

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

March 1, 2011

7:00 p.m.

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

Chairman: James Bowman

Commissioners Present: Ralph Begleiter
Patricia Brill
Peggy Brown
Angela Dressel
Edgar Johnson
Kass Sheedy

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. Mr. Bowman asked for a moment of silence in honor of past Planning Commission Chairman Jim Soles who had recently passed away.

Mr. Lopata introduced and welcomed new Planning Commissioner Edgar Johnson.

1. THE MINUTES OF THE SEPTEMBER 7, 2010 PLANNING COMMISSION MEETING.

The September 7, 2010 Planning Commission minutes were unanimously approved as received.

2. ELECTION OF OFFICERS.

MOTION BY SHEEDY, SECONDED BY DRESSEL TO NOMINATE JIM BOWMAN AS CHAIRMAN OF THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON,
SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

MOTION BY DRESSEL, SECONDED BY BROWN TO NOMINATE RALPH BEGLEITER AS VICE CHAIRMAN OF THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON,
SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

MOTION BY BEGLEITER, SECONDED BY SHEEDY TO NOMINATE ELIZABETH DOWELL AS SECRETARY TO THE PLANNING COMMISSION.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON, SHEEDY

NAY: NONE

3. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION OF A PORTION OF THE 4.22 ACRE UNIVERSITY GARDEN APARTMENTS PROPERTY ON BEVERLY ROAD TO ADD EIGHT APARTMENT UNITS.

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

“On December 20, 2010, the Planning and Development Department received an application from University Garden Associates for the major subdivision of the 4.22 acre property they own at Beverly Road. The applicants are requesting major subdivision in order to add a new eight unit garden apartment building to the existing University Garden Apartments complex.

Please see the attached McBride & Ziegler, Inc. subdivision plan, supporting project description and building elevation drawing.

The Planning and Development Department’s report on the University Garden Apartment’s addition major subdivision follows:

Project Description and Related Data

1. Location:

West side of Beverly Road, directly adjacent to 212 Beverly Road.

2. Size:

Total site: 4.2126 acres.

3. Existing Land Use:

Developed site containing a parking lot for existing apartments.

4. Physical Condition of the Site:

This is a developed site containing a paved parking area. A low brick entrance wall is found on each side of the access way to the parking facility. A small stand of trees and shrubbery is found along the southern boundary of the site. Several trees are also located in front of the site on Beverly Road. A small sidewalk runs along the western edge of the site, linking the property to the other sections of the apartment complex on either side of Beverly Road and to University owned lands further to the north and east [the University of the Delaware Center for the Fine Arts (CFA) and the Elkton Road parking garage complex].

In terms of topography, the site is very level with almost no perceptible slope.

Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the site contains Keyport Silt Loam soil. According to the Natural Resources Conservation Service, Keyport Silt Loam has “moderate” development limitations for the use proposed.

5. Planning and Zoning:

The existing RM zoning at the site permits the following:

- A. Garden apartments, subject to special requirements.
- B. One family, semidetached dwelling.
- C. Boarding house, rooming house, lodging house, but excluding all forms of fraternities and/or sororities, provided that: The minimum lot area for each eight, or remainder over the multiple of eight residents, shall be the same as the minimum lot area requirements for each dwelling unit in this district.
- D. Nursing home, rest home or home for the aged; subject to special requirements.
- E. Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage, excluding semi-trailers and similar vehicles for storage of property.
- F. Cluster or neo-traditional types of developments.
- G. One-family detached dwelling.
- H. The taking of nontransient boarders or roomers in a one-family dwelling by a family resident on the premises, is not a use as a matter of right, but is a conditional use subject to special requirements, including the requirement for a rental permit, and provided there are not more than three boarders or roomers in any one-family dwelling.
- I. Church or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes.
- J. Public and private elementary, junior, and senior high schools.
- K. Municipal park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.
- L. Municipal utilities, street rights of way, water treatment plant.
- M. Temporary building, temporary real estate or construction office.
- N. Utility transmission and distribution lines.
- O. Public transportation bus or transit stops for the loading and unloading of passengers.
- P. One-family town or row house subject to the requirements of Sections 32-13(1) and 32-13(c)(1).
- Q. Student Homes, with special requirements

RM zoning also permits with a Council granted Special Use Permit the following:

- A. Conversion of a one-family dwelling into dwelling units for two or more families, if such dwelling is structurally sound but too large to be in demand for one-family use, and that conversion for the use of two or more families would not impair the character of the neighborhood, subject to special requirements.
- B. Substation, electric, and gas facilities, provided that no storage of materials and trucks is allowed.
- C. Physicians' and dentists' offices, subject to special requirements.
- D. If approved by the council, property in a residential zone adjacent to an area zoned "business" or "industrial" may be used for parking space as an accessory use to a business use, whether said business use be a nonconforming use in the residential zone or a business use in said adjacent area zoned "business" or "industrial."
- E. Police and fire stations, library, museum, and art gallery.
- F. Country club, regulation golf course, including customary accessory uses subject to special requirements.
- G. Professional offices in residential dwellings for the resident-owner of single-family dwellings permitted subject to special requirements.
- H. Customary Home occupations with special requirements.
- I. Public Transit Facilities.
- J. Private (nonprofit) swimming clubs.
- K. Day Care Centers with special requirements.

Regarding RM zoning area requirements, except for the requirement of maximum dwelling units per acre of 16, the University Garden Apartments major subdivision

addition meets all the applicable Zoning Code specifications. Please note, in this regard, that on November 18, 2010, the Board of Adjustment approved a variance for the 18.04 units per acre shown on the plan.

Regarding comprehensive planning, the Newark Comprehensive Development Plan IV calls for “multi-family residential,” uses at this location with a density of 11-36 dwelling units per acre. The proposed addition, therefore, conforms to the City’s comprehensive planning for the location.

In terms of zoning and land uses of nearby properties, the lands adjacent to the University Garden Apartments on either side of Beverly Road to the south are zoned RS (single family detached) and contain single family homes. The University’s CFA complex, associated surface parking areas, and parking garage, are located north and east of the University Garden Apartments on lands zoned UN and UN/RS. The BC (general commercial) zoned BP gasoline service facility/convenience store and BC zoned and now vacant Newark Dry Cleaners building are both located west of the University Garden Apartments on either side of Beverly Road. A vacant grassed open field, zoned RM, lies south and west of the proposed University Garden Apartment addition site.

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural 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, related exterior features, and existing utility lines. 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 is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and 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 set 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 agreement for the project.

Be that as it may, the University Garden Apartments subdivision plan calls for a three story eight-unit garden apartment building essentially identical with the existing buildings in the development. The new structure is a slightly bow shaped building fronting on Beverly Road with associated parking to the rear. Roadway access is through the existing driveway to the current parking area on the site.

Subdivision Advisory Committee

The City’s Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the University Garden Apartments major subdivision plan and has the comments below. Where necessary, 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 notes that the proposed University Garden Apartments major subdivision conforms to the land use recommendations of Comprehensive Development Plan IV and corresponds to the development pattern of the existing University Garden Apartments development.
2. The Planning and Development Department suggests that the Planning Commission consider the following as conditions of subdivision approval:

- Mechanical equipment or utility hardware on the ground shall be screened from public view with materials harmonious with the proposed architectural design or should be located so as not to be visible from adjoining properties or streets;
 - Refuse bins, including required refuse bins for recycling, and storage areas shall be screened from public rights-of-way in a manner similar to the requirements for mechanical equipment.
 - Exterior lighting shall be designed as an integral architectural element of the proposed buildings. All such lighting shall be shielded to limit the visual impact on adjoining properties.
 - The architectural design of the proposed façade of the University Garden Apartments addition subdivision should be carried out on all building elevations visible from public ways.
3. The Public Works Department notes the following:
- Prior to the plan's review by City Council, the applicant will need to discuss technical items and calculations concerning the proposed design of the stormwater management system with the Department. A revised system design may be required.
 - The Department also has a series of construction improvement plan stormwater management, drainage and related requirements that the applicant will need to review with the Department through the construction improvement plan process.
4. The Electric Department has the following comments:
- Electric service will be available from the existing pole to the rear of the proposed building.
 - A fee of \$1,100 will be required toward the cost of a transformer and required radio read meters, payable prior to the issuance of the first building permit at the site.
5. The Code Enforcement Division indicates that the proposed new structure must meet all applicable City Building and Fire Code requirements. The new building will be required to be sprinkled.
6. The Water and Wastewater Department indicates the following:
- Each unit will be required to have individual meters in a central mechanical room, with the cost for these facilities paid by the developer.
 - The required STP fee must be submitted prior to the issuance of the first certificate of occupancy for units at the site.
7. The Police Department has raised concerns about available parking at the location in light of the proposed apartment units. The Department also suggests that bicycle racks be shown on the subdivision plan.
8. The Parks and Recreation Department indicates that a Compartmentalization of Decaying Trees (CODIT) Test should be performed on the 36" Red Oak shown in front of the proposed building to assess its condition. This test will establish, through the construction improvement plan process, whether or not this tree should be pruned or removed and replaced [see plan note #20].

Recommendation

Because the University Garden Apartment major subdivision plan, with the Subdivision Advisory Committee recommended conditions, will not have a negative impact on nearby and adjoining properties, because the project, with the recommended conditions, conforms to the land use recommendations in Comprehensive Development Plan IV, because the proposal meets all applicable Code requirements, and because the proposed use

does not conflict with the development pattern in the nearby area, the Planning and Development Department suggests that, subject to the Subdivision Advisory Committee conditions, the Planning Commission recommend that City Council approve the University Garden Apartments major subdivision, as shown on the McBride & Ziegler plan, dated September 15, 2010.”

Mr. Bowman: Are there any initial questions for Mr. Lopata from the Commissioners?

Mr. Ralph Begleiter: Roy, the current property has a parking lot on it, right?

Mr. Lopata: Right.

Mr. Begleiter: Is their adequate parking?

Mr. Lopata: Yes, they are going to reconfigure the parking so it still meets the Code requirements.

Mr. Bowman: The applicants are here and would like to make a presentation.

[Secretary’s note: Ms. Goodman, Planning Commissioners and public referred to visuals brought by the applicants for their presentation to the Planning Commission].

Ms. Lisa Goodman: I am with Young, Conaway, Stargatt & Taylor, on behalf of University Garden Associates. Here with me this evening is Mark Ziegler of McBride & Ziegler, the project engineer; Mr. Ralph Watts and Mr. Jim Watts, the owners of the complex are here as well; and Monica Sloan of McBride & Ziegler.

As Mr. Lopata indicated, we are here for a major subdivision approval. Many of you know this complex. It was built in approximately 1950. The Watts family has owned it since 1985. It sits on 4.2 acres and as you know, Beverly Road runs right through the center of the complex. It currently has 68 units, and if this is approved tonight it will have eight additional units for a total of 76.

I talked some at the Board of Adjustment about the pride that the Watts family takes in this complex and how it is a well maintained and well behaved neighborhood, which is pretty important. However, as I mentioned there, it is also 60+ years old. And, the Watts’ have upgraded many of the facets over the years including updating all of the electrical service, new fixtures in all of the units, punch pad security systems at all front entrance doors, they have replaced the oil fired burners with high efficiency gas boilers, removed all of the oil tanks, replaced all of the kitchen cabinets, and they just completed replacing all of the windows in the entire complex with high efficiency windows. As part of modernizing, they want to make exterior improvements as well. The genesis for this in part is to make those exterior improvements. Currently, there is a parking lot on this corner, as I am sure many of you know. They really would like to remove that corner parking which is very visible from the street and redistribute it throughout the complex and to modernize the stormwater management system by reconfiguring the old pond which will allow them to make the new pond smaller and, more importantly, to utilize green technology. The old pond is currently a very old fashioned detention basin.

In order to facilitate that, they are proposing the addition of eight units which will be designed to match the existing buildings. If you take a look first at the two handouts that I passed out to you, first you will see the colored site plan and let me just point out here, the current parking lot is on this corner and this building here that sits right on the curb is the proposed new building, Beverly Road that bisects the complex, and you can see the complex. Currently, now, the detention basin is back in this area and the parking is not in this configuration right now because that is the proposed configuration. When this proposed project is finished, we will have at least as many parking spaces as we have now.

Let me ask you to turn the page to the elevation that we brought. This is actually set into the site. It is an elevation that has been photo-shopped into an actual photo of this location. So, this gives you a pretty good idea of exactly of what it is going to look like, with one exception.

This building will match all of the other buildings. It is fully Code compliant as is the rest of the plan. We don't anticipate any issues with meeting any of the advisory comments attached to the recommendation. We think that, basically, the plan is ready to go. We will be happy to answer any questions on it, but it is actually fairly straight forward in terms of being Code compliant and fitting right in with the neighborhood because it is exactly what is already in that neighborhood.

Mr. Bowman: Do any of the members of the Commission have any questions?

Ms. Angela Dressel: You said first that the owners are thinking about upgrading the exterior of the buildings and changing the look of them, yet the plan that we have before us and the rendition is exactly what you have now.

Ms. Goodman: Perhaps I misspoke. I started out by talking about the interior improvements that they have made. When I said the exterior, what I am really talking about is the outside appearance of the complex. Essentially, making it look nicer, not specifically the outsides of the buildings, but for example, current design does not put a parking lot on your most prominent place in a neighborhood if you can avoid it. But, yet, this was designed in 1950, so on this curve we are looking at a parking lot. So, that is not an ideal design these days. So, it made more sense for them to be able to reconfigure, move the parking, reconfigure the stormwater and help to offset that by building this new building. So, that is the thinking on that in terms in exterior. It is sort of the overall appearance.

Ms. Dressel: Every plan we have here is showing the new parking situation. That is what I couldn't understand, because I couldn't figure out how you were taking away parking from this parking area and adding a new building and still ending up with same number of spaces.

Ms. Goodman: The plan that you have is the proposed conditions, but this whole corner right now is a big parking lot.

Ms. Dressel: I drove by there and was thinking, how can you add eight apartments and all those people and not add more parking than what you have right now?

Ms. Goodman: The answer is that the project is already way over code and it will continue to be the same amount or possibly greater over code. When I have talked to them about parking, they have said that they have plenty of parking. They actually have more parking than they use.

Ms. Dressel: When I drove through, and it was about 4:30 or 5:00 in the afternoon, it looked pretty full. If they have gotten a variance . . .

Mr. Lopata: The variance wasn't for parking. The variance was for density.

Mr. Begleiter: Maybe you could point out where the new parking spaces are going to be.

Ms. Dressel: I'm just concerned that you are going to end up with a situation where there are many cars on the road, and I can't say that the people further down on Beverly Road are going to be very happy about that situation.

Ms. Goodman: We don't anticipate that. The Watts' actually control the use of the parking very carefully by knowing exactly who has cars and the right to park there comes as an additional right. It doesn't come with the base lease. So, they control it very, very carefully and do a very good job.

Ms. Monica Sloan: I am the project engineer with McBride & Ziegler. Right now the existing parking, like Lisa said, takes up this whole corner here. So, we are taking out the parking in this area, putting a building in, adding some parking here, and then the remainder of the parking is up in this area. We are adding about 20 spaces up there. That is how we are maintaining the same number of parking spaces. Right now in this area we have big dry pond which in the old days you did the dry pond, you did the wet pond, now everything is green technology. We are putting in a bio-retention area there. If we need to, we will put in some underground storage.

Mr. Begleiter: Along the entire periphery of this property on the east side and the north side, all of those adjacent properties are University of Delaware, right? There are no individual property owners on those sides.

Ms. Goodman: That is correct. It is University all the up and beyond here and all the way up to here until you get the little narrow BB zoned strip on Elkton Road.

Mr. Bowman: Are all the apartments in the building the same size as far as bedrooms or do they vary?

Ms. Goodman: They are all the same size.

Mr. Bowman: How many bedrooms?

Ms. Goodman: Three.

Ms. Peggy Brown: That corner up there is going to be pretty far away from the building. What kind of lighting is going to be put in to provide security?

Mr. Jim Watts: I am representing University Garden Apartments. Right now we have parking lot pole lighting which is supplied by the City of Newark. We pay for that. We have pole lighting back through here. We have lights on the buildings here and we do have lights on the building here.

Ms. Brown: How about the corner where you are adding approximately the 20 spaces.

Mr. Watts: There is a line of lighting overflow from the University of Delaware. We haven't looked at that. We will have to look at that, but we do have lighting all through the whole place.

Ms. Brown: My suggestion is that that portion should have a little extra lighting because it is far away from the building and there is not really anything around it. If someone hollers, nobody is going to hear them.

Mr. Watts: We will certainly look at that.

Mr. Bowman: We will open the discussion to the public.

Since there is no public wishing to speak, we will bring it back to the table for further discussion. Are there any further questions or comments?

MOTION BY BEGLEITER, SECONDED BY SHEEDY THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATION:

THAT CITY COUNCIL APPROVE THE UNIVERSITY GARDEN APARTMENTS MAJOR SUBDIVISION, WITH THE CONDITIONS IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AS SHOWN ON THE MCBRIDE & ZIEGLER PLAN, DATED SEPTEMBER 15, 2010.

VOTE: 7-0

AYE: BEGLEITER, BOWMAN, BRILL, BROWN, DRESSEL, JOHNSON, SHEEDY
NAY: NONE

MOTION PASSED UNANIMOUSLY

4. REVIEW AND CONSIDERATION OF THE REZONING FROM BL (BUSINESS LIMITED) TO BB (CENTRAL BUSINESS DISTRICT); MAJOR SUBDIVISION; SITE PLAN APPROVAL; A PARKING WAIVER; AND SPECIAL USE PERMIT APPROVAL OF THE .85 ACRE PROPERTIES AT 206, 208, 220 AND 224 E. DELAWARE AVENUE TO REPLACE THE

EXISTING BUILDINGS WITH A FIVE STORY MIXED USE FACILITY INCLUDING 12,116 SQ. FT. OF FIRST FLOOR COMMERCIAL SPACE, 39 UPPER FLOOR APARTMENTS, AS WELL AS SECOND FLOOR INTERIOR PARKING AND TWO LEVELS OF PARKING TO THE REAR OF THE PROPOSED BUILDING, TO BE KNOWN AS CAMPUS EDGE.

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

“On December 22, 2010, the Planning and Development Department received applications from Campus Edge LLC for the redevelopment of the properties at 206, 208, 220 and 224 E. Delaware Avenue. The applicants are requesting rezoning from the existing BL (business limited) to BB (central business district) zoning and major subdivision in order to demolish the existing buildings on these sites and replace them with a five story mixed use building with 12,116 sq. ft. of first floor commercial space and 39 upper floor apartments, to be known as “Campus Edge.” Although the project will also include ground level and second deck exterior parking and second level interior parking, the applicants are applying for a 42 space BB zoning required parking waiver. In addition, the applicants are requesting a BB zoning required special use permit for upper floor apartments and site plan approval to permit several variations in the normally applicable zoning area specifications.

Please see the attached McBride & Ziegler, Inc. development plans, applicant’s supporting materials and building elevation drawings.

The Planning and Development Department’s report on the Campus Edge project follows:

Property Description and Related Data

1. Location:

206-224 E. Delaware Avenue; north side of E. Delaware Avenue.

2. Size:

.85 acres.

3. Existing Land Use:

The Campus Edge site is a developed property containing four small former residential structures that have been converted to office use with one apartment each in the buildings at 208 and 220 E. Delaware Avenue.

4. Physical Condition at the Site:

The Campus Edge properties are developed sites containing four small two-story buildings. Associated parking areas and driveways are also found on these properties, along with small lawn areas and some trees. Several large Sycamore trees line Delaware Avenue in front of these properties.

In terms of topography, this site is very level with a slight increase in elevation from south to north.

Regarding soils, according to the subdivision plan and the United States Department of Agriculture’s Natural Resources Conservation Service, Campus Edge contains 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 proposed uses are indicated.

5. Planning and Zoning:

The Campus Edge site is zoned BL. BL is primarily an office zone that permits the following:

- A. Churches or places of worship
- B. Schools
- C. Parks and playgrounds
- D. Municipal utility uses
- E. Public transportation bus or transit stops
- F. Social club, fraternal, social service, union and civic organizations
- G. Accessory uses
- H. Hospitals
- I. Residences limited to one apartment unit provided in conjunction with any one non residential use
- J. Offices for professional services and administrative activities
- K. Finance institutions, banks, loans companies
- L. Undertakers
- M. Barber shops and beauty parlors
- N. Medical clinic
- O. Bed and breakfast, with special requirements

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

- A. Police and fire station, library, museum and art gallery
- B. Golf courses and country clubs
- C. Electrical and gas substations
- D. Day Care Centers
- E. Drive-in and curbside service for other than eating establishments

The requested BB zoning, our central business district zone, would permit 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 curbside 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, the applicants have applied for the required parking waiver for off-street parking and have requested site plan approval for conformity with the front building setback [20 feet; the plan calls for 10 feet; and side yard [8 feet; the plan calls for 3 feet] specifications for a building of the height proposed, and for the overall height of the structure [four stories, the plan calls for five].

Regarding adjacent and nearby properties, the TD Bank with drive-in facility occupies the BB zoned property immediately east of Campus Edge. The Trader's Alley and the Schlosser and Dennis properties, including the Iron Hill Brewery restaurant and other commercial facilities and a surface parking lot, are located immediately north of the site occupying lands zoned BB. An easement providing access to the Trader's Alley area from E. Delaware Avenue roughly bisects the Campus Edge site. The parking area for the Simon Eye Associates building lies west and northwest of the Campus Edge property on BL zoned lands. BL zoned parcels lie south of Campus Edge across E. Delaware Avenue and contain the Newark New Century Club, the Newark Masonic building, the Calvary Baptist Church and a small two and one-half story residential type building with an office and apartments.

Regarding comprehensive planning, Comprehensive Development Plan IV calls for "commercial (pedestrian oriented)" uses at this site. The Plan defines these uses 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. Residential uses, as noted in detail above and in Chapter II may be permitted under certain circumstances."

In addition, the Plan's Downtown Economic Enhancement Strategy shows the Campus Edge location which is just outside the "Downtown Core District," and within "District Two – University," described as:

"This area includes mostly University of Delaware lands with other properties that almost encircle the Downtown Core District. The area is intended for continued University related uses. The University should make the downtown business community aware of student, faculty and staff commercial needs and opportunities through the Downtown Newark Partnership."

Obviously, while the Campus Edge site is located in the area described above as "District Two – University," because the land is not owned by the University and has not been devoted to academic uses, it should be more appropriately considered within the "Downtown Core District."

More generally, concerning downtown residential uses, the Plan comments that:

"Regarding the City's review of downtown mixed use redevelopment projects with housing components, the intent is to make it abundantly clear that the City seeks positive impacts from such residential uses. One key positive impact for an individual

project, for example, might include the potential at the site for affordable housing for owner occupants. In particular, and perhaps most importantly, to implement this Action Item, Council may need to actively consider density reductions for projects of this type, on a case-by case basis depending on the location, other site conditions and the nature of the project. Through the City's multi-year effort to limit the proliferation of off-campus student housing in traditional neighborhoods, we have learned that one of the best zoning tools to promote affordable owner occupant housing is to significantly limit permitted density in approved residential projects to individual families or to no more than two unrelated tenants, or with similar specifications. For example, in the developments of Casho Mill Station, Abbotsford, Country Place and Williamsburg Village, the City has very successfully preserved these communities for primarily owner occupant relatively affordable housing. If this approach worked at these locations, it should also work downtown. This zoning and development approval tool can be packaged with other incentives to encourage owner occupancy. In sum, we want Newark, especially downtown, to become a "destination city" featuring affordable housing for owner occupants, with an emphasis on occupancy for young couples and families, singles, recent University graduates, retirees and other individuals desirous of making downtown Newark a permanent home rather than a transitory residence."

Regarding gross residential site density, please note that Campus Edge calls for 45.88 dwelling units per acre. By way of comparison, the density of the nearby Washington House mixed use project is 36.1 units per acre, and the densities of other downtown similar mixed use projects of 102, 108, and 129 E. Main Street are 20.83, 14.7 and 34.68 units per acre respectively.

As noted above, the applicants have also applied for site plan approval because Campus Edge does not conform to the front setback, side yard and building height requirements for a building for the size proposed. In this regard, the Zoning Code describes the purpose and intent of site plan approval,

"...to provide alternatives for new development and redevelopment proposals, to encourage variety and flexibility, for new development and redevelopment, and to provide the opportunity for energy efficient land use by permitting reasonable variations from the use and area regulations stated in this chapter."

The Code adds that site plan approval,

"... shall be based upon distinctiveness and excellence of site arrangement and design and including, but not limited to: (1) common open space; (2) unique treatment of parking facilities; (3) outstanding architectural design; (4) association with the natural environment including landscaping; (5) relationship to neighborhood and community and/or; (6) energy conservation defined as site and/or construction design that the Building Department has certified meets or exceeds the "certified" level as stipulated in the LEED (Leadership and Energy in Environmental Design) United States Green Building Council Program or a comparable Building Department approved energy conservation program."

Obviously, the Planning Commission will need to evaluate the Campus Edge proposal in light of the relevant aspects of the review criteria noted.

BB District Off-Street Option Procedure

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.”

Regarding the requested 42-space parking waiver, our procedure specifies that applicants receiving such approvals must make an “in lieu of spaces” payment to the City to be used to improve parking downtown. The Zoning Code also indicates, however, that the Planning Commission may consider land donation in assessing these payments. In any case, the required payment for the requested waiver, based on a recently updated estimate of the cost of construction of surface level parking spaces provided by the Public Works Department (\$5,833) is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
Five (5)	\$ 1,458.25 (5% of cost)
Six to Twenty-five (20)	\$ 58,330.00 (50% of cost)
Each Space of Twenty-five (17)	<u>\$ 99,161.00 (100% of cost)</u>
Total:	\$158,949.25

Please also note, regarding the parking waiver and the site plan approval review criteria described above, the Planning and Development Department has had a series of meetings with the applicants and adjoining property owners (Trader’s Alley, LLC and Schlosser and Dennis, LLC) to propose to use the Campus Edge redevelopment plan as an opportunity to solve several ongoing parking difficulties at this location. As the property owners report and any customer of the businesses in Trader’s Alley has experienced (the Trader’s Alley subdivision encompasses the Trader’s Alley, LLC and

the Schlosser and Dennis, LLC properties), parkers typically utilize this facility for “free parking” although they are not customers of the businesses at the site. As a result, it is very difficult at times to find available parking at this location. The Department, therefore, has in the past encouraged the property owners to consider making their parking area available to be operated as one of the City’s surface parking lots; thereby providing the onsite regulation necessary to limit the abuse of an existing parking facility.

In any case, the Department has proposed for the adjoining property owners’ future consideration the possibility of redevelopment of this “rear” parking facility for upper floor residential uses above a second floor parking deck that would be extended from the Campus Edge second level deck shown on the plan for that site. In other words, we have suggested, and the adjoining property owners are seriously considering, the possibility of redeveloping their parking area with a second level of parking, with apartments over the Trader’s Alley, LLC parking lot and new apartments above the “Cameras, Etc.” building portion of the Schlosser and Dennis, LLC site, with the existing surface level parking dedicated to the City. Of course, there are many logistical details that would need to be finalized as part of the future redevelopment plans for that area, but it is important to note that for planning and construction purposes, the coordination amongst these various projects is crucial to help solve ongoing parking problems at this location while minimizing the disruption to existing businesses. Additional comments concerning this matter appear below under Subdivision Advisory Committee.

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural 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, related exterior features, and existing utility lines. 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 is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and 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 set 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 agreement for the project.

Be that as it may, the Campus Edge development plan calls for a proposed new five story building in two sections fronting on E. Delaware Avenue replacing the four smaller residential style structures on the site. The sections are connected with a multi-story “bridge,” that contains upper floor uses and is an integral part of the proposed structure. The gateway below the “bridge,” provides access to Trader’s Alley immediately to the north of the site. 12,116 sq. ft. of commercial space is proposed for the first floor of Campus Edge. The second floor contains a parking garage accessed from a ramp to the rear of the facility that also includes second floor parking extending beyond the main structure that fronts on E. Delaware Avenue, providing two levels of parking to the rear of the building. 39 apartments are proposed for the third, fourth and fifth floors within the main structure.

Please consult the applicant’s submitted building elevation drawings and supporting letter for additional information concerning the proposed site design.

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

Please note in this regard, that on a voluntary basis, the applicants reviewed the proposed building elevation drawings with the Downtown Newark Partnership’s Design Review Committee. As a result, the Committee recommended in favor of the project and noted that Campus Edge is a, “. . . good example of the type of project we aim for with some added density in the central business district,” while at the same time the Committee indicated that, “. . . this project is unique in that there are not really any adjacent buildings which is the basis for many of the Design Guidelines.”

Fiscal Impact

The Planning and Development Department has evaluated the impact of Campus Edge on Newark’s municipal finances. The estimates are based on the Department’s Fiscal Impact Model. The Model projects the Campus Edge fiscal impact; that is, total annual municipal revenues less the cost of municipal services provided. The Planning and Development Department estimate of net revenues follow:

	<u>Net Revenue</u>
First Year	\$21,855
2 nd Year and Thereafter	\$11,709

The reduction in net revenue in the second year is a result of the one time impact of the real estate transfer tax.

Traffic and Transportation

In light of the size and scale of the Campus Edge project and the requirement for a State of Delaware Department of Transportation (DelDOT) entrance/exit permit, we have asked DelDOT to review the Campus Edge project.

In response, DelDOT indicated that because the Department will not require a traffic impact study a DelDOT so called “area wide study fee,” will be required. In addition, regarding access to the site from E. Delaware Avenue, a “letter of no objection,” will also be required through the construction improvement plan process.

Subdivision Advisory Committee

The City’s Subdivision Advisory Committee – consisting of the Management, Planning and Operating Departments – has reviewed the proposed development 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 notes that the proposed mixed commercial and residential land use at the site corresponds to recently approved downtown development projects. On the other hand, the proposed density of almost 46 dwelling units per acre exceeds that of all recent downtown projects. It most closely corresponds to the owner occupant Washington House condominium project’s density of 36.1 units per acre. In addition, of course, the applicants have also applied for a 42 space parking waiver which is directly related to the number of units proposed. We believe, therefore, that to correspond to the updated land use guidelines for downtown residential development as described in Comprehensive Development IV, either the number of units proposed should be reduced, or some form of rental tenancy restrictions similar to those utilized at Washington House should be applied. Regarding the latter suggestion, for example, as a subdivision and special use permit condition, some portion of the units proposed could be limited to no more than two tenants per unit if they are leased or subleased. The intent here would be to encourage condominium ownership of the units.
2. Regarding the impact of Campus Edge on parking downtown, the Planning and Development Department notes, in addition to suggesting the land donation for

the downtown parking system, and as explained above, we have encouraged the applicants and adjoining property owners to consider some form of shared parking arrangement – which might include the extension of the second deck, with additional upper floor residences, over the existing Trader’s Alley parking facility to alleviate parking difficulties at this location. Moreover, we have noted that the surface level parking of such a facility would be transferred to the City for operation and management as part of the Department’s downtown off-street parking operation.

Beyond that, and perhaps most importantly in terms of the density issue discussed above in item #1, we believe that, as part of its site plan approval and comprehensive plan conformity review of this project, the potential for responding to local parking needs inherent in this proposal should be considered. More specifically, in terms of comprehensive planning, we note as part of the City’s review of downtown mixed use redevelopment projects our Plan stipulates that, “. . . the intent is to make it abundantly clear that the City seeks positive impact from such residential uses.” As the Planning and Development Department has indicated in the past, land donations of the type described here are typically considered significant positive uses. In this regard, therefore, the Commission could conditionally approve a density proximate to that requested by the applicants, provided that such density would only be permitted if the parking and redevelopment arrangement for the Trader’s Alley lot described here is submitted for Planning Commission and Council review in the relatively near future.

3. The Planning and Development Department also suggests the following subdivision site design conditions:
 - The architectural design of the facades of the proposed Campus Edge building should be carried out on all building elevations visible from public ways.
 - Storage areas, mechanical and utility hardware shall be screened from view from all public ways and nearby properties in a manner consistent with the proposed architectural design.
 - Parking area lighting should be designed to limit impact on adjoining and nearby properties.
4. Regarding site plan approval and its relationship to the proposed building design, while the Planning and Development Department typically refrains from commenting on architectural appearance, we cannot help but note in this case our view that the Campus Edge building is a very attractive addition to the E. Delaware Avenue streetscape.
5. The Public Works Department indicates the following regarding stormwater management:
 - Prior to the plan’s review by City Council, the applicant will need to meet with the Department to discuss sediment control and stormwater management design; a copy of the soils infiltration test report should be provided to the Department.
 - The subdivision plan and agreement will need to specify that any underground stormwater facility installed at land eventually dedicated to the City will remain the responsibility of the applicant(s).
 - The Department has a series of stormwater management, drainage and related requirements that the applicant will need to review with the Department through the construction improvement plan process.
6. The Public Works Department also indicates that the plan should be revised to show required bike racks.
7. The Electric Department has the following comments:
 - Electric service is available from Delaware Avenue.

- No trees growing over 18 ft. at maturity will be permitted along E. Delaware Avenue and building clearance from the utility poles to the front of the building should be reviewed with the Department prior to the issuance of building permits for the site.
 - The applicant will be required to pay all costs for the relocation of a Verizon owned pole at E. Delaware Avenue.
 - The applicant will be required to pay \$12,000 toward the cost of a pad mounted transformer, as well as \$350 per commercial and \$110 per apartment meter.
8. The Code Enforcement Division indicates that the proposed new structure must meet all applicable City Building and Fire Code requirements. The new building will be required to be sprinklered.
9. The Code Enforcement Division also indicates that for site plan approval compliance LEED or similar certification approved by the Division will be required through the building permit process.
10. Regarding water service, the Water and Wastewater Department indicates the following:
- Individual meters will be required for the retail space on the plan, as well as for each apartment. The meters are to be installed in a utility/meter bank room adequate to handle the required numbers of meters. Meter costs will be borne by the applicants following the determination of meter size by the Department through the construction improvement plan process.
 - The four existing water services on the 12” main will be required to be disconnected and the curb stop valves removed in front of the existing buildings on the site.
 - Fire and domestic service must have separate feeds for valves for each, outside the proposed building. These facilities should be shown on the construction improvement plan.
11. The Water and Wastewater indicates the following regarding sanitary sewer service:
- The applicant will be required to cut and cap the four existing sewer laterals at the rear of curb.
 - An STP fee will be required at the time of the issuance of the first Certificate of Occupancy for the facility.
12. The Parks Department indicates the following:
- In light of the large Sycamore trees at the site on E. Delaware Avenue and in compliance with the recently amended landscape treatment section of the Zoning Code, these “valued trees,” will need to be replaced at other off-site locations to be determined by the Parks Department.
 - Flush mounted tree grates for to-be-installed trees will be required; these should be installed in consultation with the Department.

Recommendation

Following the Planning Commission’s review of the Planning and Development Department’s report on Campus Edge and your consideration of the applicant’s presentation and public comment, we suggest the Commission consider the following options in terms of approvals and a recommendation to City Council:

- If the Commission determines the following regarding the Campus Edge plan: that it is compatible with recently approved downtown projects in terms of its design, scale and intensity of development; that it meets the criteria in the Zoning

Code for site plan approval; that it will not have a negative impact on adjoining and nearby properties; that it conforms to the guidelines of Comprehensive Development Plan IV, and, with the proposed onsite and potential adjacent surface parking land dedication that it will make a positive contribution to downtown parking, **the Planning and Development Department suggests that the Planning Commission take the following actions:**

- A. **Recommend that the Campus Edge property be rezoned from BL (business limited) to BB (central business district), as shown on the attached Planning and Development Department Exhibit A, dated March 1, 2011;**
 - B. **Recommend that City Council approve the Campus Edge major subdivision plan as shown on the McBride & Ziegler, Inc. plan dated December 20, 2010, with site plan approval, and with a special use permit for upper floor apartments, with the Subdivision Advisory Committee recommended conditions, and with the further condition that the total number of residential units proposed be approved conditional upon the submittal to the City within six months of the date of Council approval of Campus Edge, of a plan for the Trader's Alley property that calls for the land dedication of all or a significant portion of the surface parking at that site to the City for public parking.**
 - C. **Approve the required 42 space Campus Edge parking waiver with the condition that, if the adjoining Trader's Alley LLC property is approved for redevelopment including dedication to the City of its existing surface level parking, all Campus Edge surface level parking would be also dedicated to the City. If this land is dedicated to the City, the required parking waiver fee shall be refunded to the applicant; [this fee would normally be required at first Certificate of Occupancy].**
- If the Planning Commission believes the above comments reflect its views concerning the project except with the proviso that the proposed number of units should be reduced to the 36 units per acre limitation above [the highest number of units per acre of recently approved projects], then the Commission may choose to recommend approval with the reduction of the number of units to meet this density to a maximum of 31 and/or some portion of the proposed units be limited each to a maximum of two tenants. In this case, the above recommendation with the additional condition regarding the reduction in density would then be approved by the Commission without the conditions concerning the Trader's Alley redevelopment and associated land dedications.”

Mr. Lopata: I will, of course, be glad to take questions.

Mr. Begleiter: What is the advantage to the people of the City of Newark (and you must see one by virtue of having proposed it) to voting upon now on a proposal that incorporates a potential future possible agreement or arraignment that may be very laudatory on a parking thing? Why not do these all at once, in effect, a sort of mini comprehensive plan for this particular property.

Mr. Lopata: That is a good question. First of all, projects just don't work that way. They come in the door and we deal with what comes over the hopper. As soon as this plan came in, we convened a meeting with the applicants and discussed this issue of a “mini comprehensive plan” for the area, within days. What can we do to work something out? And, relatively shortly thereafter we began meeting with the other nearby owners.

In any case, as a result of these discussions, we are basically saying is approval of the project in the size and scale as proposed could be conditional upon someone else doing something. There is no doubt that this approach is unusual. As an alternative, we are suggesting don't disapprove the project, instead making project smaller. In other words, they get their extra units if something else happens in the future. The reason I

think this approach makes sense is that they are asking for something that is pretty big -- they are asking for significant density; they are asking for site plan approval; and they are asking for a parking waiver. They are asking for enough things that I think it is justified that the City can say in exchange for approving what they are requesting, let us try to solve some problems in the area. And, by the way, we will make money on the dedicated parking. So, we are very much interested in acquiring as many parking lots as we can. We know we run them better than the private owners and we can do it more effectively. We like to "outsource" private parking to public.

Mr. Begleiter: What is the advantage to the City of moving sooner rather than in six months?

Mr. Lopata: There is no harm to it.

Mr. Begleiter: It would be an advantage to the developer, of course, because they have their act together and they are ready to roll.

Mr. Lopata: We do recognize that time is money. I don't have a problem with moving ahead with this approach; that is, approve the "bigger" project being conditional upon something else happening.

I don't think the applicants are doing handsprings over this either.

Ms. Brown: Are the owners behind there (Iron Hill Brewery, Trader's Alley) are they all talking or are some of them talking and some are not?

Mr. Lopata: I don't know what they do behind closed doors, but they certainly met with us.

Ms. Brown: Everybody who is right behind this that has a parking issue?

Mr. Lopata: The people that own the lot that we are talking about have talked and some of them are here this evening.

Ms. Sheedy: I am trying to picture this and am having trouble. Tell me if I am picturing it correctly. If the conditional plan were implemented, that part of the block would be completely enclosed. Is that right? Iron Hill Brewery and Trader's Alley would have apartments on top, there would be street level parking somewhere in the middle of that block, and then there would be second level and apartments on top from Delaware Avenue to Main Street. Is that right or no?

Mr. Lopata: Not from Main Street. The tentative plan that we have discussed would have the Trader's Alley building, because of the way it is now, would stay the way it is. A second deck and apartments that might occur back there would be totally behind everything. You pretty much would have trouble seeing them especially in light of this building on E. Delaware Avenue. And, the parking lot that these Campus Edge applicants are building, their second level would just keep going out over the back of Trader's Alley for some distance, none of which you would see except when you are immediately adjacent to it.

Regarding Cameras, Etc., that building, it's possible, perhaps, to build above it with a second deck behind it. Of course, that is a one story building. If they put another level on, it would pretty much look like others buildings downtown.

So, that is what we are talking about. There are several sets of property owners -- Trader's Alley, and then Schlosser and Dennis that is the Cameras, Etc. property. Now much of what I just said is conjecture on our parts, but it is what we talked about. We have talked about and conjectured about how this could be done and that would be a way of doing this.

Ms. Sheedy: Is there some risk that the Commission is taking if we recommend the approval for the higher density based on these conditions that when other property

owners on adjacent properties come to us with that plan are we going to have some moral obligation to approve it and not view it on its own merits?

Mr. Lopata: That is part of what I am wrestling with. You are absolutely right. There are issues like that here. I think at this point if you hear the developers' presentation and their discussion about this issue, it may help.

Ms. Goodman: On behalf of Campus Edge, LLC, and as Mr. Lopata said, we are here for a number of approvals. With me here this evening principals of Campus Edge, LLC are Kevin Mayhew and Kevin Heitzenroder both local and both with great track records and Mark Ziegler, the project engineer.

I am going to jump to the end of my presentation for a second and address the issue that you are all wrestling with. When we saw Roy's recommendation, we came in and sat with Roy and talked it over because, certainly from the City's perspective, we think there is great merit to portions of what Roy is proposing. We are more than prepared to cooperate. We have already had meetings. My clients have had meetings with the owners of Traders Alley. They have had meetings with the Traders Alley builder. In fact, Traders Alley folks are working with our engineer. So, things are happening. However, what Roy, I think, struggled with is the difficulty that we have which is conditioning one person's ability to move forward on another person's action. We think everybody here is of good will and no doubt that that is the case, but one person can have issues crop up through no fault of their own and then cripple the next person and everything falls apart. So, we actually have a middle path, if you will, between give us a lower density and the City doesn't get their parking lot and give us a higher density but condition us on the neighbors coming in. I am just going to tell you this now and then go back and explain. This is confusing but we have some pictures and elevations that I think will help to make it clearer.

Our middle path is this. We are prepared to give the City our surface parking right now with this plan. In other words, instead of saying we will give you our surface parking if the other guy gives you his surface parking, which is Roy's first choice. We will just give it to the City now. In addition, my clients will build the parking garage at our cost designed in such a way that it can be accessed by the neighboring property owners. So, we will build the ramp as we are showing you here tonight which allows them access to the ramp from their property. So, this fully facilitates that happening because here is the thing. Let's say that, perhaps, the current owner of Trader's Alley cannot do it in six months. Maybe they do it in a year. Maybe the next owner will do it, although, I don't think that is going to happen. But, if we are brave enough to take the jump first, it is going to happen. Sometimes you have to plan for the future and set it up. So, if we set up this block by giving it to you now, then this is going to happen eventually. Probably sooner than later because the other folks are going to come in, hopefully, with a good proposal that does a very similar thing because now they are incentivized, right, because now instead of part of their just being parking lot, part of their property could be income producing to them. That is a huge incentive. So, we think that is the best solution. It is sort of a middle way. It is not commercially doable for us to be conditioned on somebody else and just for example, with that condition on, we don't know how big our building is going to be until our neighbors are able to act. We can't get financed. We can't even move forward to design our building much less start to build it, right, because we don't know what it is going to look like. We don't know how many units it is going to have. We don't know how we will design the parking garage. So, it freezes us. As many of you know the saying, time kills deals. It doesn't work from a commercial standpoint. We think we can set it up to make it work for the City in the future.

Mr. Lopata: Lisa, if I could just interrupt for a second so you all are aware of exactly what is you are saying. I, of course, knew about this suggestion. It was made, as you noted, after my report went out to you. So, I go with the formal written report, but, of course, that is why I wanted you to hear Lisa's suggestion because it gets, Kass, to the problem you are raising. The question of conditioning something on somebody else's behavior is no longer a problem if you approve the approach Lisa just outlined. That, of course, is up to the Commission. It is totally your call in terms of a recommendation, but

I did not want to comment on that ahead of time until you heard it.

Ms. Goodman: And it doesn't put you in the situation I think you are worried about which is feeling some sense of moral obligation if you don't like the design that the next folks bring. We think it is a pretty good King Solomon solution.

Let me walk you through so you understand the geography a little better.

[Secretary's note: The applicants, Planning Commissioners and public refer to visuals brought by the applicants for their presentation to the Planning Commission].

This is the overall elevation. I started out by saying that Kevin Mayhew and Kevin Heitzenroder are local developers with great track records. I am going to run you through some of the other projects they have done: this is CampusSide, which is Kevin Mayhew's project; this is 111 Elkton Road – again, this Commission with almost the same folks sitting up here, have seen and recommended in favor of all of these; this is 119 Elkton Road, Kevin Heitzenroder's project; this is Amstel Square, Kevin's project. Obviously, as you drove here tonight, you passed virtually all of them depending on which way you came. So, we have a team of developers here with really good track records.

The site we are talking about consists of four properties. They are basically four old residences as Mr. Lopata indicated have been turned into a combination of offices and apartments. Here is the surface parking lot that serves as parking for the building which is Iron Hill Brewery. The Dennis and Schlosser building is this building here. This is Trader's Alley running right in between. This gives you a sense of, I think, what Mr. Lopata was saying that assuming this building would remain, you would have, potentially, additional future construction in the interior of this block. If that comes to pass, it would be pretty shielded on all sides partially by what you are looking at tonight and partially by what is already there.

These are two of the buildings that are on the site right now. Here are the other two that are on the site right now.

This is the existing site data. It is .85 acres. It is currently zoned BL, which is an office zoning. Currently it has a little bit less than 10,000 sq. ft. of mixed office use and two apartments.

This is what the site looks like today to help you visualize it. Here is the Trader's Alley property up here, the Schlosser and Dennis property here and then the property line for these four properties goes like this. Basically, it is a square with a little jog. Delaware Avenue down here and Main Street at the top.

This is the proposed project. As Mr. Lopata indicated, the project is proposing ground level retail, here you see the ground level retail with a second floor parking garage above it, of course, designed not to look like a garage from Delaware Avenue. This is very important for the streetscape. Cities as they grow up have to have parking garages. If Newark is going to continue to grow and thrive, we have to put the cars somewhere and people have to feel comfortable coming. The way that is handled is with parking garages. So, the question is, how do we get them, how do we afford them and how do we make them look nice. This is a big answer; you don't make them look like a parking garage. There are three levels of residential units above. One of the unique things about this building is right here, what you see is essentially an access road right through the building. This is to provide circulation through what will probably be a relocated easement, through this block into what is now the parking lot where Trader's Alley is and out to Main Street. So, we get that nice circulation pattern that currently exists now.

This will try to get at some of the questions about the design. This is a side view of the building. Here we have Delaware Avenue running here, and this is the side coming up Haines Street here, then we have the parking garage to the rear and we have the rear of the building that is actually stepped back a little bit from the front of the

building.

Ms. Dressel: That is not what I see on here on the plan.

Ms. Goodman: I'm going to get to the site plan in a minute and maybe that will help.

This is the rear standing in the Trader's Alley parking lot looking at the back of the building. So, what you see here is if you look at the bottom level, you see the ground level parking that we are proposing to give to the City. When I say give, what I mean is a lease for \$1.00 for as long as the City wants it. If we give it to the City, the problem is our building is above it. So, we have to get into the very complicated area of air rights and I don't think the City wants to go there. It is simpler for us to do a 99 year lease for \$1.00 renewable. We can work out those terms. We are, essentially, talking about for as long as anybody cares to talk.

If you look inside here, you will see the ramp that we are proposing that goes up to the second level and here is the second level of parking. Most of this second level is covered with building, but not quite all of it, but most of it.

Ms. Dressel: Lisa, since you are on this screen, let me ask my question. I believe your ramp in this picture is backwards because if you look at the other diagrams coming from this one right here, you are going up the ramp. . .

Mr. Begleiter: Lisa, just tell us where you drive up the ramp from? You come in through that archway, and where does your car go to get up to the ramp?

Ms. Goodman: What you do is, you come in here, your turn and you come up the ramp and now you are on the second floor. If you happen to be an adjoining property owner that wanted to hook into this garage, you would come in, turn and up. And, that is how we constructed it so that there is access here for this property. We might have constructed it in a different configuration if we weren't going to hook in the neighboring property.

Anyway, the next slide is the ground floor. This shows that the parts that are in macadam color are what we would propose to essentially donate to the City.

This is showing the second floor garage. Let me walk you through this because this is confusing.

We have come up the ramp and now we are on the second floor which is the darker color. See this little jog here, that is the building footprint of the third floor, and this is the garage. See these lines here? So, this little bit of parking is not covered by building. Remember I said this is set back a little bit, that is that jog that I was just showing you where this steps in from this. This is in a little bit and doesn't quite come over the parking lot either on this side or this side.

I am turning now to the zoning standards. Here is our block. Everything in red is BB. This site is a little island of BL in an entire block of BB. Certainly, we are consistent with the neighborhood and with nearby properties. Consistency with the Comprehensive Plan -- Mr. Lopata talked about that. The Comprehensive Plan talks about mixed use, multi-family residential, pedestrian oriented businesses and certainly within the downtown district, which is, as Mr. Lopata said, where we much better belong, we are consistent. We are not a University use and we are not owned by the University. We think we are very consistent with the Comprehensive Plan.

This is the Trader's Alley record plan. You can see a proposed two-story building. That is what they were building now, of course, the Iron Hill Brewery is there. Here's the parking lot that we are all talking about, and then here is our four properties coming out to E. Delaware Avenue. This is the Schlosser and Dennis building right here. Our proposal essentially keeps this circulation; in here, through here, out here and vice versa.

Let me talk a little bit about the density. We are asking for a density that is higher than other recent projects. Mr. Lopata indicated we are requesting 39 units, which is 45.8 dwelling units per acre. Washington House has about 36.1. Why do we think this density is appropriate -- because of the parking situation? I think we are all familiar with Iron Hill Brewery. It is a great business, but the lot at times is used like a public lot. Those of use who patronize the business or the Trader's Alley businesses, you often can't find parking. We think this project can be the catalyst for not only resolving the current public exploitation of that lot, which, again, we don't own, but of also creating additional municipal parking and additional private parking. The way to do that is for somebody to jump first by being willing to design something that can be hooked onto and by saying we believe in this, we are going to go ahead and make the land donation and that is what we are proposing. We have discussed that with Roy. We will just provide it now because we can't go forward with a contingency for the commercial reasons I went through.

On great projects, today it is hard to convince banks to loan given the financial climate. If you go to them and say you have a great plan but it has a contingency and it depends on what the neighbor does and we don't know how big the building can be and we don't what the configuration of the parking is going to be, and by the way, we don't know if we are going to own the land under the building, the bank officer is going to drop down dead. Even if our good neighbors don't move forward right this minute, and we have every reason to believe that they are. They have hired an engineer. We have every reason to believe they are, but if they don't, for reasons beyond our control or beyond their control, we will provide the first floor parking now and we will set up the conditions that will definitely, in my opinion, lead to what the City wants to see. I had in here the same language that Mr. Lopata quoted in terms of density from the recommendation. "In terms of density, the potential for responding to local parking needs inherent in this proposal should be considered." And, we think that is really significant. Again, I also had that the town seeks positive impact from residential construction downtown. Mr. Lopata quoted the same language. The Comprehensive Plan says that and in the recommendation it says land donations are typically considered positive uses and we concur.

As part of this proposal, we are seeking a special use permit. Of course, that is always necessary when you are doing residential over commercial in BB. Every one of these that you have seen on Elkton Road or elsewhere needs a special use. As does this project. There are three things we have to show you:

No adverse impact on health or safety -- we think not only will we not have a negative impact; we will have a positive impact. There will be more commerce and residential, which is a benefit to downtown.

The second one is, not detrimental to the public welfare or injurious to property. I think looking at this it is hard to say that this project won't increase the value of adjoining and nearby properties because if we jump first, the other folks are going to say, if we agree to give the City access to our land, then they ought to be pleased to do a somewhat similar thing for us because they have already made the judgment that that is a good thing.

Finally, not in conflict with the purposes of the Comprehensive Plan -- we are consistent. We are consistent as to uses, appearance and general location with other things that have happened and in general with what the Comp Plan wants to see here.

Turning to Site Plan Approval. Site plan approvals aren't done very often in Newark. You have to have something unique to offer to fit into that category in Newark, and we really think we do. The Site Plan Approval process -- I'm quoting from the Code -- designed, "to encourage variety and flexibility and to provide opportunities for energy efficient land use by permitting reasonable variations from use and area regulations." We don't need any variations from use regulations. Assuming we get the rezoning, no variations from use. Some area variations, and Mr. Lopata talked briefly about that. The deviations from the area regulations are slight but necessary. The required front setback is 20 ft. on Delaware Avenue. We are requesting 10 ft. Why? In order to do second

floor structured parking we have to have the depth to get in the rows and the isles. If we don't have that extra 10 ft., we can't do it. It is as simple as that. It is necessary for the design. The side yard has an 8 ft. requirement. We have 3 ft. at the back corner of our building, and again, that is just because of the way the site works out. In order to get the right circulation pattern in, in order to get the ramp where we proposed it where it is useful for the neighboring property owners, that is how the chips fall in that design.

Roy's recommendation actually says that this has to do with four stories and requesting five. That was our mistake. We came in and talked with Mr. Lopata about it and we were mixed up. We are permitted to five stories. The question here is how height is calculated in the Code. It is quite a gray area because we are entitled to five stories but what is the actual height? It is hard to pin that down, so we are just saying to be safe, 65 ft., which is exactly what Washington House is. We think we may come in less than that but it is hard to know until you get into the mechanical design of a building – how thick the steel has to be, for example -- and we don't want to come back and deal with a foot more or less.

Site Plan Approval is "based on distinctiveness, excellence of site arrangement, and design," from the Code, and then it lists six criteria. It lists the six criteria and says and/or. This project excels in four of the six criteria, which we think is pretty great.

The first Site Plan Approval review factor is unique treatment of parking facilities. We are doing the second floor structured parking which by the way is very expensive which dovetails back into the density of the building. It is expensive to do, but it is the only way if we are going to improve parking and continue to be a vibrant place. You look at any city's growth from this size and this is what a city does. We sure don't want it to sprawl out more.

Second -- outstanding architectural design. We think we have that in spades. Certainly the Design Review Committee – Mr. Lopata quoted them in his recommendation – spoke very favorably about it. I think they recognized both the necessary density and the design of the building. And, again, Roy said while he typically refrains, he even commented on it in his recommendation from the Planning and Development Department. The brick and stone design, the unique drive-through to provide access to the other side and a little bit of that impacts our height, too, because we have to have 14 ft. clearance in that drive-through and that sort of controls where we can start our second floor. That locks us into some height considerations as well. We have a unique broken roof line with the dormers and the stone detail and, of course, we are hiding the parking.

Third -- relationship to the neighborhood and community. We have really talked about that. The catalyst for the improvements to parking, which not only will effect this little neighborhood but will affect the broader citizenry of Newark and elsewhere who come to shop and eat at this location. It will be the genesis for providing community parking, certainly improve Delaware Avenue appearance and lead to redevelopment.

The fourth criterion that we believe we "blow out of the park," is energy conservation. The current City regulations for new construction for environmental initiatives say you have to have LEED type 25 points. The Site Plan Approval process basically says you must have the equivalent of 40 points – almost double. We have looked at the LEED criteria which are what these are based on. The City has criteria that are based on the LEED criteria. We do not intend to go through the actual LEED process. It costs a fortune to get a building LEED certified. There are some times when it is appropriate, but we are using their guidelines.

I am going to show you a few of the LEED type things that my clients have identified to consider for this project: sustainable sites; use of a previously developed site; bicycle storage; preferred parking for low emitting and fuel efficient vehicles; reduce the heat island affect; water efficiency, including low flow plumbing fixtures; optimize energy performance through high insulation; insulated glass; high efficiency HVAC; dedicated areas for recycling; and, this is a big one, managed construction waste by recycling at least 75% of waste material. This is a big commitment because you have

to get certification every time a dumpster goes off the site and you have to control where it gets dumped and you have to get the receipts back. It is kind of a headache but it makes a huge difference. To continue: use materials with recycled content; use regional materials; use certified wood for at least 50% of the project; indoor environmental quality; prohibit smoking; indoor air quality management plan; low emitting materials, which is another big deal; exhaust systems to manage indoor chemical and pollutant source control; providing daylight views; and use LEED credited professionals.

Through doing all of this, they have identified the possibility to achieve in excess of 50 points, so they are very confident that they will reach a minimum of 40 points and perhaps over. This is hard and it is expensive, but it really pays off because we certainly hope the building will be there for a long time.

Our second floor garage, assuming we give the first floor to the City, right now we are anticipating providing 79 parking spaces for 39 residential units, which is about two per unit. The way that my clients propose to handle this is by simply reserving spots for each unit. When you come in to rent a unit, you will get a lease and the lease will say, this unit has two spaces. So, you will know up front -- (A) do you lease that unit if you need more than two spaces, or (B) that means that some people may not bring their cars or they are going to have to make other arrangements. That has worked really well for other complexes owned by my clients and owned by other clients. That really has worked incredibly well. As their track record has taught them, they don't really need more parking than that. It just works to have roughly two spaces per unit and to reserve them. So, we think we are providing sufficient parking for what we are building. And, of course, the City space, and lots of parking then available for the retail to the extent that it is not walk up. We anticipate a lot will be, of course, pedestrian oriented retail.

The parking waiver criteria are as follows: consistent with the Comprehensive Plan – we believe we are perfectly consistent with the Comprehensive Plan. Second, that the property use conforms to and is harmony with the character of the development pattern of the central business district. Again, commercial on the ground floor, residential above. We think it is very consistent with others such as the Washington House and really what we want to see in the central business district. Third, that it is not highway oriented or dependent on the auto. Here again, the walkup character of the design close to the street with big glass windows in the front for the retail so you can see it as you walk by that entice folks to come in. That is the classic design for a streetscape. The residential, of course, is close to the University for people who work and study at the University.

The recommendations talks about some mix of homeownership. That is in the Comprehensive Plan. It just got picked up into the recommendation. It is not a separately written thing, I think, from Mr. Lopata, with the possibility of limiting the numbers of tenants. My clients have great experience with managing tenants in buildings. The reason you limit the number of tenants primarily is to deal with cars. They have solved that problem. It works well on their other properties. In terms of a mix of owner occupied and rented, it simply doesn't work. Think about it. You would not want to buy a unit probably in a building that was otherwise partly rentals unless you are in a super sort of New York \$10 million rental unit building. It just doesn't work here. This is certainly designed that it can be "condoed" in the future. That is something that my clients are often asked to do as is everyone else and this will be designed to do that. If the market ever changes, that possibility is there. But as we all know right now, there was just an article in the News Journal picked up from Bloomberg News last week, the rental market is what is busy right now because many homeowners are selling their homes and are renting. That is really what the market is starting to see and the demand is for rental units not really in many places for single home or owner occupied construction.

The other criteria for the parking waiver – no adverse affect on health. We talked about that. It will help to alleviate the parking problem. And, it is certainly not detrimental to the public welfare. It is a benefit to the public welfare.

Another criterion is nearby parking. If this happens and as we believe, it sets the stage for everything else to happen, we will be the catalyst for creating a big municipal

lot which will ensure that parking turns over and will not only benefit the businesses in the immediate area but the whole city.

And, finally, the Planning and Development recommendation, and of course the Planning and Development Department recommendation is in favor of the parking.

In conclusion, we think we have met all the standards. We are prepared to commit here tonight to providing our ground floor parking plan to the City for use as a municipal lot. We are not going to wait and see if the other guys do it then we will agree to donate our land. We are just going to take the leap of faith and do it. Obviously, if we didn't take the leap of faith, we would need a much smaller parking waiver, but we are willing to do it because we think it makes sense for the bigger area. We are also willing to design and build the parking garage in a way that facilitates at our cost, because remember we would be building the ramp that would serve the whole complex that would facilitate this bigger development. I think the big thing that I would leave you with before we were happy to answer any additional questions is, we would like you to really consider the middle path that we set out which is condition this instead on us making the land available if this is built the land goes to the City. It goes to the City under an arrangement to be acceptable to the City and we would just do that now. We think that is the first building block and that makes sense to us.

With that, we are happy to answer any questions.

Mr. Bowman: Are there any questions for the applicant from the Commission?

Mr. Begleiter: I think this is a truly innovative idea for the City of Newark and the people of the City of Newark. I think it is innovative for the business community as well. I think it is innovative and appealing to the development of Delaware Avenue which is the next obvious place that needs developing. I think you are spot on about the idea that if this goes then you will see pretty quick development of adjacent properties and I would include the Post House property as one of those which, I think, adjacent to Iron Hill and probably that parking lot through which this side elevation looks. I want to say that up front so you will know what my overall view of the project is. But, there is a lot of detail here and as both you and Roy have pointed out, there is a lot of it that is a bit confusing.

The surface lot that you say you are prepared to give now, I don't know which of the drawings you want to bring up, but show us what part of the parking, is it the dark gray area?

Ms. Goodman: Correct.

Mr. Begleiter: So, the City would not control the crosshatched area that is the access to that lot from Trader's Alley. Would they control the driveway under the building?

Ms. Goodman: Yes, my thought is that this would be done through a lease. I think that makes the most sense. So, that would be leased to the City, but the owner of that property and the owner of Trader's Alley would retain the easement rights. So, they and their customers would get to use.

Mr. Begleiter: And, the City's control of that dark gray area would stop where the light gray on the ramp begins. Right?

Ms. Goodman: Yes, approximately. Correct. We will certainly gate the second floor with a key card system or something to control that.

Mr. Begleiter: Which would mean that the people entering the City controlled driveway from Delaware Avenue would either have to pass through a second gate to get into your project or the City would have to put some other type of control in.

Mr. Lopata: This type of lot we would more than likely just put meters at the outset. If we got the rest of the property, we would do something else, but it is too small to do anything other than meters much like we are doing with the Barnes and Noble lot.

Mr. Begleiter: How many spaces are here? You mentioned 79 on the upper level. How many are on this level?

Ms. Goodman: 26 or 27 spaces. They haven't gotten quite far enough to figure out where support posts and things like that go.

Mr. Begleiter: That crosshatched area on the north side of this diagram that leads to Trader's Alley, is that part of your property?

Ms. Goodman: No, that is Trader's Alley property.

Mr. Begleiter: So, they, theoretically, could be parking cars there and they could build right up to the property line if they could get a setback waiver. In the future, they could put something right there and you would have no control over it under your middle road proposal which does not involve any agreement with the next door neighbors.

Ms. Goodman: Theoretically, that is true, although there are current easements that are on the property. One of our proposals to them is to work together to modify this so that it works for this and it works for future development. I haven't engaged in the talks myself. They have been client to client, but the reports I am getting is that everybody is working together and everybody seems to be pulling their oars in the same direction that benefits everybody.

Mr. Begleiter: I can understand that, but the reason for asking the question is that that part of it depends on the cooperative aspects of working with the next door neighbor.

Ms. Dressel: But that is underneath.

Mr. Begleiter: If they decide, for example, when their engineers are looking at their property, that it would actually be better for them to have all their traffic to come in off Main Street and forget about this easement, then are you screwed or are the people screwed in some way in the future?

Mr. Mark Ziegler: I am with McBride and Ziegler. On the ground floor, the crosshatched area right there, there is an existing cross access easement and there is also an access easement from Main Street between the two buildings. That area cannot be bought.

Mr. Begleiter: Unless I misunderstand, that easement that you are pointing to right now doesn't exist right now, it exists a bit to the right and it will have to be removed.

Mr. Ziegler: That's correct.

Mr. Begleiter: And it depends on an agreement.

Mr. Ziegler: Right. We actually had an initial design where we didn't relocate the easement. Our firm has been retained by the Trader's Alley owner to work on a site design for their property along with this plan.

Mr. Begleiter: Is there any underground capacity on this site for anything – parking, apartments, bowling alleys, theatre. Is there any underground capacity here?

Ms. Goodman: I guess there is always underground capacity. I guess the question is how expensive it is. We are doing some underground stormwater management that is proposed for here. I think the answer is building underground is prohibitively expensive.

Mr. Kevin Heitzenroder: Kevin Heitzenroder, 271 Beverly Road with Campus Edge, LLC. We haven't done a whole lot of exploration of that but I can tell you that unless we get much higher in terms of building height, building underground in terms of parking like you may see in Philadelphia or some major municipality would be extremely cost prohibitive.

Mr. Begleiter: Coming back to the easement issue and the access to the garage again, you are requesting a side setback variance on the TD Bank side. Is that correct?

Ms. Goodman: Yes.

Mr. Begleiter: I heard you say that that is because you have to have a certain amount of turning radius.

Ms. Goodman: Yes. Also, see how the property line isn't straight.

Mr. Begleiter: Here is my question. The TD Bank site was just developed a few years ago and is there (this may be a question for Roy more than the developer) a reason why, if you are talking about a grand plan for that lot incorporating building over the surface and having driveways that access at the second level between two different properties, there couldn't or shouldn't be access to this same municipal parking lot from the TD lot providing a third point of access to this interior area?

Mr. Lopata: If I could jump ahead. Correct me if I am wrong because I sense were you are headed. We have had many meetings with the various property owners in this area long before this project came along to develop a comprehensive parking scheme to try to solve this area's parking problem. One of the architects of that plan is sitting in the room. We have a City master plan to link all the surface lots in the City that we have had for decades. We have worked very diligently, but somewhat slowly on that and it has been only in part successful.

In any case, in the past, we have had a sequence of meetings with some of the people in this room about linking these various Traders' Alley area parcels together to have one large municipal surface lot. Well, we have not been successful in that for a variety of reasons and then this project has come along that is now providing a catalyst to, perhaps, kick off that idea again.

Mr. Begleiter: Which is why I am asking the question . . .

Mr. Lopata: We are using the private sector's initiative to get people to do something they, perhaps, otherwise they wouldn't do, perhaps to make some money for them and to meet the public sector's need for parking and, hopefully, come up with something that really works. We have done that in other areas. I think we have been pretty successful in that in Newark and a lot of that with the help of this Commission. This is a chance to do something, in our view no matter how we work it out, to do something spectacular if we can use this project as a first step. We have already begun to meet with the other property owners, again, much more recently because the previous efforts have fallen by the wayside, frankly.

There is one other little caveat that we have learned from acquiring parking – and we have done a lot of it for the City – too many cooks spoil the broth. That is an old saying but it is true.

Mr. Begleiter: I am just raising it because it is another illustration of why – to me anyway and you won't like this, Lisa – it doesn't seem particularly prudent from the City's point-of-view to say, oh great, we have this proposal within this rectangular spot. Let's go with it, build a wall right there along the TD Bank site and we will see where it goes in two to three years and we will see if we can figure this out. This is, in fact, a wonderful catalyst for exactly what you are talking about and it struck me as one that is a good example of why it would make sense to take a comprehensive look at the site.

Mr. Lopata: But, we can get to that property from the other side.

Mr. Begleiter: I was going to say the same thing with regard to the other side as well, which is currently a parking lot and very likely will be developed in some way that is more productive than a parking lot. That is why I asked about that question.

About the parking access easement that doesn't go through the driveway now but

ideally would be a mutual agreement. What was the deal with that when it was first created and is there anything that the City can extract from the property owners at this time about the value of that easement to them in exchange for whatever it might be an exchange for?

Mr. Lopata: I would rather extract the air rights, frankly, because that's where the big money is.

Mr. Begleiter: I actually have that on my list. But, is there anything about that easement?

Mr. Lopata: The easement is there now and they are essentially just moving it.

Mr. Begleiter: Can they move it without City approval?

Mr. Lopata: Between the two property owners? Yes.

Mr. Begleiter: So, they can have a new access onto the street.

Mr. Lopata: No, they would have to get approval from DelDOT if they put a different curb cut.

Mr. Begleiter: They would actually have to have the City's support to do that.

Mr. Lopata: DelDOT . . .

Mr. Begleiter: Lisa, do you have a construction start date or an approximate start date?

Mr. Heitzenroder: Our current timeframe is a very aggressive schedule. Obviously, this is our first public hearing. We are hoping for your support. We are hoping for Council's support. If all of that goes through, we intend on construction starting this summer. We have actually done everything we can do to this point in terms of architectural renderings, schematic designs on the inside of the building to make sure the inside works with what we are showing you tonight. We have done soil testing for infiltration. We have done environmental testing of the site and of the existing structure. So, we are ready to go. We really want to go and we want to go fast because we have everything lined up. So, this summer would be the answer.

Mr. Begleiter: If the other owners of the Trader's Alley properties and the City and all these discussions that have been mentioned here tonight were to proceed aggressively and in the best of all intentions, as Lisa mentioned earlier, without any unforeseen setbacks, if everything goes smoothly, is it possible that you would be able to proceed with your development schedule and accommodate whatever changes are necessary to the northern part of the property line and the access to the second story parking lot, is it possible for that to happen?

Mr. Heitzenroder: Yes, and that is the key to us getting started in the summer. We feel like the only time of the year that we can build this parking structure is in the summer just because UD is not in session, the amount of traffic is way less. The Tsionas family is here tonight and I don't want to put words in their mouth, but we have had extensive conversations with them. We are using the same construction consultants. We are using the same civil engineers. We are using some of the same architects. Our intention is to get this project approved to design the parking structure for our site because we can act independently. At the same time, we are certainly building the ramp on our property to include them. We are having the same consultants price out their piece of that puzzle at the same time. If they catch up to us in the approval process, the intention from all parties is that it will all be built at the same time.

Mr. Begleiter: Are you looking at in your discussions with the others, any value in moving the ramp six feet this way, two feet that way, if you didn't have to worry about that northern boundary line between properties?

Mr. Heitzenroder: This ramp has been all over the place. I have a foot of schematic designs on this project. We have put it right where it is for many reasons. We could have that ramp in all kinds of locations if it was just for us. The ramp is exactly where it is and cross access easement is exactly where it is so that if the Tsionas family builds their piece and their tenants and parking patrons go up our ramp that has an easement that also becomes their ramp, and they come to the top of the ramp, they can turn right to go over to go to their piece and they can turn left to go to our piece. It has also been strategically places to encompass Schlosser and Dennis. Kevin and I are really proud of what we put together because I know the City has had their eye on this lot for a long time, but until we got involved to put the pieces together, it is not easy. It is very complicated. There are lots of different owners, but to date, subject to change, it has gone very well so far.

Mr. Begleiter: I don't know if the engineers who specifically had a "eureka" moment of where to put the ramp and where to put the easement are present in the room today.

If your engineer was told that he couldn't get the setback from Delaware Avenue, you wouldn't have to worry about it because it would be okay at the north end of the property that you could move the ramp ten feet in that directions, would you have a better solution?

Ms. Goodman: You mean if they did not have to respect property lines? Is that what you are suggesting?

Mr. Begleiter: If they did have to respect setbacks, but if the cooperative arrangements that all of you and the City have been talking about among property owners, which has nothing to do with not respecting property lines, they have to do with cooperation between property owners, adjacent owners. If those things allowed you to place the ramp slightly differently and stay within the City's setback requirements because you indicated that the whole reason for requesting the setback variance was because we needed to have those turning radiuses and those isle widths. If that is not an issue, then you wouldn't have to worry about the setback, would you be able to accomplish the project in a better way than you have done just now?

Mr. Ziegler: No, we need the setback for the garage, period. If we weren't going to work with the Trader's Alley property, we actually had a plan prior to this plan where we maintained the access easement where it was which was 24 ft. to the east, right there, and the ramp was reconfigured so that you actually went up this way onto the deck. But, since we have been retained by the Trader's Alley and have also working with the builder of Trader's Alley, we have actually go the landing area for the ramp right there so that the Trader's Alley property can turn this way like Kevin was alluding to right there on the second floor deck on their property and we can go this way.

Ms. Goodman: The landing area is actually on Trader's Alley property and is being shown on the property now. So, there is already that level of cooperation and I think we feel relatively confident . . .

Mr. Begleiter: So, that medium gray area on the upper left is actually on the Trader's Alley property?

Mr. Ziegler: That is correct.

Mr. Begleiter: It overhangs the property.

Ms. Goodman: Correct.

Mr. Begleiter: But, you are not disrespecting anybody's property rights.

Ms. Goodman: Well, air rights.

Mr. Begleiter: You are the one that used that phrase.

Ms. Goodman: Respecting property lines means staying within them.

Mr. Begleiter: On the ground.

Ms. Goodman: No, you own a piece of property absent any other agreements, theoretically, you own from that all the way down to the center of the earth, all the way up to infinity.

Mr. Begleiter: My point was exactly that, which is, so you have already done in this project what I am suggesting might be done if we just gave this a short amount of additional time because you all have just discovered this possibility, and that is, if the engineers decided that moving the ramp five feet north would create a whole new vista of opportunities for both Trader's Alley and for you and would allow you to remain within the setback requirements and not request a variance. . .

Mr. Heitzenroder. Ralph, I know where you are heading here, if we don't get the front relief that we are asking for and this front of the façade were to shift back, we lose 28 stalls and then this development plan here before you changes drastically. It will not be five stories; it will be a completely different project. It is one of the most important aspects of this and it has to do with the width of a stall, the depth of a stall, the travel lane between the stalls, then we have another row of stalls, a travel lane, and a row of stalls. Without this distance from here to here by moving this up front setback it wipes out the whole garage. We have had this ramp back here and over here and all over the place. But our site, because of its rectangular structure, there are all complicated slopes here in terms of getting up this ramp. We have a lot of room side to side, to get up a ramp. We don't have a lot of room to do it.

Mr. Begleiter: I was going to ask who would manage the second floor parking but you explained that in response to my earlier question. Did you ever specify what the configuration of the upper floor apartments was? Are these ten bedroom apartments, are they two bedroom apartments?

Mr. Heitzenroder: Currently, with the 39 units, the conceptual drawing is for four bedroom units. They are very big. I will tell you that. Some are in the ballpark of 2000 sq. ft. So, when we hear comments from the Planning Department in designing them to be potentially condos in the future, which is what we did at Amstel Square; these are not your average units. They have nine foot ceilings, there are very nice trim detail, there are big bedrooms, big living spaces. They are a place that anyone would choose to live. That is the way we designed them and build them so that we can rent them now but if something changes in the future we want to be flexible.

Ms. Dressel: I wanted to reiterate also that I think that the exterior design of this is very, very attractive. I love the center drive-through and I like the variety of the facades and everything you have on this building on the rendering. This is a very nice job, thank you for bringing this forward.

This is a question because I am not familiar with parking garages and especially parking garages within a living unit. What are the potential risks and what kinds of protection is in place for the residents of the upper floors when you have a parking garage that is enclosed?

Mr. Bowman: I will answer that for you. It is fully sprinkler protected.

Ms. Dressel: What about fumes and things like that?

Mr. Bowman: It is ventilated to the outside. It is open.

Ms. Dressel: It looks like it is windows across the front.

Mr. Heitzenroder: With no glass.

Ms. Dressel: So, it is like the parking garage on Elkton Road.

Mr. Heitzenroder: These are grills that would have some type of metal in between for aesthetics, but there is not glass in them. The third story above it does not completely cover the second story garage, plus it is all wide open so there is plenty of ventilation. The City Code Enforcement Division already investigated that to make sure it was not too restrictive without glass as it is. I believe they confirmed that it meets the Code.

Ms. Brill: I am also thinking about the setback. You said it was a 10 ft. setback.

Ms. Goodman: The required is actually 20 ft. and we are seeking 10 ft.

Ms. Brill: How much clearance is there between the building front and the power poles?

Mr. Heitzenroder: Let me clarify one thing. The setback of 10 ft. is from the right-of-way. I think in terms of curbs when I think of what it is going to look like. There are some indentations that are hard to see in this rendering where pieces bump out and bump in, but when you look at it from the curb to the face of the building, it is actually 16 ft. at the furthest setback and its 14 ft. where the building might bump out a little bit. So, it is still a very nice streetscape and a huge area in terms of sidewalk width from the curb to the building.

Ms. Brill: And the same with trees. There are going to be trees, right?

Mr. Heitzenroder: I'm sure the City will require street trees along in the sidewalk, but I don't know the ruling of that. I do know that one thing we agreed to is to plant a vast amount of trees in the public park system in Newark.

Mr. Lopata: There are a series of street trees.

Mr. Bowman: Which are limited to 18 feet in height.

Mr. Lopata: Because of the telephone poles and wires.

Ms. Sheedy: We talked about the compatibility with the Comprehensive Plan. And in Roy's report on page 5, it talks about, "In sum, we want Newark, especially downtown, to become a "destination city" featuring affordable housing for owner occupants with an emphasis on occupancy for young couples and families, singles, recent University graduates, retirees and other individuals desirous of making downtown Newark a permanent home rather than a transitory residence." I understand all the reasons why this is not going to be owner occupied. They are all very valid. But, when we talk about compatibility of this development with that vision, I have a concern. And the concern is, with emphasis on occupancy for young couples and families, singles, recent University graduates, retirees and other individuals desirous of making downtown Newark a permanent home rather than a transitory residence. These are going to be four bedroom apartments called Campus Edge. How many singles, retirees, recent graduates or small families are going to rent four bedroom apartments? It seems to me that we are building more student housing because they are four bedroom apartments and not, in fact, compatible with the Comprehensive Plan -- creating a diverse housing stock for a diverse population at affordable costs. I am not a realtor. I don't have to sell this stuff or rent it, but there is something to be said for, "If you build it, they will come." Because we haven't built it and we don't have them. We don't have singles, retirees, and recent University graduates living in downtown Newark because, except for the Washington House, there is no place for them to live and Washington House is somewhat limited by its cost. So, I wonder if you could speak to the compatibility with the Comprehensive Plan relative to four bedroom apartments called Campus Edge.

Ms. Goodman: The Comprehensive Plan talks about this as one of the things that the City wants to see in downtown, but first of all, on the question of four bedrooms, for a young family with two young children, a four bedroom apartment is a master bedroom, two kids bedrooms and a study or play room. We are not talking about a big house where you otherwise have lots of extra rooms. So, I think that these would be suitable. And, for young adults, I have a daughter who is 25 and is moving back to Newark to be in a PhD

Program. She is single and going to live with a couple of friends, but she wants to live in a nice apartment. She is 25 and she is not a kid anymore and this is exactly the kind of thing that a young adult would look to live in. Realities being what they care in terms of the economy today, they are doubling up.

Mr. Heitzenroder: It is a really great point that you raise, when you build something that looks this nice and will be this expensive to build, we want to make sure we hit the target. It is market driven as to what's the demand right now at the time that this project is before you and right now in Delaware and pretty much in the country rentals are still strong. If we were to propose 39 condos to sell to the public right now – which is what the Washington House proposed – we would most certainly not build this project because we wouldn't get financing.

Ms. Sheedy: I understand that and I am not proposing that it be condos. I completely understand that market question. I am more asking why it is not a mix of apartments. I grew up in New York City where every building had three-room apartments, studio apartments, two-bedroom apartments. It was a mix to accommodate a wider variety of demand and so, I am asking why we are locked into 39 four bedroom apartments instead of a greater variety to attract a greater diversity of tenants.

Mr. Heitzenroder: That is a great point and it is something we have internally talked about and said four bedroom apartments because that is the most certainly the majority of the units that we are proposing to build in our floor plans. However, we have had internal conversations about throwing in a studio here or there or a two-bedroom unit here or there and still staying in the 39 maximum amount of units. But, quite frankly, with our other projects, our history of who calls and who leases, I love New York, but Newark is a far cry from New York. In an entire leasing season 95% of our calls are for four bedroom apartments. And, it is because they don't live alone in a studio, they find friends and they live together. But, we have received a few calls for a one bedroom or a two bedroom unit. So, we are open to throwing a little bit of that into the project.

Ms. Sheedy: I also have another question. The elevation that says Campus Edge on it, that strip, what is that? Is that decorative or is it a support?

Mr. Heitzenroder: This right here?

Ms. Sheedy: Yes.

Mr. Heitzenroder: This is the third floor and this is the cover of the parking garage which is on the second floor and this building line sets back towards Delaware Avenue a little bit along this line. The purpose now in our schematic design is to house mechanical equipment or things like that. In the future, it is going to be designed so that it could potentially be a terrace to go out on if they became owner occupied units.

Ms. Sheedy: My other question is the ramp. When you look at this rendering, it makes the ramp look like it is a pedestrian escalator. I can't get from that picture to the blueprint. This looks like the ramp is on the sidewalk.

Mr. Heitzenroder: I apologize if that is what it looks like, but this ramp is on the rear property line. A car would come in this easement right here from Delaware Avenue, turn right and drive along my red light loop around and go up this ramp to the second floor.

Ms. Sheedy: Where all these people are walking.

Mr. Heitzenroder: This ground floor of retail space is the shortest depth from Delaware Avenue back. This sets way back under the building. So, there is a sidewalk here where these people are standing. The building has a series of steps. The retail space is only 50 ft. deep, the garage is 99 ft. deep, and the third, fourth and fifth floors are 78 ft. deep. So, it is hard to see on this elevation that you are looking at it straight on, but there is a series of steps in the building moving from level-to-level in and out. But, I assure you, this is the ramp.

Ms. Sheedy: I was sure it was the ramp.

Mr. Lopata: The architect got carried away with the artist's rendition.

Mr. Heitzenroder: We have had almost as many renditions of this ramp as to where it would be located. This originally, when we went to the architectural review committee was a wall and we had some concerns that we are going to block this ramp with a nice beautiful wall but that it would be a field of graffiti from kids that had nothing better to do. So, we opened it up and with the City's comments and the architectural review comments we wanted to load this underneath here with bicycle parking so that there is a secure place for people to put their bikes as well as being more secure because it is wide open where everybody can see what is happening underneath of there.

Ms. Brown: Of your current buildings that have retail space, are the retail spaces all fully rented?

Mr. Heitzenroder: Yes.

Ms. Brown: Mr. Mayhew?

Mr. Mayhew: I don't have any retail.

Ms. Brown: Is it rented to the University or is it rented to store or retail space?

Mr. Heitzenroder: Let's take Amstel Square, the University is one tenant in there. They have, I think, around 2,000 sq. ft. out of 11,000 sq. ft. So, we have the coffee house, the Claymont Steak Shop, a barber shop. So, it is one small percentage.

Ms. Brown: But, going up Elkton Road?

Mr. Heitzenroder: Going up Elkton Road, we have the University in the ground floor of those two buildings, part of which happened by default because we had a bagel shop that went in there and went out of there in a matter of six months. Unfortunately, we were left holding that construction bag. So, we have a very short term lease with the UD.

Ms. Brown: Are you actively pursuing a real retail person?

Mr. Heitzenroder: We are not actively pursuing anyone, actually, until something is a little further along in the approval process.

Ms. Brown: Not for that, but with the University. You said it was a short term lease.

Mr. Heitzenroder: Short term meaning it is over in, I believe, two years. And, again, that is also market driven. A lot of people say to us, why don't you lease to that person or to this person? We can pick and choose amongst who comes forward, but we can't make certain types of people come forward. You have to take what comes, and for this particular project we hope as owners that it is a huge mix of all kinds of things because diversifying that tenant mix is in our best interest.

Ms. Brown: Part of the reason I ask is because I know that City Council has asked about the number of vacant retail spaces along Main Street, Elkton Road and the Shopping Center at their last City Council meeting. It seems to me that often times the City approves these projects with retail space downstairs, which doesn't necessarily get rented but the apartments get rented. And, that is where the money is.

Mr. Lopata: Peggy, if I could just interrupt. We just sent a report to Council that I should share with the Commission. The vacant space on Main Street from McDonald's Circle to the Deer Park is 3.77%, and if you look on a national basis, that is really no vacancies at all. We were surprised about this result in the midst of the Great Recession and the fact that we continue to add space downtown. Anyway, I will get that report out to you.

Mr. Heitzenroder: I'm sure you are in favor of the University being a tenant or not. I know where you are heading with that, but again, it is market driven and when you are in a recession and banks are holding the money so tight. I had an entrepreneur call about this project two weeks ago that they had heard about it and said that they wanted to start a yogurt store. We also got two in the last month. They have to get their own financing in place and under this climate when they go to the bank and say I want to start a yogurt store and I want to get financing and the bank doesn't do it, those types of tenants come and go and come and go. So, we have to lease with someone that can actually build it and pay their rent. None of us want empty buildings because that is terrible for all of us.

Ms. Brown: Yes, it looks bad. The other thing that I had here was, if you have 39 apartments with four bedrooms. That is 156 bodies or it should be. Do you plan to restrict the number of tenants in this building? Because, you know, we are talking student rentals here.

Mr. Heitzenroder: We don't plan to restrict it, but that doesn't mean it's not restricted. It is restricted by many building codes, fire codes. With no restrictions whatsoever, you are still restricted to the amount of people you can have.

Ms. Brown: So, you are talking 2,000 sq. ft. per unit, what does the Building Code say that you can have in there – how many bodies?

Mr. Heitzenroder: I really don't have a clue.

Ms. Brown: I would prefer a restriction.

Mr. Heitzenroder: The reason we don't like restrictions is because it gives us flexibility. You were saying you wish we had some two bedroom units, studios, now we get into this game of they are four bedroom units and let's restrict who is in each unit and it really pins us down even more where if we decide in the ultimate plan, we have a couple of studios, some two bedroom units, some three bedroom units, some four bedroom units, a five or a six bedroom suite or something is a little bit larger. By limiting people per units, all of those flexible design criteria go out the window unfortunately. We are talking about a lot of money to build this structure. We are going to be the strictest people in terms of who goes in it. This isn't a rental house. This is a massive construction project with a lot of money in construction costs.

Ms. Brown: I know Kevin's Mayhew track record has been pretty good and he is pretty good about keeping his tenants under control.

Mr. Heitzenroder: CampusSide is, I think, a great addition to the City. You come down 896. There is never a thing out of place in CampusSide.

Ms. Brown: Sometimes . . . I live close to it.

Mr. Heitzenroder: But, it is a great project. It has been a great project for the City. We are proud of the projects we manage. We are very strict on management, who goes in, how many go in, but we hate to have some type of municipal regulation on what flexibility we can have on managing our project. And, we don't have any right now that we manage.

Ms. Brown: Can you go back to the picture where it is a satellite image of the site. I want you to look at Main Street. What do you see on Main Street?

Mr. Heitzenroder: I see a guy tying his shoes.

Ms. Brown: A lot of them. It looks like New York City. There are a lot of cars there and you are going to add 79 spaces upstairs. We are not talking necessarily of increasing the infrastructure for access for these cars. Normally Delaware Avenue looks like Main Street. I know people who refuse to come into Newark to buy or go to restaurants or even to drive through even though it is the closest point from A to B. I'm just wondering what impact these extra spaces are going to have. That's a lot of cars.

Mr. Heitzenroder: My argument to your comment would be the feedback I hear about why people don't come to Newark because there is this reality and perception that there is nowhere to park your car. So, I think this project makes a huge step forward in solving that problem – a way bigger step forward than I think that the 78 apartment parking stalls would create any problem.

Ms. Brown: You are only giving the City 26 spaces. That is not many.

Mr. Heitzenroder: We are giving the City 26, but part of the reason we are giving the City 26 is because there is an enormous ramp going from the first floor to the second floor that is completely on our property. If that were on someone else's property, our number would jump tremendously from 26. As we have shared, we think this has the ability to encompass all of this lot as a municipal lot. If we didn't think that, we wouldn't have proposed an easement for access between our property and their property. We wouldn't have located the ramp right on the property line in a logical location for them to tie into. We think this lot is going to have way, way, way more spots than 26.

Ms. Brown: Well, if you build it, they will come. There will be more parking but there will also be more cars. Newark is one of the most densely populated with cars in the whole State of Delaware.

Ms. Goodman: One of the things a municipal lot does is encourages turnover. Right now it is an open lot. It is not metered so folks come and park unless they get towed. I hear people talk about Newark and not being able to find a place to park, and I never go there, but we talk about there being lots of cars here. Somebody is coming. We sort of talk about two opposite things. Nobody wants to come because it's crowded, but boy, it's crowded so somebody is coming. When you talk about infrastructure, in a City, you can't increase the size of the road. You certainly don't want a highway going through Newark. But, the infrastructure you can impact is parking by starting to build structured parking and getting municipal parking.

Ms. Brown: You just proved my argument. We will have parking and there will be more turnover so there will be more cars. The last thing I had is more about a building thing. Is there any kind of structural thing for noise abatement between the parking part of your building and the living spaces above? Ideally this would be someday turned over to condos and so that is a lot of noise.

Mr. Heitzenroder: That is one of the reasons why the retail space has very little depth to it. It has an appropriate amount of depth for retail space but the third floor is where the apartment people are living, the cars are under them, not above. Although this design is somewhat unique to Newark, it is certainly not unique to the country. The consultants we have working on the construction and the design and the parking structures, this is all they do for a living. There are many more projects.

Mr. Lopata: We also have other projects with parking underneath apartments.

Mr. Heitzenroder: We have parking in other projects under the unit.

Ms. Brown: Are there specific materials that are being included in this plan for the noise abatement?

Mr. Heitzenroder: Concrete. And that is a thick concrete floor completely separating the floor, which is not necessarily the way you would normally construct the building. In a lot of buildings between floors there is not a concrete separation. It might be steel and metal with wood on the top or bottom or some other product on the top or bottom. This would be a relatively thick concrete floor between the second deck of the parking and the third floor above.

Mr. Bowman: I think we can open it up to public comment.

I have one written request and that is from Tom Seller.

Mr. Tom Seller: I represent the property at 215 E. Delaware Avenue. I have two comments. I applaud the design and I really like it. I think it will be really nice for that area of Delaware Avenue. My concern, very much like Peggy's, is that it could end up being student rentals and whether you chose to like it or not, it could end up being eight students per unit, which could be 300 cars. Right now the Trader's Alley Lot is full a large percentage of the time. So, you gain nothing by taking it over as a municipal parking lot. The only way you improve the situation at all is by getting the second deck put on for additional parking. So, I think I would encourage the Planning Commission to not consider the option but to hold off on the project until the Trader's Alley is brought forth before you.

My second concern is that you have been very aggressive in creating municipal parking, and I would submit that the reason there are more cars on Main Street than there are on Delaware Avenue right now is because there are delivery trucks double parked impeding the egress of cars up and down that road. And, you are going to start to create the same situation on Delaware Avenue.

Mr. Bowman: Is there anyone else that wishes to comment?

Ms. Saskia Geisel: I own properties and the site adjacent to the proposed beautiful building and Kevin has been very nice and forthcoming showing me the plans and I think it is a great addition to the neighborhood but I endorse your opinion very strongly also on the parking issues. I cannot understand how a high density new development like that that will create the need for at least 200 parking spaces – I don't know where the retail tenants are going to park or the owners of the retail shops. You have very kindly given the City 27 parking spaces, and you have 79 of your own. On that side that I own adjacent to it, I could probably follow in Kevin's footsteps and build three buildings that size and then give the City the same municipal parking possibilities, I imagine. Right now we have a heck of a time even monitoring the parking because it is very difficult in Newark to tow a car. As we all know, it has been here a couple of times under the circumstances that I cannot even tow offenders off the lot. So, here I am with a lot maybe three times the size of this trying to give good parking to my tenants. One of my tenants had to lease an additional lot at their expense because they had too many students parking on our lot.

So, something as beautiful as this project is lopsided. I am also concerned about the part of the retail shops bordering on what I call the Simon Eye lot. I don't think there is going to be anything there that protects my private property from being used for the new addition, which I think is gorgeous, but it is not too well thought through on the parking side at least from my point of view as an owner of the adjacent property. So, even 27 parking spaces for the City vs. 200 that are really needed in order to support this new building, something just doesn't make sense to me, but I might be wrong.

The other thing that I wanted to say is it would be very helpful for me to see a model of the building to see how it would actually encroach visually that whole area because it is going to be hugely overpowering over the existing building, which might be fine. It might look just great, but it is very hard to see where the setbacks are, as Kevin said, how everything is working. It can be a very simple model, but if I could see the model of the building on the side with the other buildings around it, that would be hugely helpful to have the visual affect of what that new very beautiful addition would do to the neighborhood.

Mr. Begleiter: How many parking spaces are on the properties you own in that area?

Ms. Geisel: I think there are 29. I don't have it in my head. All together off the cuff I would say approximately 50 or 60.

Mr. Begleiter: Would the 200 spaces that you say would be required by this building, be new University of Delaware students. Is the University going to increase its enrollment because this building is built, so those cars would arrive in Newark from some other city or some other state and there would be an additional 200 cars in the City or would they be

moved from your lot to their lot because it would be more convenient a few steps closer.

Ms. Geisel: I don't follow you.

Mr. Begleiter: I'm trying to get at what point you are trying to make about the alleged 200 additional cars that would be created out of someplace on this space. Where would they come from? Would they be new enrollments at the University of Delaware that don't exist in Newark now?

Ms. Geisel: They would be from the people who live in the apartments.

Mr. Begleiter: But, where would those people come from? Would they be brand new people in the City of Newark?

Ms. Geisel: I have no idea but they would certainly, since they are living at the site, they are not going to be parked at the stadium, I guess.

Mr. Begleiter: So, you are suggesting that those 200 cars are currently at the stadium and they would move to this location. That is what I am trying to get at.

Ms. Geisel: What I am trying to explain is that if I rented an apartment in that building and I own one car, I would park it in either the municipal parking lot or in the private lot.

Mr. Begleiter: If you were going to rent an apartment in this building, where is your apartment today because this building isn't up yet?

Ms. Geisel: I have no idea. It is somewhere.

Mr. Begleiter: It is not an additional car, is my point. The University has a certain number of students. They are not going to increase the enrollment at the University by 200 in order to fill these apartments.

Ms. Geisel: That doesn't make any sense. It is an additional car on the site.

Mr. Begleiter: And maybe one less someplace else. That is what I am getting at. Are you suggesting that these would be new vehicles, new students that would somehow materialize from someplace?

Ms. Geisel: They could also very well be new students and they are patrons. There could be old patrons and new patrons.

Mr. Begleiter: We would certainly hope that there would be new ones. That is the whole point of opening businesses like yours in downtown Newark.

Ms. Geisel: I am all for that, but I just think that the parking, in my estimation and from a very practical point of view, is rather lopsided.

Mr. Begleiter: And you asked a question about if you could see a model and you said that several times. What would happen if you saw a model? You would, perhaps, be persuaded to support the project or you would, perhaps, be persuaded to negotiate with the City over your properties.

Ms. Geisel: I have no ulterior motives, no negotiating.

Mr. Begleiter: It would just be nice to see a model.

Ms. Geisel: It would be nice to visualize the impact of a rather large five story building in an area that at the moment is very low-key.

Mr. Begleiter: In light of what you have seen and heard tonight about your neighbors in this particular block between Haines, Chapel, Main and Delaware, are you prepared to sit down in the next month or two with the other property owners and the Planning Director

to discuss a cooperative arrangement for creating additional parking spaces to solve the problem that you just cited in your testimony?

Ms. Geisel: Are you inviting me to do that?

Mr. Begleiter: I am asking you if you would. Yes.

Ms. Geisel: I would have to think about it.

Mr. Bowman: We will bring it back to the table for any further discussion from any members of the Commission. If not, we will entertain a motion.

MOTION BY DRESSEL, SECONDED BY JOHNSON THAT THE PLANNING COMMISSION TAKES THE FOLLOWING ACTIONS:

- A. RECOMMENDS THAT CITY COUNCIL APPROVE THE CAMPUS EDGE REZONING FROM BL (BUSINESS LIMITED) TO BB (CENTRAL BUSINESS DISTRICT), AS SHOWN ON THE ATTACHED PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A, DATED MARCH 1, 2011;
- B. RECOMMENDS THAT CITY COUNCIL APPROVE THE CAMPUS EDGE MAJOR SUBDIVISION PLAN AS SHOWN ON THE MCBRIDE & ZIEGLER, INC. PLAN, DATED DECEMBER 20, 2010, WITH SITE PLAN APPROVAL, AND WITH A SPECIAL USE PERMIT FOR UPPER FLOOR APARTMENTS, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, EXCEPT WITH THE CONDITION THAT CITY COUNCIL APPROVES THE APPLICANTS' ALTERNATIVE CONDITION TO LEASE, ON A LONG-TERM BASIS, THE FIRST FLOOR PARKING TO THE CITY AND THAT THE APPLICANTS BUILD THE UPPER FLOOR PARKING GARAGE AT THEIR EXPENSE;
- C. THE PLANNING COMMISSION APPROVES THE CAMPUS EDGE 42 SPACE PARKING WAIVER, WITH THE REQUIRED LAND-LEASE TO THE CITY NOTED AS A CONDITION OF THE MAJOR SUBDIVISION RECOMMENDATION TO CITY COUNCIL.

Mr. Begleiter: I would like to make some comments before we vote.

I believe this is a very complicated project. The City has said that, the developers have said it, and the adjacent property owners have said it. I think we have seen this proposal change in just the last week as both the developer and the Planning Director noted. Just like the developers, I am unhappy with the contingency aspect of the proposal that the Planning Director came forward with and the developer made an alternative proposal, but I am uncomfortable with the sort of tap dance aspect of this. It is a very important project for the City of Newark. It has enormous potential for the City of Newark and for the developers and it doesn't deserve to be dealt with in an ad lib fashion, as I think this has been done. I think the City at this moment is in the position of a kid in a candy shop. There is an enticing opportunity suddenly open to accomplish something the Planning Department has been trying to accomplish for many years and I fear that we are rushing into a solution that is not fully cooked. To me this looks like a pot of not quite "al dente" pasta. It is on its way. It is very close. We have heard everybody here tonight talk about various negotiations that are underway and very intense and fast moving and cooperation among engineers and designers and architects and developers. There are opportunities of a second story parking structure which would be the first in the City of its kind. There would be an important precedent being set for the City. Even the Planning Director proposed a six-month contingency into the approval of the project originally this even. Even he was unsure of proceeding immediately and wanted to leave an option for getting out in six months if it didn't quite work right. The developers say they are ready to proceed in the summer, and summer is certainly the best time to start a project of this sort in Newark. But, we have had five months of no Planning Commission meetings that this proposal could have been floated a month ago. It probably wouldn't

have been quite “al dente” even then, but I would argue that there is no reason to rush into this project at this moment and produce a result that is not the optimum one for the developer, not the optimum one for the City, not the optimum one for the neighboring property owners and so I am going to vote against the motion to endorse this proposal tonight.

Ms. Brown: I have to concur with Ralph. I understand the developers’ urgency to want to get this done so that they can proceed, but I think there are too many variables and I think some of the people adjoining have voiced concern and we need to step back and take at least another month and say, let’s get this in a form that we understand. I don’t think, as Ralph said, it is quite cooked yet because what we had on our paper and what came here tonight and then, maybe we could do this. I really think, that if the Trader’s Alley people got their stuff together and we could see the whole thing – and I know that is not necessarily the best for you guys – and I don’t like being pushed into this. And, I don’t think we are ready to approve it.

Ms. Sheedy: I agree with Ralph and Peggy. I can feel us all sitting here feeling very uncomfortable about moving forward, but I think if we send the applicants away with the message of do some work and come back, we owe it to them to be very clear on the kind of work we want them to do. Otherwise, I think we are being very unfair because we aren’t going to do anything. It’s not like we are going to go into meetings over the next month up at Brew HaHa and sit and talk about this. We are a public body and we don’t do that. So, we have to give the applicants very clear direction on what it is that we want to see when they come back. I think without that we really don’t have the right not to vote on it tonight.

Mr. Johnson: What is it we want to see?

Ms. Brown: I want to see where they are talking about having this ramp. They are talking about having Trader’s Alley build a second story garage. It is all something that is out there. I know it is proposed but I want to see what the parking lot is really going to look like with Trader’s Alley, without Trader’s Alley. They are building in the air space and actually building piers, I would assume, into the ground on Trader’s Alley land. At least that is what you said.

Mr. Lopata: Can I just interject one quick point. One of the things I wrestled with from day one, and I struggled with it to try to write my recommendation in a way that would not preclude going forward, would not make their project contingent on someone else’s proposal. And, that is, I think, where we have got ourselves back to. You are wrestling with the same thing I was wrestling with, and that is, we do like a parking solution, and we are saying the same thing I think, but we have to remember, and that is partly why I was intrigued with Lisa’s proposal, which wasn’t really half baked, there was a lot of consideration about it. That allows us to go forward and, at the same time, it doesn’t preclude doing the right things that we all want to do.

It’s unfair to ask one applicant to simply wait on the fate of another applicant before you make a final decision. More importantly, what I think we have done here, we set up a way where this condition is a catalyst to do the kinds of things we have wanted to have happen in this location. If it doesn’t work, what is the worst result? That is what I think you need to look at. What is the worst possible result if Campus Edge just built as is -- we get a small ground floor parking lot and they get the project built that they are proposing, and they have a second deck providing parking for their tenants. That is essentially what you get. If that is not something the Commission wants, you should vote no. That is the meaning of the motion that Angela made, to do what they are suggesting. When you boil it down means, if nothing else happens, we are going to get a first floor parking that we will put meters on. It is very much analogous to the Barnes and Noble situation. We got a small parking lot in the rear and the University went ahead and is building there building. So, I think that is where we are.

Ms. Dressel: That is pretty much how I feel that these property owners have come up with a good faith effort and they have changed their proposal in order to accommodate the, hopefully, eventual addition by the owners behind them, and I think we have to vote

on it on this proposal's merit as opposed to our blue sky ideas because I think that Trader's Alley owners may, in fact, really want to do this. They may, in fact, have the ability at this time to do the second level for one reason or another. I don't know that by postponing the Campus Edge site is fair to them when they have come with a good faith effort and they are providing spots for the City.

Mr. Begleiter: In response to Roy's comment. I don't think there is anything unfair about the way we are handling this to this developers. This developer, like many others, but this one in an exemplary fashion, is coming to the City asking for major concessions on very major issues including side setbacks, height and density variations. They are coming with an outstanding proposal. Everybody knows that. Even the Planning Director, his original proposal made this a contingent. So, to suggest that somehow putting an "if," into our vote is somehow unfair to somebody, well, we didn't come up with that idea. The Planning Director came up with that idea.

Mr. Lopata: I was not saying no to the project.

Mr. Begleiter: I'm not saying no to the project. I'm not suggesting we say no to the project. I said I am not in favor of voting for it on the way it stands right now and you proposed not saying go forward on the way it was proposed either. You said, make it contingent.

Ms. Brown: I have the question about the deck we are talking about. Somebody said it was being built on Trader's Alley . . .

Mr. Begleiter: Overhanging, Peggy.

Ms. Brown: Is that or is that not part of Trader's Alley property because if you are talking about air rights?

Mr. Heitzenroder: That portion over Trader's Alley property is a proposed new easement in order to facilitate our ramp allowing a vehicle to come up the ramp and turn to go to Trader's Alley project or turn left to go to our project.

Mr. Lopata: But, if you don't make an agreement with them, you will not build it that way.

Mr. Heitzenroder: If we don't make an agreement with them, we will simply flip the ramp, come in and go up the other direction and come up our way. I think it is a little unfair to hold us hostage on a lot of work we put forward on another developer doing something that they may. Hopefully, I think they will. I have no clue what their timeframe is. If we leave here and say we want to come back with a global picture of the whole site, I can't make them do that or even make them want to do that. And, by delaying us, what it does is, it doesn't delay us a month. It delays us almost a year because if we don't start construction in the summer, we won't start construction until the next summer. Don't get me wrong, I'm not trying to force this. You say it is a little bit not "al dente." There has been a million hours spent on this proposal before you. If we leave and come back, I'm concerned we are going to come back with the exact same thing that we have here in front of you.

Mr. Bowman: I am going to call the question:

VOTE: 4-3

AYE: BOWMAN, DRESSEL, JOHNSON, SHEEDY
NAY: BEGLEITER, BRILL, BROWN

MOTION PASSED

There being no further business, the Planning Commission meeting adjourned at 9:41 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission