finally, the site also contains a one-story building at 78 E. Delaware Avenue. The parking lot at the rear of 83 E. Main Street is currently being leased to the City for monthly permit parking.

4. Physical Condition of the Site:

The Barnes and Noble property is a developed site containing three commercial office type buildings with “footprints” ranging in size from about 3,700 to 13,000 sq. ft. Several paved surface parking lots occupy the remainder of the site, except for a small grassy lawn in front of the old Christina School District building on E. Main Street.

In terms of topography, the site is quite level with an almost imperceptible slope from north to south from high points on E. Main Street.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the Barnes and Noble site consists of Matapeake Sassafras Urban Land Complex soil. The Natural Resources Conservation Service indicates that this is a disturbed soil that has been used for development purposes; no development limitations for the use proposed are indicated.

5. Planning and Zoning:

The Barnes and Noble properties are zoned BB. BB zoning permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

BB also permits, with a Council granted Special Use Permit, the following:

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb service for other than eating establishments.

- C. Fast-food restaurants with special requirements.
- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

Regarding BB zoning area requirements, except for off-street parking, loading berths, building height and side yard requirements, the Barnes and Noble plan meets all the applicable Zoning Code specifications. Concerning loading berths, building height and side yard, the applicant has applied for and received the required variances. Based on the applicant's submittal, the Barnes and Noble plan will normally require 247 parking spaces [not 237 spaces, as noted in the applicant's attorney's letter]; because the plan shows 40 off-street spaces, a 207 space parking waiver is required.

Regarding nearby properties, the Newark Opera House mixed use (commercial and residential) property is zoned BB and is located immediately east of the Barnes and Noble site fronting on E. Main Street and adjoining Academy Street. The BB zoned Charlie B. Travel's commercial building and parking area is located west of the site, also on E. Main Street. The BB zoned Aetna Hose Hook and Ladder Company small accessory building and the "skid road" set of attached rental row homes are located east of the southern portion of the Barnes and Noble property fronting on Academy Street. The BB zoned University owned Academy Building parking lot lies further east of the site, across Academy Street. UN zoned University of Delaware properties lie south of the site across E. Delaware Avenue. The Newark United Methodist Church's parking area and children's playground is located immediately west of the southern portion of the site.

Regarding comprehensive planning, Comprehensive Development Plan IV calls for "commercial (pedestrian oriented)" uses at the Barnes and Noble location. The Plan defines "commercial (pedestrian oriented)" as:

"Shopping and commercial uses of all types including retail facilities for buying and selling of goods and services, as well as administrative and professional offices, personal service establishments, eating establishments, and shopping centers typically included in central business districts with customers, to a lesser extent, relying on the automobile to patronize these businesses."

BB District Off-Street Parking and Option Procedure

Please note, in this regard, that the BB district off-street parking waiver program, adopted by the City to encourage quality pedestrian oriented development downtown stipulates that the Planning Commission can reduce or waive the off-street parking standards in Zoning Code Section 32-45(a) after considering the following:

- A. Whether the applicant has demonstrated the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City;
- B. Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character of the development pattern of the central business district;

- C. Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business;
- D. That the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property improvements in the vicinity;
- E. The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet) that may be shared by the applicant and an existing or proposed use. In considering this subsection the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the City, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve;
- F. The Planning Commission shall consider the advice and recommendation of the Planning Director.

Please note also that the BB zoning parking waiver procedure permits City Council to review, modify, or deny Planning Commission approval, disapproval, or approval with conditions upon the recommendation of a member of City Council, the Planning and Development Director and/or the City Manager.

Also regarding the requested parking waiver, our procedure specifies that applicants receiving such approvals must make a “payment in lieu of spaces” to the City used to improve parking downtown. The required payment, based on the most recently updated estimate of the cost of construction of surface level parking spaces provided by the Public Works Department (\$5,833 per space) is as follows:

Number of Spaces	Payment Required
Five (5)	\$ 1,458.25 (5% of cost)
Six to Twenty-five (25)	\$ 72,912.50 (up to 50% of cost)
Each Space over Twenty-five (177)	<u>\$1,032,441.00</u> (up to 100% of cost)
TOTAL:	\$1,106,811.75

The fee shown is the maximum authorized under the City’s Zoning Code BB District off-street parking and option procedure. Comments regarding this “payment in lieu of spaces” appear below under Subdivision Advisory Committee.

Status of the Site Design

Please note that at this stage in the Newark subdivision and review process for projects fronting on Main Street, applicants are required to show the general site design and architectural character of the project. For the site design, specific details taking into account topographical and other project features must be included in the construction improvement plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting and related exterior features; and, in addition, contextual color scale elevations showing the front Main Street facades of all buildings immediately adjacent to the property. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan must be referred back to City Council for further review and approval. That is, initial Council subdivision plan approval means that the general site concept and the more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision parameters, to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision plan and agreement for the project.

Be that as it may, as you can see from the subdivision plan, building elevations and supporting materials, the proposed Barnes and Noble will consist of a somewhat T shaped building with varying heights extending from the rear of the historic portion of the old Newark School District building toward E. Delaware Avenue with “bottom” segment of the “T” running to Academy Street. The connection to the larger portion of the building from the rear of the Christina School District building will be one story with the remainder of the property reaching three stories (63 feet in height), except for a 79 foot high stair and elevator tower proposed near Academy Street. A 40 space parking area is shown to the rear of the building off E. Delaware Avenue. An outdoor courtyard, with plantings and related site amenities, is proposed to be located between the School District building and the Newark Opera House building fronting on E. Main Street and then turning toward the east, reaching Academy Street.

To evaluate the proposed architectural design, the Planning Commission may wish to consult the design review criteria in Municipal Code Chapter 27, Subdivision and Development Regulations Appendix XIII(d).

Please note, in this regard, that on a voluntary basis, the applicant will review the proposed building elevation drawings with the Downtown Newark Partnership’s Design Committee at the Committee’s monthly meeting on March 2nd. Any available comments from that meeting will be provided at the Commission’s public hearing.

Traffic and Transportation

At the request of the City, the Delaware Department of Transportation (DelDOT) is reviewing materials provided by the applicant concerning the traffic expected to be generated from the site. DelDOT’s final comments on this plan will be required as part of City Council’s review of the Barnes and Noble major subdivision.

Subdivision Advisory Committee

The City Subdivision Advisory Committee – consisting of the management, planning and operating departments – has reviewed the Barnes and Noble major subdivision and parking waiver plan and has the comments provided below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

1. The Planning and Development Department believes that the University of Delaware Barnes and Noble facility corresponds to the land use guidelines for downtown redevelopment at this location as described in Comprehensive Development Plan IV. In this regard, we believe that the proposed retail use will help support Newark’s downtown and regional economy.
2. The Planning and Development Department is also very pleased that the University will retain and preserve the historic School District building as part of the Barnes and Noble project.
3. Regarding the substantial parking waiver, the Planning and Development Department believes that because of the nature of the Barnes and Noble business and its proposed location in close proximity to the University campus and other downtown businesses and residents, the facility will primarily serve a pedestrian clientele. On the other hand, in light of the size of the proposed parking waiver, and as per the stipulations in Zoning Code Section 32-45(b)(9)b, we suggest that the proposed onsite parking area should be dedicated to the City to be used and operated as a public parking facility. The applicant should also be required to install the appropriate facilities to operate the lot. The details of this land dedication and its operation as a municipal parking lot, will need to be finalized through the subdivision process. In addition, University of Delaware property currently leased by the City for portions of Municipal Parking Lot #1 (fronting on E. Delaware Avenue) should also be donated to the City. In light of our suggestion to have these lands dedicated to the City, the substantial parking waiver fee that would otherwise be required should be waived.

4. The Planning and Development Department also notes that community concerns may be raised regarding the architecture style proposed for the Barnes and Noble. We believe that the University here is not continuing its longstanding and proud tradition of building new facilities that complement and harmonize with existing buildings on and off campus. On the other hand, the Planning and Development Department notes that the subjective consideration of proposed architecture should be a community responsibility as reflected through the recommendations of the Planning Commission and final consideration by City Council. The Planning and Development Department adds, however, regarding site design that the Planning Commission should include the following conditions:
 - A. The final approved architectural design for the façade of the building should be carried out on all new elevations visible from public ways.
 - B. Storage areas mechanical and all utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the approved architectural design.
5. The Public Works Department indicates the following:
 - Stormwater management plans will need to be finalized prior to the proposal's review by City Council. In particular the site will have to be evaluated for stormwater quantity management and the impact on existing drainage systems. Stormwater quality management also will be required for the entire site.
 - Refuse collection and loading dock facilities will need to be revised and approved prior to the plan's review by City Council; the current design would require that vehicles back in or out at the site onto E. Delaware Avenue.
6. The Electric Department indicates the following:
 - Electric service is available from Main Street; any tenants will be individually metered.
 - The applicant will be required to pay for any electric utility relocations or removals. An open utility easement is required and should be shown on the subdivision plan prior to its review by City Council.
 - No trees growing over 18 ft. at maturity can be planted under existing aerial lines on E. Main Street and E. Delaware Avenue.
 - The applicant will be required to pay \$350 per radio read meter as well as being required to pay for the cost of the pad mounted transformer. This cost will be determined when the electric load information is finalized.
7. The Code Enforcement Division indicates the following:
 - The existing building must be renovated and new construction built in accordance with the International Building Code.
 - All new construction at the site will be required to be sprinklered.
 - Written permission will be required through the building permit process from adjoining property owners granting access to their properties (if necessary) for demolition and construction purposes during the duration of the project.
 - All construction plans must meet City Fire Code requirements.

8. The Water and Wastewater Department indicates that water and sanitary sewer service can continue to be made available to the site.
9. The Police Department has expressed concerns regarding the size of the proposed parking waiver and its impact on downtown parking. The Department is also concerned about the proposed access to the site at E. Delaware Avenue because of its proximity to the E. Delaware Avenue and Academy Street intersection.
10. The Parks and Recreation Department notes that prior to its review by City Council the applicant should review with the Department proposed landscaping for the site.

Recommendation

Because the proposed Barnes and Noble project, with all the Subdivision Advisory Committee recommended conditions, will not have a negative impact on nearby and adjacent properties, because the project corresponds to the land use recommendations in **Comprehensive Development Plan IV**, because the project will preserve the existing historic old School District building, because the proposed use conforms to the commercial development pattern in the immediate area, and because the proposed land donation of the portion of the site currently leased to the City, as well as the lands leased to the City in Parking Lot #1, will help improve downtown parking, the Planning and Development Department suggests the following:

- A. That the Planning Commission approve the Barnes and Noble parking waiver, with the condition that the proposed on-site E. Delaware Avenue parking facility, with to be installed operating facilities, and the lands currently leased by the City from the University in Municipal Parking Lot #1, be dedicated to the City upon issuance of the first certificate of occupancy at the site; and,**
- B. That the Planning Commission recommends that City Council, with the conditions in this report, approve the Barnes and Noble major subdivision plan, as shown on the Apex Engineering plan, dated January 20, 2010.”**

Mr. Bowman: Unless there are any real pressing questions from the Commission right now, why don't we let the University make their presentation and then we can go ahead and ask questions of both Roy and representatives from the University.

Mr. Bill Manning: I am with the firm of Saul Ewing and I represent the University of Delaware. I have Andy Lubin here with me who is responsible for the project; Steve Davies of Apex Engineering, the civil engineers on the project and Mark Sanderson from DIGSAU, who is the architect.

As a preliminary matter, I should note that we have been before the Board of Adjustment. This is a voluntary process by the University and we have subjected ourselves voluntarily to the City's process. We have been to the Board of Adjustment for variances regarding setbacks, variances regarding the number of loading docks, and variances regarding the height of this structure. All of those variances were granted. In addition, this project has been reviewed as recently as this morning by the City's Design Review Committee which has recommended favorably.

A minute ago, Roy said in his report that the Planning Department didn't think that the design complemented and harmonized with other buildings in the area, including those owned by the University. And, I think, sorry to say, the Design Review Committee came to a different conclusion. Let me explain why. It is our fault. Roy, I don't think, has seen the presentation that you are about to see tonight. The Design Review Committee saw it this morning. We circulated an elevation or two earlier in the interest of informing people as quickly as we could about the design was being developed. It turns out that we didn't do ourselves any favor because you get no sense of perspective in looking at those elevations. So, tonight you are going to see a PowerPoint presentation that I will say the Planning and Development Department has not seen, and I would hope that the Planning and Development Department will change its view. Let me simply

quote the Chairman of the Design Review Committee in his report to the City from today's meeting. At the end he says, "The Committee applauds the design team and welcomes the unique creative design that will add to the architectural diversity of the downtown district and create an inviting pedestrian oriented public space." We think it is an exciting public space and without further comment, let me turn to Mark Sanderson who will walk us through it.

Mr. Mark Sanderson: I am with DIGSAU. We are the design team for the project for the University. What we have tonight is a PowerPoint presentation which runs through the design concept from the start. There are some initial sketches which don't entirely match with the current design, but what we wanted to do, I think, communicate pieces of the design from the perspective of the initial thinking on the project.

As described by Roy, the site here is by Main Street, Academy, and then at the bottom, Delaware Avenue. This particular highlighted shows the actual site and the portions of the buildings that would remain, which is the original Christina Education building, along with the annex portion that was added, I believe, in the 1960s. As you can see, the site is an irregular site. None of the corners are actually part of this site so that contributes to some of the unique qualities of the site conditions and the way it meets the street.

Highlighted here in red are the areas of the building that are proposed for demolition along Main Street adjacent and attached to the Opera House, the back of the historic building there.

This particular diagram here highlights four historic buildings that have an immediate impact, in our view, on the site. Certainly the Christina building, which the proposed project attaches to, the Opera House which marks the corner of the site and across the street is the Academy building and to the south is the Fire House. Each of those buildings has a unique impact on the site. In our mind, the strong drive is the development of that public space which was spoken about before where above here you would have Main Street and access to this plaza, which has three of those buildings fronting it with the Fire House operating on the south side.

This was a very early sketch in the process, but one that I think captures the ideas of the project which is to allow the historic element in the historic building operate independently, in a way, and in a traditional sense to the way it has for a long time to Main Street but at the same time opening up access to a courtyard, which would be a public amenity and act as a nexus between Academy Street and Main Street.

Here what we have blown up is the courtyard space which shows the grass areas along Main Street with the café inhabiting the historic element, outdoor seating, and a path through the site alongside the Opera House.

The main entry into the bookstore and café would be connected internally, but the main entry to the bookstore would have a viewpoint from Main Street. This particular portion of the building would be somewhere in the neighborhood of 175 feet back from Main Street. The historic element really operates as the main façade along Main Street. And, this particular portion of the building is a backdrop. The tower element here that you see would be the entry to University academic space which would be on the third floor of the building. Academy Street would also have an entry which comes into a shared vestibule for the building. You can see how the access points from the two main portions would meet on the interior of the building.

This is an updated elevation. What we have felt all along is that these elevations are best seen as diagrams and material diagrams. There is a great deal of variation in setbacks with the buildings which the floor model best demonstrates. The point being is that that back portion of the building is really set back in such a way that it is not a main participant on Main Street.

The entry into this courtyard space, we think, could be a very lush and great pedestrian entry sequence with potentially outdoor seating. The elevation of the Christina Building is quite a bit higher than the entry over on Academy Street in the

neighborhood of seven feet. So that allows for some really interesting site developments in terms of creating outdoor space that would be a great public amenity.

I think what you are seeing here is the edge of the Opera House. We are not exactly sure what that building is going to reveal. So, we are hopeful that there will be some brick there. If not, it might be some stucco or something that would patch it and provide a nice façade. Of course, the east side of the Christina Building would be restored.

Academy Street – this is an early diagram that shows massing which is not entirely in line with the current massing of the building, but, I think, gives you that perspective from Academy looking back towards Main Street. Again, the facades operate well as a diagram in that this portion of the building right here is presenting itself on Academy Street where as with the tower, the link in the back here, the Christina Building, this portion of building and they are all set back quite a bit. I think one of the things that become important elements in terms of the scale is matching the context of the street. In our mind, this is certainly and obvious, I think, to everyone here, is not trying to match in terms of its materials and exact detailing the adjacent buildings, but the massing and scale lines here you can see where the cornice of the Opera House has an impact on the building adjacent to it. And, these two begin to have a conversation in that entry sequence into the courtyard.

Again, more details in terms of the dormers and the scale of the windows on the proposed building. I think one of the more challenging parts of the project has been the existing Fire House which is of a scale, as you can see, at adjacent to the Opera House, is actually much, much smaller than many of the buildings on Main Street and certainly smaller than the one that is being proposed for the site. One of the ways that we are trying to bring the scale of the building into this new structure is through the massing that is adjacent right to it, the cornice height that we spoke about before, and all of these elements working in concert with each other to have a dialogue with the context to bring subtle scale elements such as a low 30 inch seat wall along the street.

Moving back into the courtyard, this is a view looking back from Academy Street towards the Christina Building and how that courtyard, again, might be inhabited and populated with vegetation and seat-walls.

Moving forward to what this building might be like at night, we think that it will be a very lively lantern-like building with courtyard space that could accept evening guests or pedestrians and a view into the store – one that really allows the retail experience and liveliness on the street to take hold.

Moving on to Delaware Avenue -- the façade here is pushed quite a bit back from the street beyond the parking area. The rendering here shows how that might look.

The final image is an aerial that shows each of the parts and how they operate with each other with the courtyard space really being the main focal point and the historic buildings with the Christina Building, the Opera House, the Fire House and then across the street, the Academy Building having the coloration and in our mind being the main participants and the darker tones, the charcoal and grey tones of the building. The two primary materials of the building would be a brick that would be of a slate tone, a silvery gray that would pick up flashes of light and have a nice variation to it, a warm gray and a metal siding which would pick up the tones of the slate adjacent buildings. That is a siding that would have a strong texture to it in order to bring some shadow lines and some variations to the surface.

Mr. Manning: Every time you saw an exhibit that said elevation, I was reminded that they are good for some things but they don't really show what you are seeing right now which is a sense of depth and proportion. We think this full explanation of the project is one of the reasons that the Design Review Committee was excited by it and decided that it will not detract but will add to the architecture and the aesthetics of Main Street.

Let me speak to some of the issues that have been raise in the process, and I also want to talk a minute about the parking waiver that we have requested. There has been –

and this visual does not show it – a question about truck access to the parking dock in back. As currently designed – and I use that guardedly and I will explain why – a truck would be required to either back in or back out of that driveway leading to the loading dock. (The driveway on the left is the driveway I am talking about). There isn't room to turn a large delivery truck around in that space. We have talked to DelDOT about that. We will have, at a minimum, a flag person assisting the driver either backing in or backing out of that location. At the same time, even the flag person will not be helpful at peak hours. We are going to talk to NPD because there has been some confusion in conversations with the Planning and Development Department and others familiar with traffic along Delaware Avenue about what peak hours are. So, we are going to go to the source and we are going to find out from NPD what the peak hours are. The fortunate thing is that deliveries to the Barnes and Noble store will come from one place. Deliveries come into a regional warehouse and then they all go out bound for their stores with the various things that the store needs. Relatively few deliveries come from other vendors. I say that is fortunate because that gives Barnes and Noble more control than the usual retail outlet would have about when deliveries are made. So, we have some opportunity to control the timing of the deliveries, and we will do that as well. As I say, we have been talking to DelDOT about this.

There is an alternative. There is a way to avoid backing in or backing out of that driveway (the driveway on the left). The key to this visual right here, rather than this truck either backing in or pulling in front ways and then backing out, it is possible to have this truck pull over onto the property horizontal and parallel with Delaware Avenue and then back into this driveway. That is possible. It will cost six parking spaces and so these are the design trade-offs we have the wrestle with. One way or the other we will resolve to the maximum extent possible the safety issues and traffic congestion issues associated with deliveries. The easiest way to do that is to make sure they don't have them at busy hours.

Your Code calls for a particular number of parking spaces per square feet of retail space. The ordinary retail establishment of this size would call for 240 spaces. Before I respond to the Planning and Development Department's recommendation, I want to first state that we don't believe that this is anything approaching an ordinary retail facility, and here is why. The clientele typically don't drive. DelDOT has asked the same questions that many others have asked about parking spaces, and trips generated by this facility. Apex Engineers has responded to DelDOT's questions and I am picking some of the facts out of Apex's letter. Over 80% of the sales done by this facility will be bookstore sales, the same sales that are going on in Perkins Hall, and those sales are made to students who walk there. We don't see that anything will change with respect to that segment of the clientele. In fact, we believe that a certain amount of volume done by this entire facility will be taken up with the café sales – something in the order of 5%. When you get to estimating something that hasn't yet happened, that is as good an estimate as you can come up with. We believe that that clientele as well will largely be composed of pedestrians strolling up and down Main Street. Coffee shops are not destinations that draw vehicular traffic. They draw passer by traffic. So, that leaves something in the order of 10%, give or take, of sales that don't occur now in the Perkins Student Center. This is not as if this were a retail establishment that sold something that had nothing to do with existing volume done by the University at the existing bookstore. If I put a new clothier on Main Street, that would be additive traffic. This isn't. We think that the parking requirements for this facility will be a fraction of that which the Code suggests for a retail establishment.

I don't know if I said this earlier, this building will house not only the Barnes and Noble bookstore and café area, but it will also house about 18,000 square feet of administrative space that will be used by the University. Those people have parking spaces now and they can park where they park now. We don't believe that they add to the parking needs at this site.

Apex has calculated the retail customer parking need to be at peak hour 21 parking spaces continuously. Roy, I think you said 40, but this has 39 and it could be 33 if we have to switch to this solution to the access to the loading dock. But, all of those numbers are sufficient, we believe.

Having said all that, the City has suggested that in lieu of fees, which we don't think the University should pay anyway because this won't attract that many parking vehicles, that the University should in lieu of those fees dedicate the parking lot that will be associated with this facility. In other words, the 39 spaces or 33 depending on how we get to the loading dock, as well as a quarter of an acre that is part of the Municipal parking lot behind the Galleria -- we will do that. Roy, do we record that in a subdivision agreement?

Mr. Lopata: Yes.

Mr. Manning: I am told that the City is ready to show us a draft of the subdivision agreement and, so subject to the definitive agreement -- and I don't anticipate any difficulty -- the University will meet the recommendation from the Planning and Development Department. For both those reasons, we think the parking waiver that has been requested is justified.

I will be happy to take your questions. I understand that there may be folks who chose to speak against the project. I would like the opportunity to respond to things I hear. I promise I will not be repetitive.

Mr. Bowman: Do the members of the Commission have questions for the Planning and Development Department or the presenters?

Mr. Begleiter: Bill, let me just pick up on something you said at the end. You said that those employees, and you were referring to the University of Delaware employees who would occupy the office space on the third floor of the building, can park where they park now. I think that is an accurate quote.

Mr. Manning: That is true.

Mr. Begleiter: Are you saying that none of the University of Delaware employees who work in the perspective future space will be parking adjacent to the building.

Mr. Manning: That is correct. Now, if Roy's recommendation is met, it is going to be a City owned lot and we will not have any control over who goes in it. But, that said, the University will advise its employees to continue to park where they are parking now.

Mr. Begleiter: And, there will be no service vehicle parking spaces set aside in any of the lots adjacent to this property or on this property?

Mr. Manning: No. I should also point out, right across Academy Street from, what I will call the new lot, there is a lot with 67 spaces. The current parking lot over by the University, those spaces are available to the patrons of the bookstore as well. I should also add, for the record, everybody here knows that the University has spent a lot of money building structured parking in the Main Street area. I think it is done a lot to mitigate the parking problems. It hasn't solved it. It has mitigated it and I think that in considering this request for a waiver, that mitigation is considered appropriate. I don't know of anyone else who would stand before you as an applicant that can say it spent millions of dollars on structured parking in areas not far from this location and then, at least for its own community, provides a bus to circulate them to destinations throughout town, like this one. That is parking mitigation.

Mr. Begleiter: A related question -- I presume there will be some non-University employees who, perhaps, are employed by the bookstore. Where will they park? They will have to find someplace else to park as well or will there be any reserve spaces for them?

Mr. Manning: Once again, the answer is no, not onsite. Subject to the fact that this is going to be a parking lot open to the public and we won't be able to control who goes in there.

Mr. Lopata: Our intent, assuming this goes forward and is approved as we are proposing, this would be another parking lot much like Lot #1 or #3 or #4 -- a regular customer type

lot for hourly parking. This lot would serve the whole community without any designated spaces for anybody. We do have monthly lots in other locations. This happens to be a monthly lot now. We will change it from that operation.

Mr. Manning: There will be no spaces designated for any employees in this building whether they are the employees working in administrative office space or Barnes and Noble employees.

Mr. Begleiter: By-the-way, just an opinion here. I think it is the wrong thing to do to keep referring to it as Barnes and Noble. Who runs the bookstore is going to be up to the University of Delaware. Tomorrow it could be Barnes and Noble. The next day it could be whoever it was that ran it a few years ago before Barnes and Noble existed. So, it is a University bookstore.

Mr. Manning: I still know it by 83 E. Main Street because that is the core property that we had to go to court to get possession of.

Mr. Lopata: Mr. Chairman, if I could just interject. I am going to continue to refer to it as Barnes and Noble because in my view that is really what this is – a Barnes and Noble bookstore that will function in part as a traditional university bookstore. I think this is a somewhat different animal which is part of why we are here this evening. I don't want to belabor that point, but there is a reason I will continue to refer to it as Barnes and Noble.

Mr. Manning: This is something worth talking about. This is not the kind of Barnes and Noble facility in a retail shopping mall that you all see. Barnes and Noble has a division that does nothing but serve universities. They have a university bookstore division. Barnes and Noble is the vendor in the current bookstore. So, if you want to see what Barnes and Noble does in its university bookstores, go to the current bookstore and you will see a store. It does not have the same trappings that are intended for nothing other than retail sales has in commercial facilities that we are familiar with. That said, I won't deny the fact it hopes to have robust sales.

Mr. Begleiter: What is the space in Lot #1 that is proposed to be turned over to the City?

Mr. Manning: As you all can see, I am outlining an area in the western portion of Lot #1. The University owns it, rents it to the City and the City uses it as part of the Municipal lot.

Mr. Begleiter: How many spaces are in that? Roy, do you know?

Mr. Lopata: I don't know but we pay \$10,942.20 per year.

Mr. Manning: There are 32 spaces.

Mr. Begleiter: Did the University attempt to purchase the Charlie B. Travel's building that is adjacent to the proposed site and/or the parking space/driveway behind the Opera House which actually looks most odd in this projection over here? Did the University make any attempt to consolidate that space into the project?

Mr. Manning: I don't know.

Mr. Sanderson: To this particular date it has not been incorporated in, but I think there are some beginning conversations about trying to incorporate the Grassroots Store building accessway that would have a back entry that would face into the courtyard and potentially participate. Right now that lot is a service area that has a variety of equipment and some concrete chunks out there. It could create a really great opportunity for that courtyard if we can develop a back entry that would activate the space not only from the street side and the entry into the bookstore but also directly from the Opera House on that property.

Mr. Begleiter: So, the design of the landscape wedges that are there now would obviously change if that were to be the case. You would want pedestrian access.

Mr. Sanderson: Right now, it was kind of a visual barrier from what is out there right now and not particularly attractive. But, if it could be cleaned up and we create a greater access through there, it could create a larger space and more active.

Mr. Begleiter: And what about the Charlie B. Travel's building on the other side?

Mr. Manning: I believe, because I have talked with the property folks at the University for years, that there have been conversations for a long time with the owner of that property for the obvious reasons. It makes a much easier site to develop. Andy has tried to contact the owners of that property with no success. So, the answer is, I believe that there have been several attempts.

Mr. Begleiter: I wasn't thinking about it from the point of view of making it easier to develop, but the Church is the next site over which has its own nice passage way and landscaping open area. It would be possible to do some interesting things if that building were not in the way.

The last question I have is the truck access issue. You said in your statement, "The truck access issue could be solved by eliminating six spaces in order to allow this truck pull around area." It is also true that the truck access could be solved by changing the design of that rear corner of the building and taking some space from the building and using it for truck access. Wouldn't it?

Mr. Manning: If you were going to take space to permit truck mobility onsite so that nobody had to back in or out, you would take it from the parking lot not the building itself. That is the trade-off I mentioned earlier. I don't think that changing the footprint of the building would create an easier access to the dock as such that you didn't have to back in or out.

Mr. Sanderson: I think the tradeoff would actually just be in that it would push the building into the courtyard space.

Mr. Begleiter: The building could be smaller. I realize that is not an option you would like to consider, but it is not a God-given size because it came down from the mountain. There are other tradeoffs.

Mr. Sanderson: Sure, if you kept the existing square footage of the proposed building, then you would need to move it into another area.

Mr. Manning: There are always tradeoffs. I think it is fair to say that this project has already made a great deal of tradeoffs. When we first started talking about the acquisition of what I call 83 E. Main Street, the University promised to keep the façade of the school building up in terms of its duty to preserve historically important things. The resulting commitment from the University is not only to preserve the façade but to preserve not only the original school house but the addition that was built some 50 years ago. My point is this. Tradeoffs have been made which have reduced the size of this building so that the historically significant sites could be framed nicely, not encroached, so that there could be the pocket park (as one person called it) and, yes, other tradeoffs could be made as well. It is all a question of where you end up.

Ms. Dressel: I was concerned about the parking as well. Obviously, you don't want the trucks going into the car parking area so, I'm just going to think on it and see if I come up with another suggestion.

Mr. Manning: I won't say we aren't indifferent about that but we regard that as a question to be answered by us and the City as partners. You have just heard that this is likely to be City parking and, so shrinking the parking lot is a matter for the City to think about as well.

Mr. Lopata: We thought about it and we are not happy with that idea. Obviously, Bill and I and the engineers have discussed this at length. Between now and when it gets to Council we are going to have a more definitive answer. Bill has given you an outline of some of the things we have talked about. We have to finalize the whole issue of what is a

peak hour in Newark. Some people actually think we have a peak hour every hour when the University is in session. So, that is the nub of the problem, how do we get truck access into a business that is not like delivering food? So, the frequency is somewhat less. On the other hand, it is a very busy street. So, we have to figure out how we are going to do that. We would like to do it without taking away parking, certainly.

Ms. Dressel: I don't like the idea of removing those spots where they have been suggested, simply because I think that is going to be even more of a dangerous nuisance because I think there is a large potential for accidents right there with cars being able to go through and potentially come out onto the road in a very wide area.

Mr. Manning: It is a three-party conversation, and we understand that. That is why I can't tell you what the resolution is here tonight, but our partners in this conversation are the City that hopes to own the lot, and DelDOT which is already engaged in thinking about this.

Mr. Bowman: The tower, is it that height because it contains an elevator and elevator machinery or you stuck it up there because you wanted it that high?

Mr. Sanderson: It is a combination of the two. It does have the elevator overrun and it also has the roof access for the mechanical equipment up on the roof. It acts as a punctuation to the architecture. So, there is some variability to what that height could be.

Mr. Bowman: Did you consider a hydraulic elevator as opposed to cable elevator? Or, is it a hydraulic elevator.

Mr. Sanderson: Currently, it is a machine (inaudible) elevator so the overrun is moderate but not overly substantial.

Mr. Bowman: At the risk of belaboring the point on this parking thing, Mr. Manning if you would flip that chart down again for just a second, one possibility that I just looked at is if you reverse the pattern in the parking lot and made it a counter clock wise flow – in other words you are coming in there and going out clockwise - and take that corner out at the upper left-hand corner where it looks like you have a tree planted and bring that forward, you would have the truck being able to go in, make a fairly wide sweep around the end of the parking lot, pull up into the driveway a very short distance and back in. Tractor trailer drivers detest backing up trailers, and that would shorten that plus keep them entirely off of the street.

Ms. Sheedy: You mentioned that this facility would be a positive contribution to downtown Newark and to Main Street. How will it be a positive contribution?

Mr. Manning: Any time you create a pocket park and provide a fetching space for pedestrians to gather, something is not available now on Main Street, provide new retail energy to Main Street. . .

Ms. Sheedy: Can we come back to that? You have gone to great pains to say that this is not a normal Barnes and Noble when we were discussing the parking issue. I believe the figure that you gave for, what in my notes I called general retail sales, was 10% of the volume sales from the bookstore. In fact, I have noticed on all of the drawings it doesn't say Barnes and Noble Bookstore inviting the public in. It says University of Delaware Bookstore emphasizing the fact that it is a bookstore for University of Delaware students. So, what are we really adding to the retail energy, as you said, of downtown Newark?

Mr. Manning: I don't think you can mistake this facility for what you see in Perkins right now. The café in front is different from what you find in Perkins right now. In short, we think that there are trips not being made to the bookstore now that not only enhance Main Street but add to the University as well. They are calling it the eastern gateway of campus. Keep in mind, the University will regard this as part of its campus. Imagine a family visiting the visitors' center on S. College. You expect to see a bookstore when you visit a university. We do our dead level best to hide it on this campus and we shouldn't because it is part of campus life and a part, we think, of the commercial life of the surrounding community. 80% of the volume will be done in the sale of books and

other supplies that the bookstore sells right now. But, we think that the marginal sales – the sales that are added – that we don't get now will be sales that not only increase the sales volume of this facility but increase the sales volume of restaurants on Main Street and other establishments that benefit from an increased passer by volume.

Ms. Sheedy: I am having trouble following your logic. Because of the parking issue pretty much, as I understand it, everybody who shops at Perkins is now going to shop up here and there are going to be pedestrians. There will be the 10% general retail sales which you said is expected to come largely from the pedestrian traffic on Main Street.

Mr. Manning: You accepted my assumptions, you have just agreed with me.

Ms. Sheedy: No, I haven't.

Mr. Manning: We are moving a pedestrian driven retail activity from the Perkins Center to Main Street. I am having trouble understanding why that isn't the answer to your question.

Ms. Sheedy: Because you are taking students who go to the Perkins Bookstore and moving them up to Main Street where they already also are.

Mr. Manning: Not now. They are going to the Perkins Center. That is the point, but in addition to that, I am not going to stand here and make the case that the economic prosperity of Main Street will swell because students who buy their books in the Perkins Center will now buy their books here. It is the marginal sales the may be relatively small compared to the entire volume of the retail establishment because, unfortunately, textbooks are expensive so you really are pumping up the volume when you are selling to 16,000 undergraduate and 3,000 graduate students all of their textbooks. So, that is an enormous number and it dwarfs the significance of what I am trying to convey that the marginal sales – the sales other than those – will bring clientele to Main Street that isn't there now. The café is a perfect example of that. They don't have one now. Nobody would visit it even if we did.

Ms. Sheedy: Who are the clientele? Are you saying that it will bring none students into Main Street?

Mr. Manning: I am now speculating. I believe that the single sector that you are going to capture that you don't have on Main Street now are parents of students and alumni. We don't right now a place to go to buy the sweatshirt for the football game, buy the memento of their visit to campus with their child. That is the one thing we don't have. I think that the largest component other than the passersby who visit the café, and I don't know who they will be. They will be people who are just on Main Street for whatever reason. I think that is the largest single component of retail customer who will show up here that isn't anywhere now. It is just totally new sales.

Mr. Lopata: Kass, if I could just jump in and perhaps help out a little bit. We don't buy the premise that Bill is making here. I have been to Barnes and Noble bookstores at other university campus sites that are very similar to this. These are "Barnes and Noble" bookstores. This store will, in fact, draw people to our community. We are recommending in favor of it because we think it will be a retail asset for downtown; in part, a very slight part, because of what Bill has said about moving some of the students from one place to another. We already have those students.

Bill is reticent to say that the Barnes and Noble is going to have an impact on parking and that is the issue. You can see him wrestling with it. The Planning and Development Department believes this store is going to be pedestrian oriented, but we are going to have people who, we believe, are waiting for a space perhaps at Caffé Gelato, buying books, or going to Grassroots and then they are buying books. And that is because if you go into these Barnes and Nobles – I go to the one at Penn in Philadelphia all the time, right around from the White Dog Café, when we can't get a seat at the café, we go over to the bookstore. It is just like a Borders. There are textbooks there, but you have to hunt around to find them. I dare say – you can correct me if I'm wrong, Bill – this is going to be a Barnes and Noble.

This is going to be a new retail store that is going to be a fantastic asset to our community in our view and we are very pleased to have it downtown. Gainsaying the fact that parking is a problem. We call it a “challenge” in the Planning and Development Department. That is why we made the recommendation that you approve this project. In any case, I don’t think we want to kid anybody that this is not going to be a different animal than the bookstore in Perkins. It is going to feel different; it is certainly going to look different. I hope it draws people to downtown. Otherwise, I think that we have made a mistake.

Mr. Manning: Let me finish it this way -- Roy, from your lips to God’s ears. We are hopeful as robust a center for retail sales as possible. The statistics we have shown to you and DelDOT are drawn from other Barnes and Noble campus bookstores. The University of Rochester, that was the one that seemed most similar, and the statistics that I have recited tonight come from actual experience at that. In any case, we are not apologizing for the hope and expectation that this will add real economic activity to Main Street.

Ms. Sheedy: Can you tell me what the square footage that is allotted on the floor plan for general retail sales is?

Mr. Lubin: If you use round numbers of the 60,000 square foot building, the first floor consists of a 4,000 sq. ft. café, and you have a one-store addition going back to the bookstore. The bookstore itself has 18,000 sq. ft. on two floors. Part of that first floor is the loading dock and backroom area so that the entire second floor of the bookstore will be dedicated to textbooks and academy materials. 60% of the first floor will be dedicated to merchandise. The balance of the first floor will be dedicated to the Barnes and Noble general activities, plus the 4,000 sq. ft. café. So, that is essentially how it breaks down. The bookstore itself is a total of about 40,000 sq. ft., including the café, and of that 40,000 sq. ft. 4,000 sq. ft. is the café and 4,000 sq. ft. is the back area loading dock facility area.

Ms. Sheedy: That leaves maybe 4,000 sq. ft. for general retail sales.

Mr. Lubin: It is about 6,000 sq. ft. of general retail space. To give you an example, at the Perkins Center it is just under 31,000 sq. ft. This will be 36,000 sq. ft. of usable space. That is where that difference is made up.

Ms. Sheedy: 6,000 sq. ft. of retail sales that is not University bookstore retail.

Mr. Lubin: Not uniquely University bookstore merchandise.

Ms. Mary Lou McDowell: I want to get back to the parking for just a minute. Roy, if this is going to be a City lot, would it be gated?

Mr. Lopata: We have not decided whether to use gates or meters, but more than likely gated. The problem with it is the question of security cameras, how do we see what is going on. In Lot #1 we have cameras. This lot would be separate from that facility, of course.

Ms. McDowell: I was just wondering if it were gated, how would that complicate the loading?

Mr. Lopata: We load in the Galleria lot now with a gate. We have an override system. That is part of the issue of “seeing” it.

Mr. Manning: I think the gates he is talking about would not control access to the loading driveway; they would only control access to the parking lot.

Ms. Pat Brill: Like Roy, I am very excited about this project and it is a nice addition for Main Street and the City, but from the DNP Design Committee comments from the meeting this morning, I am glad that there is a suggestion that you could lessen the impact of the tower. I think the tower, in my opinion, makes quite an impact. Also, perhaps, the industrial looking materials, the horizontal metal sheeting, might not be the final materials. Those are my two reservations about it.

Mr. Manning: I can tell you that those things have been and will continue to be focused on by the architectural team. The tower, by-the-way, is not controlled by the Code. Your Code permits tall towers, tall steeples, or water towers. For example, at the Methodist Church, the steeple is 85 feet tall. This tower is 79 feet tall. The things that mark the height of this building, the tower and the third floor, if you are talking about the building itself, are just under taller structures that are within a block or two away. Clearly, the Washington House, which is about a block away, is taller than anything we are proposing to build. The steeple on the church is taller than our tower. We have tried not to make this the tallest building, the tallest tower in town for these very reasons.

Mr. Bowman: We will open this item up to the public.

Mr. Will Hurd: 115 Lovett Avenue. I am an architect and I wish to comment tonight about the design of the proposed new University bookstore. My comments were originally written about the design as submitted to the Planning Commission, but today I did receive the presentation made to the Design Committee and the one you see here tonight and I would like to offer comments on that, too.

I recognize that the location of this new bookstore is central to the University population and more convenient to casual shoppers who will then feed into Main Street businesses. This is a prominent location along Main Street, and all of us, residents, business owners, elected officials, and University representatives need to work together to design a building that truly suits this location. I have several concerns about the proposed building design. The first is the height of the building, especially along Academy Street, is out of scale to the adjacent buildings. It feels antagonistic to its historic neighbors and out of character to Main Street. Compared to the Newark Opera House which, while as nearly as tall as the proposed building, has a mansard roof the lowers the perceived height of the building. In the week since the design was submitted the building's height has been lowered but it still forms an imposing wall along the street.

My second concern is that the building reads as a set of large blocks with expanses of flat walls and oversized windows. They are out of character to the area. That is, it is a building that tells what it is by signs rather than by art pictorial symbols. For comparison, look at any church such as the one down the street which uses a bevy of familiar symbols to tell you from a distance that the building is a church. The building also lacks design elements to break down the apparent size of the building and to provide a human scaled relationship to the pedestrian. These issues are especially evident when it is viewed next to the adjacent buildings all of which show a visual complexity in their uses of materials and window sizes. The revised design has improved the appearance of the building, but it still, to me, lacks the congruent design style.

My final concern is that the proposed gathering space located on the north side of the building will be inhospitable to extended activity. I have made a quick shadow study of the proposed building, which I have copies of for the Commission, which shows the extent of the shadows cast by the building at about noon time over the course of the year. Being on the north side, it is going to be in shadow for the coldest parts of the year. I don't see that this space will be the active center that the University wishes it to be. The revised detailed courtyard design is very nice, but I still feel that it will be overshadowed by the building. We all want new construction downtown because without new buildings the City will cease to grow and improve. We need to work together to create buildings that are in harmony with the character and development of Main Street. We need to take a deliberate and considerate approach to this project given its prominence.

I am concerned by statements from the University indicating that the design of this project is being rushed so that the bookstore will open in time for the 2011 school year. For example, Mark McDermott, Assistant Director for Facilities Planning, as said, "Normally, we have lots of time to contemplate the design, but we're just forging ahead." The building shows the result of this sped up development through its lack of articulation in the façade and massing and the ill considered location of its elements. I have a few suggestions that may help improve the design; reduce the size of the gathering space and give that area back to the building, possibly omitting the third floor entirely; stopping the third floor at the elevator tower to give some relief to Academy Street; examining different materials and design so that the façade can complement the historic fabric of the

streetscape; using materials and textures of the façade in a more refined manner to support human skill interaction; and finally, to have a public workshop to explore the design of the building, much like you are doing for the Curtis Mill project.

I am sure that there are many other possibilities to be explored, and some of them have appeared in the revised design, but all of them require giving proper time to the design process. I think that the fact that the architects still feel that there are changes that need to be made shows that it is too early to approve the design. I am in agreement with the Planning and Development Department's report that states that the University is, "not continuing its longstanding and proud tradition of building new facilities that compliment and harmonize with the existing buildings." I ask that the Planning Commission recommend that City Council require the University to revisit the architectural design of the building.

Mr. Gene Niland: Director of the Aetna Hose Hook and Ladder Company in Newark. The Fire Service in Newark is very comfortable with the University putting together a building that meets all the fire codes, access ways and life safety issues related to the community. From our standpoint we do not have a problem with the building itself based upon what I have seen so far of the internal plans. There are, however, a couple of items that I would like to throw out here that might be of interest to you. My poor Station 9A, which is a historical site, the first fire department that we built in the City of Newark is kind of dwarfed by this site. However, we can live with that. There are two items that I'm not sure of yet. If you will remember the Opera House was the subject of an arson fire, and in that fire the Fire Service had tremendous difficulty because we couldn't get our trucks positioned on two of the sides of that particular building. When I look at this structure here, I still don't have it in my head, how do we get fire equipment into the critical positions to ladder or direct fire screens on all four sides of the buildings

The other thing that I would like to tell you is that absolutely positively backing a semi truck on Delaware Avenue is not the thing to do. Right now we have Main Street where we have semi trailers take one lane – usually the right lane – and bottleneck Main Street down in the middle of the daytime to one lane. Having taught tractor and tiller driving courses for 30 years at the Fire Service, I can tell you that whatever semi needs to back up into that little space that I see here is going to take two lanes not one. He just won't make it with the one lane that he is in. So, I think that really needs to be looked at. I can tell you we will have people piling into one another – not a good deal. We have so many student crosswalks that it is a maze getting down either one of these streets anymore. I think the parking issue is a part of that but I leave it up to Roy. I think he has some ideas about how to get all of these people parked there. I will leave you with this. I would like to have someone get with me to look at the fire lane scenario to see if we can't understand that a little bit better and make sure that we have access. Many University buildings just have bollards out where we snap a lock and drive our trucks right in to get access to critical area, and I would hope that that is what we have there. The other thing is that the Fire Department is not too keen on blocking either of these two major roads that we have.

Mr. Pat Wisniewski: 604 Apple Road. I think listening tonight one of my biggest concerns is how it is much less pleasing to the eye than it could be in that area given that we have four other named historic buildings there, why did you not follow your current pattern with all the other University buildings incorporating much more of the red brick that would tie all those buildings together and make it much more pleasing to the eye. We have the possibility of reclaiming a bit of old Newark by tying that together and go with a similar material.

You mentioned earlier, that the Design Review Committee found some good in the architectural diversity, eclectic sounds more the word that I would have used. A bit of a convoluted assessment of the discussion on whether you are providing a new retail energy or not; I would like to stop and ask us all to think about what impact is this going to have on other independent bookstores on Main Street. What is the tradeoff of bringing this store here. Years ago I had a bicycle shop in town and I used to make my money not on the sales of the bicycles – there is a very tight margin on the bikes – you sold it on the locks, on the racks, on the backpacks, etc., that the students need. One year I sold hardly anything. The University Bookstore in the old Perkins Student Center started selling

bikes, locks, racks, backpacks, etc., at a price barely over what I could buy them as a small retailer at wholesale. So, stop and think about the downside of bringing in a national brand store, as has been done everywhere else, and the impact on the whole of the community.

Mr. David Robertson: 15 Center Street. Members of the Commission, Dr. Lopata, everyone here, persons here representing this project, I'm owning up to have been raised to have been told if you can't say something nice, don't say anything at all. I have been struggling to say something nice because a lot of things I have to say are, well, critical.

I am glad to see the open space of the pocket park, as you call it. I am glad to see all the plantings. It is wonderful to see plantings on Main Street. If, indeed, the Barnes and Noble Bookstore will function as a real bookstore, that would be a wonderful addition to Main Street, though I don't like the competition from the University to provide anything on Main Street.. Just one point about University merchandise, you might not know it, the National 5&10 on Main Street, one of Main Street's historic businesses, I think it has existed for over 70 years in the same family – the Handlofts – sells "Delawarables" and it has a contract with the University to do so. The other point I would like to make before I make my points about the building is about Charlie B. Travels. Charlie B. Travels – the original building – if you look at it, it is in scale with the rest of Main Street. The addition to Charlie B. Travels is integrated to that building. I don't see this integrated to the center of Main Street. I like what Pat said about the red brick. You keep talking about warm grey. I don't see warm grey; I see cold grays – gray slate, gray metal, cold gray. However, the point I want to make is it is not just the massing, it is not articulated carefully enough. It seems top heavy to me as a building. It is overwhelming in relationship to everything around it. I appreciate your efforts to try to make it look smaller, however, there aren't just four buildings that are on the National Register that this impacts on. If you stand at the corner of Academy Street and Main Street, there are about a dozen buildings on the National Register that you can see for half a block going down to the Post Office in the east, going down to the Odd Fellows Building right past the church on the west and, of course, looking down Academy Street, there are the historic buildings there on the National Register. I would hope that you would consider some warm brick, even variegated brick.

I would urge the Commission to think about urging the University to lower that tower. It is not a steeple. It is a big heavy looking tower. You can lower it. Despite the fact it is not as high as the steeple, it is not a steeple. I realize I have been very critical. I wish I could end with something nice. I will just reiterate what I said about bookstores. I love bookstores. It would be wonderful to have a real bookstore. Mind you, Rainbow Books and Music (used books and music) is a real bookstore to me, but it is not the same as being able to walk into a store and get something that has just been published. I will end with that. Thank you.

Ms. Kristen Short: I am here representing Grassroots which is located at 93 E. Main Street. As many of you may or may not know, the Opera House is a condominium situation so Grassroots owns the bottom floor, and Mr. Budd Thomas owns the apartments upstairs. We are not here to cheerlead for or against this project at this point. I do want to point out that we were aware that there was consideration for a bookstore next door, but had no idea of the scope of this project until today. We also didn't know that this meeting was going on. Obviously, this project is going to impact our building greatly. I just want to urge everyone to try to keep those of us who are greatly impacted by this kind of project, we should be informed. Thankfully, Rick Armitage walked into the store and notified me of this meeting tonight. Otherwise, we would have had no idea.

Considering that we just literally found out about this at 11:00 a.m. today, obviously, we have a multitude of questions concerning the demolition of the building next door, how that is going to impact our building, what responsibility we are going to have and expense we are going to have in order to clean up that side of the building once it is exposed.

Mr. Lopata: Did you see the sign in front of the Christina School District Building? It has been there for 15 days.

Ms. Short: No, I didn't notice that sign in front of the Christina School District building. I need to be more observant.

Obviously, we have a lot of questions about the expense to us regarding the side of the building that will be exposed. There will need to be a lot of work on that part of the building. In addition, there was a little bit of back and forth today concerning Grassroots and a possible entrance to our store off of the courtyard. I do want to clarify a little bit. We really were not discussing some sort of giving over our driveway in the back. We currently have a large trash receptacle that is there for both our store and plus all the apartments upstairs. That has to stay somewhere. In addition, we have deliveries to the back of the store and that driveway is really important to our business. What I was suggesting is that we may be interested in some sort of entrance on the side of the building that is being exposed that would offer handicapped accessibility into our building, which we have long desired, because as of right now you have to enter by way of steps. That would be desirable to the business in general. I think, hopefully, there will be opportunities to have our questions answered about our level of responsibility and expense that is going to be incurred to us once the demolition occurs.

Mr. Paul Baumbach: 38 Country Hills Drive. I have a business on Main Street. I know that we don't want to repeat things that have been said, and I won't, but I want to remind you that just because it is said once does not mean it is a position held by one person. Several of the comments that people have made recently really resonate with me. So, I'll stop there.

My viewpoint is that I think there are several areas where the University is trying to get it both ways here. I didn't like the University starting off by saying, we don't really have to come to you, but we are going to. That feels to me like they are also saying -- if we don't like what you have to say to us we are going to run and do things our own way. I didn't like that feel. I know that for the parking spaces I'm hearing a little bit of both ways. I believe that part of the space they are giving parking spaces are used currently by University people working there. Is that not the case? There is a parking lot right behind skid row where the University . . .

Mr. Lopata: The City is leasing that for public use. There are monthly permits in there. There may be University employees who get those monthly permits but it is not set aside for the University.

Mr. Baumbach: Aren't those University people with those permits going to need those spaces if they are working in that building in the administrative space?

Mr. Lopata: It is going to be a lot like Lot #1, like our other lots. We are not going to set aside or designate spaces for any particular use.

Mr. Baumbach: It is not designated but as far as net new usage for spaces and net new spaces I think we are going to be counting those.

Mr. Lopata: Right now it is a monthly lot.

Mr. Baumbach: I don't think I actually asked you a question. I am just raising a concern.

Mr. Lopata: I am just trying to help . . .

Mr. Baumbach: Is that alright?

Mr. Lopata: That's fine. I thought I was helping regarding the point you were making.

Mr. Baumbach: Not too much.

The next thing is, I think there is a double standard on sales. There is a positive point that this will bring lots of sales and traffic to Main Street, but when we are examining parking, and say no, those sales aren't really bringing cars. It is a sort of wanting it both ways. I didn't like that spirit.

The last one is the taxes. It has to do with competition. When there are coffee shops on Main Street. When there are bookstores on Main Street. These ones are in buildings that I understand are paying taxes to the City. I don't believe that the facility here is paying taxes to the City; and, therefore, it makes it an unfair and uneven playing field. That is, again, having it both ways. Doing it both ways, I don't like that feel that I am hearing from this project. I would rather see an even playing field with commercial entities on Main Street. I think this is not doing that. Am I missing something there? I will be happy to hear from you.

Mr. Lopata: I will let the University comment on that.

Mr. Baumbach: Okay. That's all.

Mrs. Jean White: 103 Radcliffe Drive. I am going to start by showing you a schematic diagram. This is to emphasize historic buildings. Here we have the Worker's Houses (built between 1875 – 1900) at the corner of Delaware Avenue and Academy Street, the Fire Station #1 (built 1890), the Opera House (built 1885), the Green Mansion (1882), the Bank of Newark building (built between 1800-1850), the Academy of Newark building (1841-1872) and the Fire Station (1922). All of these are on the National Register of Historic Places as is the Christina building. Over here is the Newark United Church of Christ, which is technically not on the National Register but this part of it was rebuilt in 1865. This is important to what I am going to say. That is that the University has the gall to propose and invade our most historic part of Newark and to invade it furthermore with such a giant and out of scale building. It is too high, too massive and it unfortunately represents the extreme arrogance of the University of Delaware to infiltrate and to insinuate in our most historic area and to do so without a true dialogue. There should have been a charrette. The University should have come to the community, not in a situation where you are going to have to vote in the end or the Board of Adjustment where you are going to have to have a vote, but where there can be a dialog to find out what most of the community would like to see and what is appropriate here. This arrogance has happened before.

Another example of this is as you come down Main Street and you see the huge parking garage opposite another building on the National Register, the Deer Park building, that also was a case where the University told what it was going to do but never had the dialog and there was not the possibility of suggesting alternatives. I am very bothered by this arrogance on the part of the University. We have a wonderful university. There are many things that it offers us in town, but when it wants to do something, it as a powerful institution uses that power to do whatever it wants.

I am curious to know whether the University told the architect originally that the worker's houses that I showed here and the Fire Station #1 were on the National Register because your plan for the building wraps around on two sides of the Fire Station. You can't see it very well, but if you look at the diagram up there you can see where there is sort of an L shape. You can just see the little fire house down at the far left and then you have this very high building both to the right of it and in back of it. That is an example of what I am talking about. It is also very interesting -- how well does the architect even know our town? This diagram that is in the packet and part of what you showed actually has the cars heading the wrong way down Main Street, which is a very minor point but it does indicate that either the architect didn't know the town or know how we care about these historic buildings or the University has not conveyed that.

The plan itself is too high, it is too massive. There were six people at the Design Committee this morning. I was there as a member of the public who is not on the Design Committee, and I am not going to comment on the discussion and why they reached the comments they did because I am not on it, but there are many people in this community and we have equally a right to say what we think about the building. It denigrates and diminishes the historic buildings around. There are many other plans that could be put forth beside this that also would be appropriate. The elevator tower is on a blot on the sky scape.

What positives there are, I give the architect credit for saving the 1884 portion of the Christina building and the low connector behind it. That is good.

I am angry at the University for not giving it an educational use. The deed restriction was that it was to have an educational use. The University itself is an educational institution, but a Starbucks Café in this building is not educational. The Planning and Development Department report said this was a one and one half story building. It is actually a two-story building. I think that you can eliminate the third story. This is called a Barnes and Noble Bookstore. The top story has nothing to do with the Bookstore whatsoever. I have been told that it is going to be the Development Office of the University of Delaware. The Development Office can go someplace else. And, if you take that third story off, there will be a number of different things. For one thing, the elevation that you see from Delaware Avenue, which actually is horrendous. And the other thing is, how about we have a charrette now, what the University did not do and what it should have done.

Mr. David Ames: 1300 Casho Mill Road. I am here tonight representing the University. I am Director of the Center for Historic Architecture Design at the University of Delaware. I am also on the Visiting Architecture Committee of the Board of Trustees. And, in that role I have reviewed this plan as it has been developed and I must say I really think it is a brilliant plan for a number of reasons. On the historic aspects, I counseled the architects earlier, don't build any kind of phony historic stuff in there.

I realize there is a University of Delaware kind of architecture. There is a fundamental notice in historic preservation that you don't duplicate historic buildings. You design new buildings that are compatible so that you get diversity. Otherwise, people get confused about what is historic.

In terms of the site design, what you have done is you have preserved the streetscape and created development on the interior of the block that is shielded from the street, you still have the streetscape and then you have also opened Academy Street to further development. So, you have taken this amount of square feet, put it in the interior of the block where it really works well. I think they have done a really fine job with it. You can comment on the building as you might, but I think it is a nice design and it works. Also, if you are creating kind of a marker with this building, in other words, you don't see this building, it is hidden on the interior of the block. The tower that you are concerned about is that marker that identifies where the building is when people don't know where it is.

The only other thing I would comment on is that my office is across the street from the present bookstore. When you think about classes open, there are probably 8,000 students and there are probably 4,000 student visits a day on lower Academy Street during that period of time and you are moving all of those up on North Academy Street near Main Street. So, I am sure there is going to be some spinoff. But on the historic stuff, I think we have been talking about the building but what is really important also is the urban design aspects of this and the way the Main Street façade and Main Street streetscape has been preserved taking that building in the interior of the block and then really pulling Academy Street as a commercial street closer to Main Street.

Mr. David Robertson: 15 Center Street. Dr. Ames got me thinking about the new buildings that the University builds has over the past decade has built on what the University calls the Green, buildings which architects went to a great deal of trouble and spent a lot of money to fit those buildings in with the Neo-Georgian architecture of the Green. I would suggest that no University administrator or Board of Trustee person would accept this design on the Green. I think our historic center of Main Street is just as important as the Green.

Ms. Francis Hart: 257 E. Main Street. The bookstore complex has nothing to do with the surrounding area. The historical buildings are brick and much smaller. The new area is stone and glass. The new buildings are much larger and (inaudible). It is overwhelming in size and height. Look at the mockup of the town on the table in the center of this room. You see how much bigger the bookstore area is and the tower is too high also. Somebody mentioned that alumni might like to go there to meet. What is the Trabant Student Center for? Isn't (inaudible) with the Chrysler area?

Mrs. White: I want to point out in Appendix XIII Design Review for Downtown Commercial Properties, that the Commission and likewise City Council has the opportunity to actually rule on these things, and in particular, they can rule on the appropriateness of the design elements in terms of adjacent buildings and their relationship to each other and appropriateness shall be considered in most cases and conclude height and bulk of buildings, scale and proportion of the building shall conform in general with adjacent buildings, and so on. I wanted to point that out to you. It was said earlier by the Planning Director that because this is a commercial building that it is a different entity than the deep part of the University of Delaware – its classrooms and dormitories and that sort of thing. So, I think the Planning Commission should take this under consideration very seriously and realize that you do have the power and you do have the right to make these modifications and, in fact, turn it down if you want to.

The second question is about the Barnes and Noble and the Starbucks Café validating when the parking waiver is given in the cases when a customer comes in they have to validate for the parking sticker for people parking in the lot. So, that is a question. It was said at two different meetings that I attended that Barnes and Nobles program requires X amount of space and the University has to go along with that. I am wondering who is driving things? This is a University bookstore. The University should be able to set the parameters of the size and that kind of thing. After all, I should hope that Barnes and Noble isn't giving its direction to the University. The University can say we can have less retail, less this, whatever kinds of thing. I am amazed that so much of the first floor space is taken up for retail. I was appalled to hear that this project was called the eastern gateway to campus, another example of how the University is intruding in and basically taking over in some senses, our downtown and should call this on top of it, the eastern gateway to campus appalls me. Again, I plead that the University stops its arrogant way of operating and actually comes to the community long before having these plans and has a true dialog back and forth. It would be different if it were someplace else, but this invading our most historic core and it is not for it to do it without the proper understanding back and forth. With that, I would like an answer about whether the Barnes and Noble and Starbucks will validate.

Mr. Lopata: We normally put that as part of the subdivision agreement that the tenants are supposed to validate. That is standard as part of the parking waiver, which I neglected to put in the report. I apologize for that.

Mr. Bill McLain: 95 Dallas Avenue. I am also the President of the Newark Historical Society. The Society's concern has been the preservation of the school building and I appreciate very much the University's movement from the façade to retaining the original building plus the first addition. So much for the Historical Society's comment.

The rest of what I have to say is my personal comment. It has not been discussed with the Society and I don't want the Society credited with it. Massive is the only word I can think of as I look at that picture on the wall. I think of the First Presbyterian Church on West Main Street and that attempt at historic preservation -- the original front part of that building was retained and incorporated into a University building complete with neon lights, huge story, massive. I see much the same emotional impact with this. Other comments have been made comparing it the historic buildings around and I agree with all of those. It just seems to me too much in too small a space. Is there a below ground element in this building or is everything above ground? If, indeed, the upper floor for University offices is done solely because of the deed restriction on the school building, is this really the way to reshape, redefine and redirect the very central core of our town? I think not.

Mr. Baumbach: 38 Country Hills Drive. Two more comments. I forget which division gave the report and used the phrase, if this is adding to the architectural diversity. I have to believe that's Code (inaudible). It sticks out like a sore thumb. I think that I also echo all comments that have been made that this is not integrated with the area, and I am really disappointed in that. I also would request to make sure the Commissioners have the DNP Design Guidelines, which the DNP indicated were violated by this design and pay particular attention to those Guidelines which were ignored. I hope that perhaps a future revision of this comes to the Commission that actually meets those guidelines.

Mr. Bowman: Unless there is someone that has something radically different from what has already been said, I am going to close the public comments and bring it back to the table for discussion. Does anyone have any particular comments?

Mr. Begleiter: I want to thank you for revising your drawings to show the utilities on Main Street which were not in the original drawings, but that Main Street elevation shows the utility pole smack in the middle of the pedestrian entrance to the pocket park. Have you given any consideration to working with the City to move that pole so that it would be in a place that is a little less intrusive?

Mr. Mark Sanderson: I think what you are seeing there on that particular elevation is that the view along Main Street is at an angle. It's oblique so that that actual pole, if you look at the plan, is pulled to the side. It is not exactly at the entry, but if it does look like it is going to be an impediment to that pedestrian way; we would certainly at least evaluate the possibility of moving it over or sliding it as part of the project.

Mr. Begleiter: I urge you to take a look at that if you are going to be doing that project.

This might sound a little crazy, but I have spent a long time this evening looking at the site plan and wonder whether it would be totally nuts to ask whether you have thought about preserving the small Fire House building on Academy Street by moving it to a place where it would replace the – I almost hesitate to say it – the “gorgeous, lovely, historic” siren tower across the street adjacent to the existing old Fire House building. I am not really being facetious about the suggestion. Has there been any consideration given to moving that historic building to a place where it would be preserved adjacent to the other historic building with which it belongs? It occurred to me when I was thinking about that that there could be a delivery truck solution in that. Maybe you have already thought about that. Could you just respond to that at all?

Mr. Sanderson: It is my understanding that that particular building property is not part of our parcel and, as a consequence, to date there has been no consideration of actually moving it.

Mr. Begleiter: It would accomplish the preservation of a truly historic building in a place that might be more appropriate for it and help to solve another problem as well. I was going to raise the validation issue which Roy has already addressed. To the left of this site as we look at that diagram, that is the Church parking lot back there. Is that correct? It is not shown on this plan. What is the adjacent property to the parking lot?

Mr. Lopata: It is the playground and the Church parking lot.

Mr. Begleiter: We have approved previous projects – I am thinking of the Newark Diner project, for example – in which common spaces like that alley, there was an agreement reached for access to parking and access for deliveries, which doesn't convey any ownership transfer but which solves a problem. Is there any possible solution there that could assist with the delivery issue so we don't have trucks backing in and out of Delaware Avenue that could somehow use that adjacency without transferring ownership of the property? I don't know if that is a question for Roy.

Mr. Lopata: It is something, I'm sure, the University could explore as we go forward. I hate to say this but the Church property, they kind of feel sacred about it. I don't mean that to be funny. They are very tightly constricted in there and we managed to work with them to get a little bit of land to work on our access on the other side.

Mr. Begleiter: I remember that and that is what made me raise that question.

Mr. Lopata: Again, that, perhaps, could be explored. I think Mr. Bowman's truck solution, if the geometrics work, is one that I am more intrigued by than trying to involve other property owners. But, it is something worth looking into. I don't think there is any reason design wise that it is out of the question.

Mr. Begleiter: It is just something that I would like to throw out there as a possibility to look at.

Mr. Manning: There is no change in grade so there may be no physical reason why that couldn't happen. I don't want to be encouraging, though, about asking the Church to let our delivery truck drive on their property, but asked the question and we will answer it.

Mr. Begleiter: We have done things like that in other situations and I just wondered if this might be one of them, including the City itself with its access to its own parking lot.

I just want to make a brief comment, Mr. Chairman. The word massive has been used a lot here tonight and as you may remember I was a vocal participant in the discussion of a building that is right across Main Street from this one and spoke a great deal about what an important historic corner the corner of Academy and Main is. It is the building that is now under construction on the former CVS site which is turning out to be a complete reconstruction rather than a remodeling or redoing of an older building. So, I am very, very sensitive to that issue of the historic nature of that corner and have been on record in that regard. But, that building is going to be massive and it is going to be right on Main Street a few feet back from Main Street. If we are going to throw the word massive around then let's look at the buildings that are that high. I haven't measured the buildings and I didn't go back and look at the height of that one, but it seems to me that we have already broken that bubble on that historic corner.

Ms. Dressel: I do have a comment about the proposal. I really like the concept. I really like the idea of the pocket garden, if that is what you want to call it, because the green in front of the Academy Building on the other side of Academy Street is used all the time and especially during any downtown festivals. So, I'm excited to see something like that remain on Main Street. I like the idea that the old Christina School District building is being retained and a large portion of it. I am concerned not so much about the size of the building but the materials and the colors and I also am on record in the past for saying, "enough of dark." The University put up a couple of parking garages with the dark red brick, the dark grout, the dark window opening, and it becomes a hole. Until some of the new buildings came onto Elkton Road, I felt like I was driving down a tunnel. I drive Elkton Road from Main Street every single morning. So, I have concerns about the color of the brick and the materials that are being suggested here. I think if those two things were changed to blend a little bit more for the eye on Main Street, it would be more palatable to people, and I don't think that the modern look of the windows would then stand out as much. I think it would blend a little bit more.

Ms. Sheedy: I agree that the open space is a very nice thing. I don't have a problem with modern architecture on Main Street. I really like a mix of architectural styles. I do have some difficulty with this design. It seems very boxy to me. It seems very institutional in a negative way. I understand that the University is an institution, but this building seems oppressive in its style and color. And finally, I wish I could see into the future and see Roy's prediction coming true for a real Barnes and Noble adding real retail energy to Main Street.

A Barnes and Noble on Main Street is going to be a serious problem for me because I have this addiction to books. However, the proposers keep telling us that that is not what they want and that is not the case. So, based on what the proposers are telling us, we are asking to approve a 60,000 sq. ft. building to get the retail energy of a 6,000 sq. ft. space, and I have a problem with that. That doesn't seem like a reasonable thing to me.

Ms. McDowell: I have the same feelings as far as the excitement of a bookstore being in Newark. I like the general idea, but when it gets down to the old Fire House and the row homes, it makes me feel claustrophobic on that end, the smaller buildings. Maybe if there was more space around the buildings in the back. I don't know if gathering space on that end would make sense or not. I do like the gathering space in the middle. I know when I discussed this with my college student daughter, she was very excited about it. Having a love of Newark and a love of her school, the whole thing was very appealing to her, and she is not a student that is going to be gone in four years. She is someone who is probably going to call herself a townie for a long time, even though she may not want to right now as I didn't at her age. Overall I like it. I don't want to use the word massive but I think if there was some way it gave more breathing space around the smaller buildings, I would like it better. I think it is a great step up in comparison to the

incorporating of the old building with the new building down at the Trabant Center that I wish I had had some say in that because that is something that every time I drive past it, my family gets a little annoyed at how I comment about the modern mixing with the old not working for me. So, I think there is room for improvement that I think would make things more acceptable for people who might be opposing it now.

Ms. Dressel: This may be a question for Roy, It's the size of the signage.

Mr. Lopata: It would have to meet the City sign code.

Ms. Dressel: What about neon lights?

Mr. Lopata: Neon lights also have to meet our requirements. We don't ban them. Their size is regulated.

Mr. Manning: I am pleased to hear that your Design Review Committee approved the project and was excited by the design. I am particularly grateful to Dr. Ames for his remarks because I don't think the University has been arrogant in the design. It has selected a design that it thinks highlights the historic structures. Some people think it does. Other people think it is the wrong design. Design changes are always unsettling and I won't say any more about that.

I do want to respond to Mr. Niland who asked whether we would confer with the Fire Department about fire access. Absolutely. I want to respond to Kristen Short who asked if we would be communicating regarding demolition and construction plans. The answer is absolutely. On the one hand, if the University had chosen to say, "This is a University project, we are not going to talk to anybody," someone might have used the word arrogant. We do this and someone complains that it's not appropriate for the University to note that it is doing this voluntarily because the law doesn't require it, that it subject itself to this process. I will let you good people decide which is the more appropriate public response.

Mr. Lopata: Do you want to answer the tax question? The gentleman did raise that.

Mr. Manning: I will give you the same answer that I gave to the Board of Adjustment. The University hasn't decided what position to take with respect to property taxes on this. I say that for more than one reason. There has been thought given to the structure of the entity that will build this facility. That is in a state of flux and consideration of the property tax has been sidelined while we get a final decision about the structure of the entity that will build this. It is a long way of saying that there is no answer to that question tonight.

Mr. Lopata: I presume, Bill, that by the time we get to Council, I can't imagine that question won't reoccur, so I think we are going to have a resolution on that.

Mr. Manning: Absolutely we will have a position by then. There have been thoughts about the structure of the joint venture that have arisen within the last week. They are being resolved. There may be a dramatic change to that. Other than that, we have taken up 2 ½ hours of your time. I apologize for that and I am grateful for the attention you have paid to this. If you have any questions, this is not the last opportunity to ask them. For those of you who have said I like this, but, I would ask that you hold the first thought. The design has not been selected in order to offend neighboring properties. It has been selected in order to enhance those properties. It has been selected by professionals whose job it was to do that. I didn't ask Dr. Ames to say anything tonight and I have never met the gentleman, but I am pleased to hear that someone who makes his profession in the preservation of historic properties is excited about this design. Thank you very much.

Mr. Bowman: The Chair will entertain a motion.

Mr. Begleiter: Mr. Chairman, I will do that. First I want to say that we are all entitled to have our own aesthetic opinions and mine, although not a professional one on architecture, is that this is a bold, contemporary, design that I think incorporates a really striking new open space on Main Street, an engaging outdoor space. I really like the idea

that the Opera House building might find a way to open itself up to the other side of the courtyard so that that becomes a single piece.

My view is, looking at the diagram – and I spent a long time looking at the new ones tonight, which we didn’t have before tonight – that the red brick of the historic buildings, including the little Fire House, actually makes those historic buildings stand out against the less obtrusive and less brightly colored architecture of the large building in the rear. I like the preservation of the historic Christina School building. I like what to me looks like a landmark tower rather than an obtrusive tower. I think it is the kind of thing that people will say – “Walk down to where the tower is; that’s where the Post Office is; that’s where Academy Street is, that is where the Academy Building is.” It will be the kind of thing that people will point to favorably, I think. I think I am persuaded about the parking because it is mostly a pedestrian oriented business in the building, regardless of who runs it in the future. I believe the setback of this facility is a good one, unlike some other large projects now being developed right across the street on Main Street. I think this setback is actually going to help breath some fresh air into that corner. I think the view from Delaware Avenue which was raised, that was a concern to me also, but what do we have now? We have a cinderblock wall behind the skid row buildings. Is that so beautiful? Is that something we have to preserve? It doesn’t look like it to me frankly. So in light of those comments and with one or two additions, I want to be sure the parking validation issue is included in the final proposal.

Mr. Lopata: Yes, it will be.

Mr. Begleiter: We started out talking about the parking and I want to be sure that no University of Delaware reserved parking spaces somehow find their way into the project. If the University wants to have parking spaces after this, they can rent them from the City. They can pour quarters into the meters.

MOTION BY BEGLEITER, SECONDED BY BRILL THAT THE PLANNING COMMISSION TAKES THE FOLLOWING ACTIONS:

- A. THAT THE PLANNING COMMISSION APPROVES THE BARNES AND NOBLE PARKING WAIVER, WITH THE CONDITION THAT THE PROPOSED ON-SITE E. DELAWARE AVENUE PARKING FACILITY, WITH TO BE INSTALLED BY THE UNIVERSITY OF DELAWARE OPERATING FACILITIES, AND THE LANDS CURRENTLY LEASED BY THE CITY FROM THE UNIVERSITY IN MUNICIPAL PARKING LOT #1, BE DEDICATED TO THE CITY UPON ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY AT THE SITE; AND,
- B. THAT THE PLANNING COMMISSION RECOMMENDS THAT CITY COUNCIL, WITH THE CONDITIONS IN THIS REPORT, APPROVE THE BARNES AND NOBLE MAJOR SUBDIVISION PLAN, AS SHOWN ON THE APEX ENGINEERING PLAN, DATED JANUARY 20, 2010.

VOTE: 3-3

AYE: BEGLEITER, BRILL, DRESSEL
NAY: BOWMAN, MCDOWELL, SHEEDY
ABSENT: BROWN

MOTION FAILED

There being no further business the Planning Commission meeting adjourned at 9:28 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary to the Planning Commission