

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

May 6, 2008

7:30 p.m.

Present at the 7:30 p.m. meeting were:

Chairman: James Bowman

Commissioners: Ralph Begleiter
Angela Dressel
Mary Lou McDowell
Rob Osborne
Kass Sheedy

Staff Present: Maureen Feeney Roser, Interim Director, Planning and Development
Mike Fortner, Planner, Planning and Development

Chairman Bowman opened the meeting at 7:30 p.m.

1. THE MINUTES OF THE MARCH 25, 2008 PLANNING COMMISSION WORKSHOP.

MOTION BY BEGLEITER, SECONDED BY OSBORNE, TO ACCEPT THE MINUTES OF THE MARCH 25, 2008 PLANNING COMMISSION WORKSHOP AS RECEIVED.

VOTE: 6-0

AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL, OSBORNE, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY.

2. THE MINUTES OF THE APRIL 1, 2008 PLANNING COMMISSION MEETING.

Ms. Angela Dressel: Where it says, motion by Dressel, seconded by “Shedding,” to accept the minutes under #1, it should read “Sheedy.”

Mr. Begleiter: On page 20 at the bottom of the page, the paragraph that starts, “Any questions from the Commission for the applicant?” should end with the word “involved” not involves.

On page 21, the following page, almost exactly half way down the page, I think the quote, “Are there any other questions for the applicant?” probably doesn’t come from Mr. Norton, it probably was me.

MOTION BY DRESSEL, SECONDED BY McDOWELL, TO ACCEPT THE APRIL 1, 2008 PLANNING COMMISSION MINUTES AS CORRECTED.

VOTE: 6-0

AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL, OSBORNE, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

3. REVIEW AND CONSIDERATION OF THE MAJOR SUBDIVISION, PARKING WAIVER AND SPECIAL USE PERMIT FOR THE RENOVATION OF THE EXISTING RESTAURANT AND DEMOLITION OF THE REAR PORTION OF THE

BUILDING FOR SIX UPPER FLOOR APARTMENTS AT THE PROPERTY LOCATED AT 137 E. MAIN STREET.

Ms. Feeney Roser summarized her report to the Planning Commission which reads as follows:

“On March 6, 2008, the Planning and Development Department received applications from Tsionas Properties, LLC, for a major subdivision and special use permit for their property at 137 E. Main Street BB zoned upper floor apartments to be known as Newark Square. The applicants are also applying for the required ten space parking waiver. The applicants are proposing to preserve the existing diner at the site (with some renovation), to raze the two-story masonry addition behind the diner (which currently contains one office/break room) and then construct a three-story building with a total of six apartments to the rear of the existing diner on the site along Haines Street. Parking is proposed to be located in covered spaces on the ground floor below the new building.

The applicants have submitted the attached Landmark Engineering major subdivision, special use permit and parking waiver plan, color elevations for the proposed new construction and applicants’ supporting letter.

The Planning and Development Department’s report for the Newark Square project follows:

Property Description and Related Data

1. Location:

137 E. Main Street; southwest corner of the intersection of Main and Haines Streets

2. Size:

0.25 acres

3. Existing Land Use:

The principal use on the site is the “Art Deco” style diner that sits on a foundation several feet off the level of the sidewalk. A small second floor office/break room is located in the rear portion of the existing building.

4. Physical Conditions at the Site:

The 137 E. Main Street site is a developed property containing one commercial building and a paved parking lot. Access to the parking area is from Haines Street at a depressed curb running the full length of the parking lot.

In terms of topography, the site is very level. Regarding soils, according to the United States Department of Agriculture’s Natural Resources Conservation Service, the site consists of Matapeake-Sassafras-Urban Land Complex soil. The Natural Resources Conservation Service indicates that these are disturbed soils that have been used for development purposes; no development limitations for the use of the proposed site are indicated.

5. Planning and Zoning:

The 137 E. Main Street property is zoned BB. BB is Newark’s central business district zoning that permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.

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

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

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and 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 area requirements, other than for the off-street parking for the upper floor apartments, the 137 E. Main Street project must meet all applicable Zoning Code area requirements. A 10 space parking waiver is necessary to accommodate the new apartment construction. The waiver is for 10, rather than 12 (6 apartments at 2 spaces each) because the existing office, which will cease to exist if the development proposal is approved, normally requires 2 spaces as well, and is, therefore, considered “legally non-conforming.”

Regarding adjoining and nearby properties, the 137 E. Main Street parcel is adjacent to BB zoned commercial buildings to the west on E. Main Street that contain a variety of retail and commercial uses. The one-story BB zoned Starbucks coffee shop and a small parking area is located to the east of the site across Haines Street. The one-story building further to the south, also along the east side of Haines Street, contains True Wellness Center & Spa and Simon Eye Associates. The properties immediately south of the site on the west side of Haines Street are zoned BB and contain a 10 ft. wide alley that is part of a shared access between the 137 E. Main Street site and the property adjacent to the west (fronting on Main Street), and the property to the south on Haines Street. The alleyway belongs to the BB zoned office building to the south. Properties north of the site across Main Street are also zoned BB and contain a variety of retail and commercial businesses, including the Center Square commercial and second floor apartments project.

Regarding comprehensive planning, the Newark Comprehensive Plan calls for “commercial (pedestrian oriented)” uses at the 137 E. Main Street location. In addition, the Plan’s Downtown Economic Strategy suggests “Downtown Core District” land uses for the site. The Strategy describes the district as:

“. . . [the] center of Newark’s central business district that is intended as an area to be redeveloped with first floor specialty and traditional retail shops, with a balanced concentration of food and entertainment. Apartments and

offices are proposed for upper floors. Any additional apartments however, must be carefully and closely evaluated in terms of their impact of downtown parking; their compatibility with existing downtown buildings in terms of design, scale and intensity of development; the contribution of the overall project, including proposed apartments, to the quality of the downtown economic environments; and potential significant negative impacts and nearby established businesses and residential neighborhoods.”

Regarding gross residential site density, please note that the 137 East Main Street major subdivision and special use permit calls for 24 dwelling units per acre.

BB District Off-street Parking and Option Procedure

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

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

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

Regarding the requested parking waiver, our procedure specifies that applicants receiving such approval must make a “payment in lieu of spaces,” to the City to be used to improve parking downtown. The required payment, based on the estimated cost of construction of surface level parking spaces provided by the Public Works Department (\$2,678), is as follows:

<u>Number of Spaces</u>	<u>Payment Required</u>
First Five (5)	\$ 669.50 (5% of cost)
Six to ten (5)	<u>\$6,695.00</u> (50% of cost)
Total:	\$7,364.50

Comments regarding this “payment in lieu of spaces” and related comments regarding this

issue appear below under Subdivision Advisory Committee.

Status of the Site Design

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

Be that as it may, as you can see from the 137 E. Main Street subdivision plan, supporting letter, and applicant's color building elevation drawing, the proposal calls for renovating the existing diner, and removing the existing rear portion of the building (which contains one office/break room) and then constructing a three-level building with a total of six apartments to the rear of the existing building on the site along Haines Street. The first floor of the new three-level structure will be covered parking (14 spaces). The entire structure will occupy a "footprint" of approximately 7,657+/- square feet.

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

Please note, in this regard, that on a voluntary basis, the applicant has agreed to have the proposed building elevation drawings reviewed by the Downtown Newark Partnership's Design Review Committee. Unfortunately, the review meeting is not scheduled until Tuesday, May 6, 2008, the same day as your public hearing. Therefore, it was not possible to include the Committee's comments in this report. The DNP Design Committee, however, indicates that it may be possible to complete its review and summarize its findings for the Commission at your meeting that evening. Because Joe Charma of Landmark Engineering is the engineer for this project, he will recuse himself from consideration of the design of the facility as part of his role as chairman of the Partnership's Design Committee at the meeting.

Subdivision Advisory Committee

The City Subdivision Advisory Committee – consisting of Management, Planning, and Operating Departments – has reviewed the 137 E. Main Street major subdivision plan and has provided the comments 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 indicates that, based on previous questions raised by City staff, the Planning Commission and City Council regarding the proliferation of rental units downtown and the related impact on off-street parking along Main Street, as well as related impacts of the increase of rental units on the City's apartment housing stock, concerns may be raised about the size of the 137 E. Main Street building, calling for a calculated density of 24 units per acre. In this regard, the Planning and Development Department notes that the recently approved development at 102 East Main Street called for 18.75 units per acre. In addition, the Planning and Development Department recommended a 15.63 units per acre density for the 21-27 Choate Street project; 17.47 units per acre for the CVS major subdivision; and similarly had recommended that the Washington House (old

Stone Balloon site) development be reduced to 27 units or 18.0 units per acre. In addition, because downtown now extends down Elkton Road, the densities of approved and proposed projects there may be of interest; for the Millyard at 100 Elkton Road density is 9.39 units per acre; Amstel Square at the corner of Elkton Road and Amstel Avenue is 17.17 units per acre; and Madeline Crossing at 160 Elkton Road is 20.31 units per acre. As a result, the Planning Commission may wish to consider reducing the 137 E. Main Street proposal to four or five units or a density of 16 or 20 units per acre.

2. As a condition of approval, the Planning and Development Department suggests, to limit the impact of the proposed apartments on downtown parking, each dwelling unit should be restricted to a maximum of four tenants, and that tenants shall be informed in writing that no off-street parking monthly permits will be available at the 137 E. Main Street site for their use.
3. Also as a condition of approval, the Planning and Development Department indicates that the Planning Commission should require that the applicants deed restrict the property to ensure that the “Art Deco” diner several feet off the level of the sidewalk is saved. This deed restriction language should be submitted by the applicants for review by the City Solicitor and for recordation.
4. The Planning and Development Department suggests that the Planning Commission recommend the special use permit site design conditions:
 - The architectural design of the proposed facades of the building should be carried out on all building elevations visible from public ways.
 - Storage areas, mechanical and all utility hardware shall be screened from view from public ways in a manner consistent with the proposed architectural design.
5. Also in terms of architectural design, the Planning and Development Department indicates that the design of the proposed project, as shown on the accompanying GMB drawings, in our view, is not visually attractive nor does it relate well to the buildings around it.
6. The Planning and Development Department suggests that the Parking Legend be clarified to show the required ten space waiver.
7. The Public Works Department indicates the following:
 - An agreement must be made with the adjacent parcel to the south to pave the 10 ft. alley as part of the project so that access and positive drainage is maintained. Documentation of this agreement will be required as a part of the CIP approval process.
 - Regarding refuse collection, the property owner will be responsible for residential and commercial trash pickups.
 - Regarding parking, the Public Works Department notes that the parking aisle width of 22 ft. is acceptable because it does not appear that there is enough room to accommodate a 24 ft. aisle width.
 - Regarding sidewalks, the Public Works Department indicates that a 5 ft. sidewalk, including the width of the curb, along Haines Street is acceptable.
8. The Electric Department indicates the following:
 - The only aerial line that can be located underground is the line on Haines Street. An outdoor space to install a padmounted transformer must be made available on the diner side in order to bury the power lines on Haines Street. This area should be shown on future plans. In addition to providing adequate outdoor space for the transformer, the developer will be required to install the necessary conduits from Main Street to the pole in front of the next property to the south on Haines Street, and to the padmounted transformer as well as restoring all concrete work. The

Department notes that the aerial power lines on Main Street are to remain. The developer must pay all charges for pole relocations and all charges related to burying the line. The aerial high voltage wires cannot be de-energized.

- The developer must pay \$65.00 per meter for radio read meters.
9. The Parks and Recreation Department notes that the existing Main Street tree must be protected throughout the construction process.
10. The Building Department indicates the following:
- The building must be built in accordance with the International Building Code.
 - All new construction at this site will be required to be sprinkled.
11. The Water and Waste Water Department indicates that:
- The existing sewer line should be cameraed to verify its condition and a capacity analysis of the existing lateral with proposed wastewater load should be conducted as part of the CIP process. If the analysis indicates a new lateral is warranted, the CIP will need to be revised.
 - Future plans should be revised to show a new 6” water service connection on Haines Street to service the new construction.
 - The developer will be responsible for the cost to purchase and install water meters.

Recommendation

While as noted above, the special use permit, parking waiver and major subdivision at 137 E. Main Street conforms to the development pattern in the community and, with the restrictions noted in the report will result in the preservation of the diner, because of the concerns also noted above regarding the architectural design and issues that may arise during the Commission’s discussion concerning the proposed density, the Planning and Development Department suggests that the project be tabled until revised renderings are available for the Commission’s review.”

Ms. Maureen Feeney Roser: I will be happy to answer any questions that the Planning Commission may have.

Mr. Begleiter: Maureen, there are a couple of detailed questions I would like to ask about. On page 7, the deed restriction to preserve the diner, I just want to clarify whether it is your intention to preserve the diner or whether it is your intention to preserve the exterior façade of the diner? I am asking the question because, my experience with the diner is that if you renovated inside – as I think they are proposing to do – you wouldn’t lose much historic value inside.

Ms. Feeney Roser: It is the façade.

Mr. Begleiter: I can imagine somebody saying that we do not need a diner in there. Keep the façade and make it a travel agency or some other kind of walk-in retail business, office space, shop or something like that. I would suggest that we, maybe, revise this so that there is any formal, legal document written, that it is the façade rather than the entire diner.

On page 8, under item 10 about sprinkling, it says, “New construction will be required to be sprinkled.” So if they don’t touch the diner or if all they do is renovate the diner, then the diner doesn’t have to be sprinkled? Or is it the intention that the whole project will be sprinkled. I would suggest that it all ought to be sprinkled. That would be my suggestion. It shouldn’t say new construction.

Ms. Dressel: If I may interrupt. When we approved the Caffé Gelato, I don’t believe there was anything done to the existing building, but we required the whole thing to be sprinklered.

Mr. Begleiter: In this case, we don’t know what the final proposal is, but the diner seems so

integrally connected to the rest of the building, it makes sense to have it sprinklered.

Ms. Feeney Roser: The kitchen of the diner is to be renovated, too, so that would be considered new construction.

Mr. Begleiter: Under #8 – I have to hear the answer – why does the Electric Department say it is okay to bury the Haines Street line, but it is not okay to bury the line that is connected to the Haines Street line and connected to the same utility pole on Main Street.

Ms. Feeney Roser: As I understand it, it is the complexity of the Main Street service, how many buildings it serves and burying it for one didn't make sense. With the Haines Street line being the shorter distance and not having so many services on it, they could accommodate the burial.

Mr. Begleiter: Mr. Chairman, for the record, I would like to say, it just seems to me that this is a good example of where unnamed Electric Department officials are, essentially, having a veto over design plans here. Even in the case where they have in mind to improve the overall appearance of the of the project, somebody in the Electric Department, essentially, gets to say, no never mind, no hearings, no discussions, no Planning Commission, no Council, nobody has the say over the Electric Department to decide this wire stays and this wire goes. I understand the complications of electricity and I understand that not everything can be done, but it does bother me a little bit here where they are so closely juxtaposed that one line can be done and other one can't.

In that same paragraph, I would like to ask you a question about the padmounted transformer. If I read this correctly, that would put the padmounted transformer – it looks to me like – in the middle of the already very narrow sidewalk along side the diner that is being preserved. You can't widen the sidewalk to make room for the padmounted transformer. It has to be on the diner side, it says. Does that mean, effectively, that you will have a padmounted transformer in the middle of the pedestrian sidewalk?

Ms. Feeney Roser: No, and I know that the engineers had conversations about exactly where that is going to go. It will not be in the sidewalk.

Mr. Begleiter: I was going to suggest that maybe there is a place to put it under the handicapped ramp so that it would not be interfering with the traffic.

On page #3, this reminds me a little bit about the project we had a few weeks ago, in the paragraph that mentions the alley about two-thirds of the way down the page. Later there is a reference to paving it. Is this a case where maybe we need to be careful again as we were in the last project to be sure that the access of that alley is somehow preserved and protected for this project?

Ms. Feeney Roser: The alley serves the diner and the property next to it, so that is why we put that as a condition that access be retained.

Mr. Begleiter: That is access for . . .?

Ms. Feeney Roser: It is access for the diner property and for the Main Street Florist building next to it.

Mr. Begleiter: That is a good explanation. Thank you.

Ms. Sheedy: The sprinkler issue inside the diner, unlike most buildings, diners have an aesthetic value for their interior finish. If we require sprinklers in the public part of the diner, could that be accomplished without interfering with the aesthetics of the inside of the diner?

Mr. Bowman: Let me answer that question. Yes, it can be. The heads can be concealed and that entire property should be sprinkler protected.

The applicants are here to do their presentation.

Mr. Charma: Good evening Chairman Bowman and Commissioners. My name is Joe Charma and I am with Landmark Engineering. I am pleased to be here tonight to present our proposal for Newark Square.

The owners are the Tsionas family. Two of the family members are present. They comprise Tsionas Property, LLC. Also with me tonight, I have the design team – Jack Pepper, the architect, who is with George, Miles & Buhr, LLC., Ed Eid and Mike Glick with White House Construction, and myself with Landmark Engineering.

I would like to talk a little bit about the history of the dinner. I think a lot of your concerns that were voiced earlier will be brought forward during my presentation.

The original building was constructed in 1953 with later additions being constructed in 1958. The building has always been operated as a diner and it has been known as the Newark Diner, the Hollywood Diner, Jimmy's Diner, Jude's Diner, and most recently the Korner Diner. The Tsionas family purchased the diner around 1983 and operated under the name Jimmy's Diner – the former owner's namesake – for a number of years. The diner closed for a period of time but it eventually reopened. Needless to say, the diner is near and dear to the hearts of Newarkers and is very much a part of Newark's history. In late 1999, the Tsionas Properties, LLC proposed a project literally to demolish and reconstruct the diner along with upper floor apartments. After much discussion and consideration on February 1st that project was approved by the Planning Commission with a recommendation of six new apartments rather than ten. It was also recommended that a more simplified building façade was shown.

Here we are almost ten years later with a proposal that does just that. The project that you have before you proposes a new building with six apartments on the second and third floors located over the existing parking area. Unlike the prior proposal, the existing diner will remain intact and be renovated. Those renovations will include a handicapped access ramp on Haines Street and handicapped accessible restroom facilities so that all of Newark's residents and visitors will be able to enjoy the diner. We, the design team, realized that this site is a high profile keystone on Main Street. We are working with the owners and the City to relocate a portion of the existing overhead utility lines on Haines Street to create a more aesthetic streetscape. An improved patio area will be added or improved in front of the site and improve the appeal and ambience of the Main Street façade and streetscape. The enclosed parking area will hide cars from view to further improve the streetscape. Improved pedestrian and vehicular access way will be provided at the rear of the building that would access the rear parking lot. In addition to facilitating this access, future potential parking lot consolidation of the existing scattered and segmented parking areas behind Formal Affairs, Main Street Plaza, as well as parking areas further to the south on the buildings on Haines Street can be considered.

The project is a win win situation for the property owner, the residents of Newark and the City government. (inaudible) The new building will replace a deteriorating eyesore therefore, tremendously improving the streetscape on Main Street and Haines Street. The City will benefit from increased property tax base and additional revenue from licensing fees and fees for services provided to commercial and residential tenants.

With all these positive outcomes, in order for this project to move forward, a ten space parking waiver is necessary. The owner has agreed to notify the tenants by their lease that no onsite parking spaces will be provided. This provision has been successfully enacted in many projects on Main Street over the last five years. The owner will also agree to restrict the maximum capacity to four persons per unit. When this project went before Council in March of 2000, much if not all of the discussion centered around the size of the parking waiver and the parking situation downtown in general. In fact, then, Mayor Godwin stated that he wanted to look at the entire parking situation before he committed to further downtown development. That study was completed in August of 2006 by Desman Associates. The results have indicated that the current off-street parking areas have a surplus of Citywide parking for a practical capacity surplus of somewhere in the neighborhood of 300 spaces. Let me explain practical capacity. That is, essentially, the parking area's available capacity at its peak hour of use. What it really means is that there are more surplus parking spaces available than the practical capacity. They may not be at your front door, but they are there. You have to look for them. Access to more remote parking will be made also by the City's trolley, Unicity bus and other multi-mobile transit opportunities that will come on line with the completion of the State Transit Hub, currently under construction adjacent to Municipal Lot #5 at Farmers Lane and Delaware Avenue.

I know that many of you read yesterday's News Journal article about Newark exploring

options to expand parking. One of those options suggested a moratorium on parking waivers. I really do not think this option will solve parking shortages. We are victims of our own success. Many people in this room have worked long and hard to create the public, private, University collaboration known as the Downtown Newark Partnership, whose prime objective was to improve and maintain the economic health of downtown Newark. I would say that that endeavor was a tremendous success. Having so many people downtown is a good thing. I have no doubt in my mind that public private collaboration, again, will result in a parking garage downtown in the near future, and people are working on that. Rejecting the ten space parking waiver request for this small project will have no real impact on the overall parking situation downtown. But approving this project along with the parking waiver will significantly impact visually, historically and economically the situation for the entire City. I urge you approve this project to keep downtown's positive economic momentum going forward.

We will address any questions you may have.

Mr. Bowman: I will bring this item back to the table for questions from the members of the Commission.

Ms. Dressel: I would like to see the new diagram they have.

Mr. Charma: That is the Main Street façade. I would like to invite the architect to talk about the façade and some of the changes that were made, but before I do that, we have the Acting Chairman of the Downtown Partnership Design Committee here, Howard Smith, and I would like to have him briefly talk about the Design Committee's report which, I believe, you have before you. I apologize for you not having this piece of information but we were unable to schedule (inaudible).

Mr. Begleiter: Mr. Chairman, is this Design Committee Project Review Report based on the plan that we have seen and included in our packets or is it based on that plan?

Mr. Bowman: It is based on this plan.

Mr. Begleiter: Wouldn't it make sense then, Mr. Chairman, for us to review the plan that is before us so we know what it is that is being discussed?

Mr. Bowman: Let me get this straight, what was criticized is what we have before us, correct?

Mr. Charma: The Planning Department's recommendation to table was based on the original plan that was submitted because of insufficient architectural amenities. This plan is the successful plan. This plan is the outcome of the negative comments of the Planning Department.

Mr. Begleiter: Which one is the Design Committee's report based on.

Mr. Charma: This one.

Mr. Begleiter: So, I think it would be good for us to hear.

Ms. Dressel: When were these facades completed? Was it just in the last day?

Mr. Charma: It was probably within the last week and there were changes that were made as a result of some of the commentary this morning – not a lot of that, there was some more detail. I think the Planning Department's primary concern was the lack of detail on the plan that you had in your submission packet.

Mr. Bowman: Let's get the information on the table.

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

Mr. Jack Pepper: I am with GMB. We are the design architects on this project. Early on we were looking at our adjacent building here for scale, color, window treatment, so one and so forth. Through the evolution of design, we have taken some of the larger scale elements and have broken them down to more of scale and elements for a streetscape. For example, in the packet you have we

had a decorative block shown on the stair towers. Through conversations with our owner, we have modified some of those elements. The largest is, the building is now all brick, no decorative block. We did want to introduce some of the color next door so we have left some buff colored accent pieces. That building has some articulation of silver coursing. We have picked that up and used some of the detail on this building at the doors and windows. We have used an inset panel on the stair tower. We have also added windows to lighten it up. It was a little heavy before, so we wanted to break that up. We wanted to bring it back down to a street scale. We thought that was very important to do on this plan. We have also added some lighting fixtures. We think that will add quite a bit from the street side. We do have some sun screens here tied together. We did not get a chance to incorporate all of the comments from this morning's meeting into the plan before this evening. The Committee's ideas were good; and as far as incorporation into this design, it doesn't propose any source of problems. (Inaudible)

One of the things we had on the original was really plain as far as the parapet and coping goes on this building, and what we have done is we have added a silver course all the way across here. We have also added another band at this level. Basically, what we have tried to do is take a fairly plain façade and detail it out to what we would really like to be there. (Inaudible)

We wanted to come up with some kind of system where we will have a translucent panel and a decorative grill that will create a buffer in our interior hallway to keep anybody from throwing something out or trying to climb out on this roof. This will allow fresh air and light into this corridor but it will create a physical barrier that will assist with solving another issue.

We have created (inaudible) situation on the back side between this building and the adjacent building to the west, so you won't have any problem with seeing HVAC equipment. That was something we were very cognizant of. We don't want to see compressors sitting on roofs, or exhaust fans or anything like that. It is actually the roof of the parking deck. So, that will all be housed and hidden from view. We thought that was very important for this design. The other views we have are the same building, but they are views with and without wires.

Mr. Charma: The building essentially sits like that, and it is important to note that there are windows on the face of that building. They will be maintained, so there will be fresh air and light. There was a lot of discussion about why this is back here. From the prior project, which I was involved with, if you bring the façade out then you get into the diner structure itself. You can't support masonry and you are back to destroying the dinner. The previous proposal for the façade was to peel the skin off the diner and then put it back on. There were a lot of people that were concerned about that. There was no guarantee that it was going to work. Note that the pole is still shown there, but we have shown it so you can see where it is in relation to the diner.

There is an access way here that not only serves the diner parcel but also the adjoining parcels. What we propose to do is to create a 20+ access way here to create that opening and to maintain that so you will have better access. It is paved now but it is messed up and this is kind of a dirt parking lot back here. There are fences everywhere. It is a mishmash. Do this is going to set the stage for something to happen back there.

Also, where we are thinking of putting the transformer is right back here by the southwest corner. If we pull this curb out a little bit, we can put it there and protect it.

Mr. Begleiter: I thought it was on the Haines Street side.

Ms. Dressel: That is what it says.

Mr. Begleiter: I was concerned about the narrow sidewalk on Haines Street.

Mr. Charma: You will note in the report that was a concern of the Public Works Department also. They wanted a five foot sidewalk plus the curb. Well, you don't have that now and we can't create that. The property is a very narrow property. It is 58 ft. wide. I think that the architect and all the members of the design team and the City Departments recognize the constraints of the parcel. I think everybody has done a good job to create the plan you have before you. I think it is a good plan.

Ms. Sheedy: Can we go back to the side view for a second? From here it looks like the new

structure now comes out over the diner. Am I seeing correctly?

Mr. Charma: That does confuse people. You have to understand how the diner is configured. If you see this salmon colored L right here? That is physically the diner. What exists there now, right back here in this area, is the two story addition with a little office. The wall you are seeing will be a new wall constructed right here. That wall is a parapet wall. It actually runs at the interface of the diner and what is the kitchen and the restrooms now. You walk out of this L to get into this other area. What you are seeing is this little piece of wall here. The wall runs parallel to Main Street. We are going to have some rooftop ventilators. It is going to hide that from the street.

Mr. Bowman: Let's have the report from the Downtown Newark Partnership's Design Committee now.

Mr. Howard Smith: I am on the Design Committee. The Committee did review the project this morning informally. As you can see, there is general approval of the project. The focus of the team was to save the diner and build a new building behind. That, as you can see overweighed the two areas where we did not think it not officially meet our Design Guidelines. (inaudible) We much prefer to see this than to tear this diner down and put some new building right on the sidewalk. There was not a whole lot of discussion about any real significant details. Usually, that means that the Committee agrees with the design.

Mr. Osborne: On the form it says, recommended to modify the arched roof line.

Mr. Smith: Yes, we gave them one suggestion. Instead of this side-to-side arch, we suggested coming in a little flatter. (inaudible)

Mr. Osborne: Would we be considering this roof line or one with a steeper arch.

Mr. Begleiter: They can change the plan. It is a concept drawing.

Mr. Osborne: As it is now, the recommendation of the Planning Department is to table it anyway.

Mr. Begleiter: Based on the earlier plan.

Ed Eid: Vice President of Light House Construction. We tried to bring the elements of the existing building in, flatten the side out here, and create a little tighter arch.

Mr. Osborne: I can visualize what you are talking about. I happen to like the variety, variation as it is now. I actually like the gradual arch. If you did it flatter with a steeper arch, it would look too much like the building next door. I actually happen to like the variety.

Mr. Begleiter: Mr. Chairman, for whatever it is worth, on the Design Committee comment about the setback. I see that as a plus in this case because I think what the result will be to highlight and retain the uniqueness of the diner rather than having a bulky building up toward the street. I think the setback in this case, even though it appears to violate the guidelines, is a positive thing in terms of preserving the appearance – the look and feel of that 1950's diner.

Mr. Smith: We agree with you.

Mr. Bowman: We are officially back to the table. I have a question about the stair tower. I am a little confused. I would suspect that the Code requires two means of egress for those apartments. Would you point those out to me, Joe? Unfortunately, we don't have a plan view which would be helpful.

Mr. Charma: The two stairs both dump out on Haines Street.

Mr. Bowman: What I am trying to clarify in my mind, that connecting passageway between the two stair towers is open air?

Mr. Charma: Yes it is open to the air here.

Mr. Osborne: An interior corridor?

Mr. Charma: No, not interior.

Mr. Bowman: So, the entrances to the apartments, in essence, is off an open air corridor on both levels.

Mr. Charma: (inaudible)

Mr. Bowman: Out onto that walkway.

Mr. Charma: The second floor and third floor are the same.

Mr. Bowman: Are your travel distances to exits and remoteness of exit requirements are met?

Mr. Pepper: Yes, we checked into that.

Mr. Begleiter: Where it says, roof below, what is that?

Mr. Charma: That is the roof of the parking building.

Mr. Begleiter: What is the adjacent property on the other side? What façade is there? Are there windows there?

Mr. Charma: I'm not sure how far back those windows go. I don't know if they go all the way back, but that building ends (inaudible).

Mr. Begleiter: Coming back to the open corridor that is like an old motel design where you step out of the motel onto a balcony that is closed in. I am a little surprised at that, actually. I am thinking of security and cleanliness and what would be behind there. I guess it will be up to the tenants. It won't be visible from the street, so whatever is in there is in there and the tenants will have to live with it.

Mr. Charma: You, essentially, have three units on an access and what we have in other projects I have been involved with, that is the optimal number you want to have. What we have been doing with other project is you can have individual stairways up to the second floor and you have three units. That works well. You don't have this big massive congregation. It does not become a gathering place. The owners will make sure that the property is policed.

Mr. Begleiter: And at the street level on the Haines Street side, that indentation between the stair towers, is there landscaping. What is that?

Mr. Charma: That is the roof of the parking garage. The wall of the parking garage is at the back of the sidewalk. (inaudible).

(inaudible)

Mr. Begleiter: I was thinking that the Haines Street view looks a little like a school. I think maybe the fence around the parking is what does that. The roof may mitigate that a bit. You have two roofs there – which in this drawing are white.

Mr. Charma: Again, when you are looking at a flat drawing, you are not getting the perspective. This is 7 ft. out, these are out a couple of feet. (inaudible).

Mr. Bowman: There are six apartments in this proposal. The second and third floors are identical in size?

Mr. Charma: Yes.

Mr. Bowman: Are they four bedroom or three bedroom apartments?

Mr. Charma: They are three bedrooms with four persons per unit.

Ms. Sheedy: Where is the vehicular entrance to the parking garage?

Mr. Charma: On the south side of the building right here where we are creating the access way, the garage entrance is right there.

Ms. Sheedy: Does the width of the alleyway meet the requirements for turning radius?

Mr. Charma: It is 24 ft., yes.

Ms. Dressel: I have seen references in the report for ten feet and 24 feet. I am not sure where the ten feet is and where the 24 feet are because it is all going back to the alley.

Mr. Charma: The ten foot easement is right here. What we are doing is expand it all the way over to the building so this all becomes the easement now. That will be maintained in perpetuity.

Ms. Dressel: Right now there is a ten foot easement for the property here.

Mr. Charma: Right.

Ms. Dressel: You are going to expand it?

Mr. Charma: Right. There is a ten foot easement but really, there is a dumpster that sits here, and you can really drive through there. Technically, they could have put the building right back to that line.

Ms. Dressel: This is curb cut not wall?

Mr. Charma: That is curb.

Ms. Dressel: On both sides.

Mr. Charma: That is the building coming down but that is just curb to keep anyone from bumping the building.

Mr. Osborne: There are rows of spaces along each wall. That looks a little tight. Is that compliant with Code?

Mr. Charma: I will qualify this. They do meet City Code with one exception and the variance was granted by the Public Works Department. The aisle that is here is 22 ft. Normally, it is 24 ft. The spaces are standard 9 by 18 spaces. New Castle County's parking standard, their minimum aisle is 22 ft. I know that the Public Works Director is aware of that. You can successfully maneuver in it. Because of the limited number of spaces that exist today, you go to the diner, there are a few cars there, you are going to have the same few cars that are always there. It gets busy around 8:00 a.m. and then after that there may be half dozen cars in the parking lot. If you are in a shopping center where you have a lot of turnover, you will probably want to be 24 ft. I know that the Public Works Director realizes that and recommended that the 22 ft. would be sufficient for this use.

Mr. Osborne: And that parking, I think, as noted, is available to the public. It is not for the tenants, although they could use it if they happened to get in there early in the morning.

Mr. Charma: No, I think the owner will do a good job of policing that. And, it would be a violation of their lease also. All we are doing is building over what is there right now.

Mr. Begleiter: In fairness, you are right, that is what you are doing, but because you have that second stair tower at the corner of Haines and the alley, right there, that stair tower is going to cause you to lose line-of-sight when you are pulling out of the garage.

Mr. Charma: We talked about that a little bit at the Design Committee meeting. How do people know that there is parking there now? We will probably have to put a sign up somewhere that says diner parking. That is easy to do. We may put one of those convex mirrors there. When you go to Wilmington, that is very common to see, with the parking garages, there is a mirror there so you can see pedestrians. At least here, you are out here before you cross the sidewalk.

Mr. Begleiter: You don't have it now, but in your future vision, which I think is a good one, about

providing that access for the other sites. When that becomes the case, then you will have traffic coming in that direction, too. So, you will have people pulling out of this parking garage who will have to be very careful because there is not much space to get the nose of your car out and be able to see right and left.

Mr. Charma: You could remedy some of that by making it one way. That has been done successfully in a number of City lots.

Mr. Begleiter: What is the wall that is near your thumb at the back corner of the building? Is that a solid wall?

Mr. Charma: That is just the building wall.

Mr. Begleiter: So, it doesn't have the see through building grating that you have on the Haines Street side.

Mr. Charma: It is not full height. All the walls around the parking garage will be probably be four or five feet.

Mr. Begleiter: So, you can see over it. Okay.

Mr. Charma: (inaudible)

Mr. Eid: The discussion we had with the transformer out here, we are going to have some sort of a landscaped area, which will give us some room to nose out, so to speak.

Mr. Charma: (inaudible)

Mr. Osborne: Ralph brought up a good point in terms of visibility and that stair tower, cars pulling out of there could have a challenge. Mirrors could help, but did you ever consider putting that tower to the left into the alley and then have your entrance into the parking garage where the stair tower was. I don't know what is more important, public safety or pulling a vehicle out there safely or creating some buffer space in between.

Mr. Charma: If this were a one way in or out, it doesn't have to be 24 ft., they can have as narrow as 10 ft. wide. The Fire Marshall would like to see 16 ft., so we will probably do 16 ft. In that case, you can pull the curb way out which gives you a place to nose out. I really don't see people flying out of this garage.

Mr. Osborne: It is setback how far from the road, the building and the tower?

Mr. Begleiter: Five feet.

Mr. Charma: Right now, yes. It is the width of the sidewalk.

Mr. Begleiter: Rob, it may be better this way because the current configuration of that parking lot. I have seen people come tearing up Haines Street and zoom into the parking lot and you are making the turn from Main Street and you can't even see them coming until it is almost too late. So, this will help. It will channel all the traffic into one . . .

Ms. Kass: Joe, your intent is not to make that one way though, right, because there is no other way?

Mr. Charma: At this point, there are three former single family homes, and Planned Parenthood, they all have little driveways in, but they kind of connect. When you get back here, you have the florist, Crystal Concepts, Formal Affairs and the old former Newark Farm and Home. 123 E. Main Street has been redone. That is a nice parking lot, but it could be so much nicer if all these guys got together and there would be other exits out onto Delaware Avenue. You could come in this way and go out on Delaware Avenue. Our intention right now is to maintain it the way it is so they can have access.

Ms. Dressel: My question is, if it is one way, how would you exit out? You gave that answer so thank you.

Mr. Bowman: I would like to, at this time, open the discussion up for public comment.

Mrs. Jean White: 103 Radcliffe Road. I am particularly fond of diners. They are unpretentious, down to earth, serve basic food, ample portions at reasonable prices, they have traditionally been places where workmen and common folks go, but all types of customers are welcome. They allow a lot of casual repartee between the servers and the customers especially those sitting at the counter. Pennsylvania and New Jersey are where most of the diners are. Diners have a long history of having been a place where immigrants of different origins and nationalities that have gotten their start in America.

Mr. Bowman: Mrs. White, I hate to interrupt you, but I don't think we need a history of diners. If you have some comments about this proposed plan, we would appreciate it if you would get to those comments. I really would prefer that you go to your comments.

Mrs. White: It is pretty obvious that I want this diner to continue; and, therefore this project preserves the diner and keeps it going. If only the façade is kept, you might as well tear it down, in my mind. So, I would like the deed restriction preserving the whole diner, both the façade and the inside, because if you put something else in it, it is not a diner anymore. Some other positives are that a handicapped ramp is being designed on Haines Street that gives access to those who might need it, but it is done in a way that it does not detract from the basic design. Also, the improved bathrooms that have handicapped access are a positive, and burying all or some of the electric lines is positive. I thought that I had heard that there was a possibility of burying those that would go over to the Starbucks building. I didn't hear anything about that tonight so I didn't know if that was still in the plan.

As far as tearing down the part connected with the diner, the brick part that is the kitchen, but rebuilding the one story, I support that or I do not object because it keeps that part to be one story and allows redoing the bathrooms and remodeling and putting a more modern kitchen. Although I have never been in the kitchen, I suspect it would improve the safety aspects of the cooking area.

I have a question that can be answered later. According to the plan, the current plan has a 110 seats in the public part and now it is going down to 90. I would like to know why it is losing 20 seats. Possibly it is losing some because of the bathrooms, but I would think it wouldn't be losing 20 seats.

I think the setback is important. I was at the Design Committee meeting as an observer. I am not on the Committee. There was one person there that it should be pulled forward over the kitchen part. I highly disagree. I think it is preferred as it is. It doesn't diminish the diner by keeping it the way it is. It gives it its proper importance. There are many ways to save the diner and there are many ways to build a building next to it. I, personally, do not like this. Yes, it is the less than 35 feet that is typically what the Code says. But, frankly, I would have preferred a two-story building behind it. It is too large. Furthermore, there are too many apartments. I think that six is too many. I think it should be reduced.

The building itself, I think there are aspects of it that are actually ugly. I won't say the whole thing, I think there are some good things about it, but I think there are things that could be done to improve it even more. I will say that what you had before you tonight compared to what was available in the Planning Department is an improvement because before all that part was the light colored brick and now it is just used as accent, so that is an improvement. First, the blue aluminum louvered things (inaudible). This is my opinion, as everybody speaks with their own opinion. I think that is tacky. I don't like the louvered aluminum things at the two corners of the Newark Free Library. Those, however, serve a purpose because they are blocking out light. They can be changed. This, I think, is tacky. Another possibility would be to put inlaid in the brick blue tiles that could either be in a line or have some other arrangement. I can't be sure how that would look either, but that is the suggestion that could be considered. You can do all sorts of things with brickwork like patterns without using different colored bricks. In my opinion, you could do more of that.

On Haines Street, the grading, where you will be looking into the parking garage, I don't know how many of you have been to the Amtrak Train Station, and if you have, you noticed the

parking garage that has been built that is between the riverside park and the train tracks. I think it was done in conjunction with ING Direct. It has beautiful grating that is thick wrought iron. It is so wonderful that when you walk by there you want to look at that grate. This is very generic; generic like the grating at the Washington House condominiums. I would like the developer to consider some more interesting decorative grating. One thing that took me a while to figure out has to do with here, and I didn't know whether one of the team could put a second floor plan up for me. I was trying to figure out what all these little windows were on the second and third floor. I now understand that those are hallways, basically, to allow access to two stairwells. That is the way I understand it. It turns out that none of the apartments will be overlooking Haines Street. I think that is a shame. I understand that it is a design issue that is used to get the stair towers in there. Is it possible that you could put the second or third floor (inaudible). As I understand it, the only windows the middle apartment would have, whether it is on the second or third floor, are looking out the back. On the front they are really not looking out the building because they are (inaudible). So, it means that the people looking out their windows from all three apartments are looking out onto (inaudible). There may be no other way to do it. I can understand some of your constraints if not all of them. It seems like it would have been nicer if they could have been looking out the front.

The renters, presumably students, will have cars. Every developer that comes and gets a parking waiver, say but my renters will not have any cars. But having known some of these people and known other people who have known these people, maybe not 100% but 50% will have cars. So, that might be one reason not to approve the six apartments. What will keep the renters of these apartments from parking in the first floor covered parking? Will they need to register the cars with the landlord so the landlord will know who is parking there.

Is there room within the covered parking or outside in the back for a locked room where the renters could put their bicycles? It would promote bicycle use and it is hard to carry a bicycle up a set of stairs to your apartment having known people who have done this. It also isn't particularly secure to have a bicycle locked outside because of vandalism and theft.

Of the questions I raised, I particularly want to know why the diner is going from 110 to 90 seats; whether a deed restriction to keep the whole diner is possible and where the view of the developer is; and why the handicapped ramp will lead. I can see where it is going but does it enter the public part of the diner from the back of the L or does it go somewhere else? And, of course my bicycle room issue. My opinion is that it is too high, too many apartments, and whether the hallway is secure. There are some other examples of apartments on Main Street where you have a stairwell and up above there you have so many apartments, and the door that opens that stairwell, I think even the one that has the Kaplan testing place, that the renters have a key to get in and once they are in it is secure. In this case, any one could climb up the stairwell and go in that hallway and knock on that door and come to the people in the apartment, and that could be considered less secure.

There was a recommendation to table this that may not stand now. I think there are some loose ends that could be tied up and it might benefit from tabling.

Mr. Chris Locke: 604 Cambridge Drive, Fairfield, also employed by Lang Development and I own Formal Affairs, 129 E. Main Street.

I want to talk about a couple of things. First, I want to talk about tabling this plan based on architectural reasonings. I think that sets a bad precedent. There are plenty of good reasons to table projects, but architecture is not one of them. I have the utmost respect for Maureen. We have served on many different committees together. I think she has single handedly changed Main Street in the last 15 years. But, I have to respectfully disagree with Maureen on this. As the member down here said, you can get 20 different views. I am not a big fan of Art Deco. I like the Victorian look and the Colonial look, but I understand why they did it. They are trying to have the building be connected to the Art Deco of the diner. So, architecturally it makes sense. But, it may not be pleasing to me, but I understand it. I think we really should not table things architecturally because it is so subjective. It is like watching figure skating.

In regard to the actual project itself, I am in favor of it. I think it is a well thought out project. I think it is important that it stays. Gus has owned it for many, many years. I think it is also very important that they thought about the adjoining Main Street Florist property and the residents that live on the second floor and not blocking the natural light into those apartments. I thought that was extremely considerate, and something they did not have to do. I think they should

get kudos for that.

In regard to a couple of comments that Jean White has made about the 35 foot height restriction, I think we have let that cat out of the bag with Washington House. I think this is a project that is well within its restraints. To paraphrase Gordon Gecko in the 1987 movie Wall Street, “Apartments are good.” They are good for Main Street. First the residents that move onto Main Street, they support the area businesses that are existing and they bring new businesses onto Main Street because of the vibrant residency that we have on Main Street. It gives Main Street a vibrant life from morning to the wee hours of the night. I have businesses in Dover and businesses in Wilmington, they literally roll up the sidewalks at 5 o’clock at night. I think having as many residents as we do on Main Street, the more apartments we can add, the more of the type of projects like Washington House, the better it is for Main Street itself.

It also gives Main Street a sense of community having residents on Main Street. We all have our own individual lives, but the merchants look after the residents when something happens and the residents look after the merchants when something happens. We recently had a power surge at the Washington House project about three or four weeks ago, a lot of places were affected and we all came together, both residents and merchants helped each other out. That sometimes gets lost on Tuesday nights here at the Planning Commission. The more people living on Main Street, the more vibrant it is going to be.

To address the issue about parking, the residents understand that they cannot park at the properties and they are willing to take that restriction because they want to be on Main Street, so they will find parking somewhere else whether it is one of the Newark parking lots or making arrangements at the University of Delaware. They are willing to take care of that restriction.

One last thing I want to talk about is the individual that is involved with this project. I have known Gus for 26 or 27 years. I started shining shoes at Formal Affairs, became Assistant Manager, Manager and eventually owned it. I can tell you, he is a true American success story. He was an immigrant that came over here, work real hard making sandwiches. I used to go get turkey and melted cheese sandwiches from him. He has gone from one little sandwich shop to where he is today. He is an individual that has been in Newark for many, many years. He has been a well respected business person in this community. He runs great businesses. He handles his properties perfectly. I think that needs to be rewarded. I think this project is a good project. I hope this Planning Commission and eventually City Council approves it.

Mr. Bowman: We will bring the discussion back to the table.

Mr. Osborne: I want to piggyback on what Ralph brought up earlier, the telephone wires, it is common that whenever we see a plan before us, we talk about the telephone wires and talk about – especially Ralph’s preference – that they be buried. I could be wrong about this, but do we have a strategy and is it a part of the Comprehensive Plan to bury electrical wires and make that a requirement or condition of a plan especially on Main Street in terms of development?

Ms. Feeney Roser: I know the Plan refers to looking at the possibility of doing that in the future. According to our Electric Department, at this point it is really not a possibility because of the complications involved with getting electric to the other properties and the high voltage lines that are running down Main Street, it is difficult to do it piecemeal.

Mr. Osborne: If I can paraphrase, I think what you are saying is that under the current version of the Comprehensive Plan, we can’t really stand on burying wires as being part of the Comprehensive Plan and, therefore, making that a condition of approval or forwarding to Council.

Ms. Feeney Roser: Mr. Lopata is actually handling the Comprehensive Plan with you, but my understanding of it is that there is language within it that will allow us to continue to work towards doing that. I don’t think it requires it.

Mr. Begleiter: That is my understanding as well. Rob, here is a case where you have a developer that is actually proposing to bury the wires. It is the City that is saying no, you can’t do it. So, you can’t make it a condition if the City is saying that if you make it a condition, we can’t do it. I think we have to work on this issue from the City side as much as from the developer’s side. My goal in pushing the requirement to have the elevation reveal the existence of the poles and utility wires is to

have us confronted and City Council confronted on a weekly basis with the ugliness of the wires. Maybe it is a silly goal, maybe it is utopian, but the idea is that people eventually will say, you know we really need to do something about this, every plan that comes before us has this problem in it. That is what I was hoping to accomplish. I don't think we can make it a condition here since they have proposed it and we have to say no.

Mr. Osborne: I think about a City like Philadelphia – obviously it is a much larger city – you look at Market Street and what Philadelphia has done with Market Street with no wires running up and down it.

Mr. Begleiter: You can look at a lot of smaller places. Look at Middletown or Odessa. You can find smaller places that have done nice things with utilities on Main Street, but it is not for us at the moment. Maybe if we win the reservoir law suit, big time, and the decision goes the other way and we get the \$ 36 million, that is a possibility. I am with you philosophically, but I don't think we can make it a condition in this case.

Ms. Dressel: Maureen, I would like to ask, in light of the new façade that has been presented tonight, how would the Planning Department's recommendation change or would it change?

Ms. Feeney Roser: The recommendation to table?

Ms. Dressel: Yes.

Ms. Feeney Roser: The recommendation to table was based on a design that was submitted through the application process – the one in your packets – not what was presented tonight. This is a much improved plan. I think the owners, the builder, the architect and the engineer have all worked very hard to make this a more aesthetically pleasing building, something that fits in with the surrounding buildings. I think it definitely does that. So, I would not have a concern about this design moving forward, but my recommendation was based on what was submitted with the plan and what was presented to you. We just didn't think that was good enough.

Ms. Sheedy: Mr. Chairman, I have another question for Maureen. The recommendation for tabling talks about one of the things to consider, a possible reduction in density down to four or five apartments. Does that part of the recommendation to table still stand?

Ms. Feeney Roser: I think it is up to the Commission. What we wanted to do was to bring to your attention the densities. We've recommended what you have recommended approval of in developments around this one in the recent past and to make sure that was part of your thought process.

Mr. Bowman: One of the concerns about the number of apartments not only in density is the number of occupants in those apartments. The report is deed restricting to four occupants. They are three bedroom apartments. Would the Commission consider deed restricting to three occupants, which would in effect eliminate a number of people. It won't change the density per se, but it would have a similar impact on the number of bodies there would be. Right now we can get 24 bodies. If we dropped it by three, you would get 18.

Mr. Osborne: I am okay with 24.

Ms. Dressel: I like the idea of restricting it to three as a compromise because when I was looking at the density numbers, they were really pretty high with this one. I was, actually, going to suggest going to four units. So, I think if we deed restrict to three people per unit that would accomplish the same thing.

Mr. Charma: I would just like to speak about the density issue, particularly with respect to 102 E. Main Street which was just approved by this Commission in November of last year. That project is very similar to this. There are ten apartments, 100 seat restaurant – pretty close. The site as it started out was .48 acres. .19 acres of the site was deeded to the City so in the density calculations, the true density for that site turns out to be 34.48 units per acre. Washington House, the recommendation was for 27 units. If you recall, that was approved at 52 units which is a density of 35 units per acre. So, to paraphrase Mr. Locke, I think the cat is out of the bag.

One of the things you have to understand about projects of this nature, particularly six apartments is not a lot of apartments, the economics of the project – and I know you don't want to hear about the economics – four is the number that works pretty well with everybody. When you have four tenants in an apartment, the rent structure is such that it is affordable for the tenants. If you start to go to three, the rent structure gets goofy and it would place Mr. Tsionas at an unfair disadvantage with respect that everyone else who was approved within the last five years, probably. There are a lot of concessions, here. The Commission can do what you will, but you need to consider the economics in your decision when you are talking about limiting the number of tenants in the building to three.

Mr. Begleiter: Joe, why does the rent structure get goofy? What is goofy about dividing the rent by three?

Mr. Charma: If a unit is renting for \$1,500 a month divided by four, it is an easier thing than three and it is . . .

Mr. Begleiter: If you divide by 12, it is really dirt cheap.

Mr. Charma: Right, but let's be reasonable. We are talking about (inaudible) because of disorderly issues. That is why that came about. It was because of the issues of policing apartments and too many tenants in the building and the chaos that ensued. We have all been doing this a long time – dealing with the students – we would be nowhere without our students.

Mr. Bowman: I am bringing it back to the table for a motion.

Ms. McDowell: I would like to ask one more question because I could not tell what the answer was based on the head nods when Mrs. White addressed the issue of security in the stairwells?

Mr. Charma: The stairwells would be secured, I am sure, very similar to any of the other apartment complexes. They do all have swipe cards or key locks. The doors lock and I am sure that is something that the owners want. They want their building to be secure. They want their tenants to feel safe.

Ms. Sheedy: I want to bring one of Mrs. White's recommendations up, not as something that we include necessarily as a requirement but that the developer be encouraged to have some type of secure bicycle storage. I think Mrs. White made a very good point when the developer will be telling tenants, don't bring a car, your car is not welcome. It only makes sense to provide them with some kind of secure bicycle storage. I would just like to make a note that Mrs. White had an excellent recommendation and I would like to encourage that.

Mr. Eid: One of the areas we are thinking of is underneath the stair towers.

Ms. Sheedy: That is what I was thinking – great.

Mr. Gus Tsionas: I have 30 years here in Newark. I come to the point where I have five big buildings. I like to spend money, but I like a return on the money that I have spent. If I have to have three people, that is okay, but the money I am going to spend for that building to improve it, it is not going to return the money. If you can give me the four people, I am going to do that. So, if you can give me the four people, I would like to do that because everything is expensive today. In order to improve a whole (inaudible) I have to have money coming in. I am not going to get this pocket and put it in this pocket. Each pocket has to be by itself to make it. Thank you.

MOTION BY BEGLEITER, SECONDED BY SHEEDY, THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS:

- A. THAT WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITION TO RESTRICT THE MAXIMUM NUMBER OF TENANTS IN EACH DWELLING UNIT TO FOUR AND THAT TENANTS BE INFORMED IN WRITING THAT NO OFF-STREET PARKING PERMITS WILL BE AVAILABLE AT THE 137 E. MAIN STREET SITE FOR THEIR USE, THE COMMISSION APPROVES THE 10 SPACE PARKING WAIVER FOR THE 137 E. MAIN STREET SUBDIVISION PLAN, AS

SHOWN ON THE LANDMARK ENGINEERING PLAN DATED, JANUARY 22, 2008.

B. RECOMMEND THAT CITY COUNCIL APPROVE THE 137 E. MAIN STREET SUBDIVISION PLAN, AS SHOWN ON THE LANDMARK ENGINEERING PLAN DATED, JANUARY 22, 2008, WITH THE RELEVANT SUBDIVISION ADVISORY COMMITTEE CONDITIONS WITH THE EXCEPTION THAT CONDITION #3 BE REVISED TO ADD THE WORD “FAÇADE” TO READ, “THAT THE APPLICANTS DEED RESTRICT THE PROPERTY TO ENSURE THAT THE ART DECO FAÇADE OF THE DINER SEVERAL FEET OFF THE LEVEL OF THE SIDEWALK IS SAVED;” THAT CONDITION #5 REGARDING ARCHITECTURAL DESIGN BE REMOVED; THAT CONDITION #10 BE REVISED TO INDICATE THAT THE ENTIRE BUILDING AT THE SITE SHOULD BE REQUIRED TO BE SPRINKLERED, AND,

C. RECOMMEND THAT CITY COUNCIL APPROVE THE 137 E. MAIN STREET SPECIAL USE PERMIT FOR APARTMENTS IN THE BB DISTRICT WITH THE CONDITIONS AS NOTED IN THE SUBDIVISION ADVISORY COMMITTEE REPORT, AS AMENDED IN B ABOVE, AND AS SHOWN ON THE LANDMARK ENGINEERING PLAN DATED JANUARY 22, 2008.

VOTE: 6-0

AYE: BEGLEITER, BOWMAN, DRESSEL, McDOWELL, OSBORNE, SHEEDY

NAY: NONE

MOTION PASSED UNANIMOUSLY

There being no further business, the meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission