THE MINUTES OF THE 338TH STATED MEETING

OF THE

PHILADELPHIA HISTORICAL COMMISSION

14 February 1990

Edward A. Montgomery, Jr., Chairman

Present: Edward A. Montgomery, Jr., Chairman
David Brownlee
Caroline Golab
Jason Nathan
Reverend William B. Thompson
James Cuorato, Department of Commerce
Barbara Kaplan, Executive Director,
City Planning Commission
John Street, Esq.,
City Council
Scott Wilds,
Office of Housing and Community Development

Maria Petrillo, Esq., Chief Assistant City Solicitor
Richard Tyler, Historic Preservation Officer
Patricia A. Siemiontkowski,
Assistant Historic Preservation Officer
Randal Baron, Preservation Planner
Daniel W. Simcox, Executive Secretary

Also: James Tayoun, City Council
Barry Dinaburg, 2400 Chestnut Street
Albert Taxin, Old Original Bookbinders
Michael Stack, Esq.
Steve Feldman, Consultant,
North American Development Services Inc.
Michael F. Young, Classic Management Services
Edna Irving, Office of Councilman Street
Deborah Kelly,
Greater Philadelphia Preservation Coalition

Mr. Montgomery opened the 338th Stated Meeting of the Philadelphia Historical Commission, acknowledging that there was not a quorum. At this time, Mr. Montgomery granted a request from the applicants for 136 S. Front Street to testify. Mr. Montgomery stated that the Commission previously had received a report from the applicant's consultant, Mr. Steven Feldman, North American Development Services, Inc. A study by M. Richard Cohen, a consultant retained by the Commission to assess this report and the property, also had been circulated.

Mr. Michael Stack, attorney for the applicant, requested that the Commission hear the testimony of Mr. James Tayoun, City Councilman, now, for Mr. Tayoun had another meeting to attend. Councilman Tayoun introduced himself as an advocate of historic preservation and reviewed his record in support of preservation in Society Hill and Old City. Reminding the Commission of his previous request to deny the request for the demolition, he indicated that common sense and a concern for the economic development of this area outweighed preservation interests. Councilman Tayoun stated that delaying demolition of these buildings would impede the development of Old City. According to the Councilman, at present, the hotels in the area were filled to nearly ninety-five percent (95%) capacity. Based on this assumption, Mr. Tayoun stated that the area would benefit from the construction of another hotel. Despite the significance of this building, the present proposal should be allowed, unless there were a firm commitment from someone present in the room to develop the property otherwise. Councilman Tayoun expressed his gratitude to the Commission for allowing him to testify at this time.

THE REPORT ON STAFF ACTIVITIES. Mr. Tyler reviewed the staff activities for November, December and January. Ms. Golab asked for the reasons for returning forty-three thousand dollars ($43,000) and wondered if the money had been allocated for a particular use. She asked if returning these funds was prudent, given budgetary restrictions. She expressed concern that this gesture may be interpreted as an indication that the Commission did not need money. Mr. Tyler explained that the funds returned had been a budgetary aberration incorporated into the Fiscal Year 1990 Budget from an increase for a particular project in a previous fiscal year. He stated that returning these funds seemed a responsible action in the present budgetary crisis. Ms. Golab stated that she understood the decision, though maintained reservations.

Mr. Tyler also reported that City Council transferred forty-one million dollars, ($41,000,000), from several other departments into the personnel account of the Historical Commission. He indicated that the staff could not spend these funds.

There being a quorum, Mr. Montgomery called the meeting to order.

THE MINUTES of the 337th Stated Meeting of the Philadelphia Historical Commission held on 13 December 1989, Edward A. Montgomery, Jr., Chairman. A motion was made, seconded and carried to adopt the Minutes of the 337th Stated Meeting of the Philadelphia Historical Commission held on 13 December 1989.

RATIFICATION of THE REPORT of the Architectural Committee of the Philadelphia Historical Commission held on 30 November 1989, David Hollenberg, Chairman. Mr. Montgomery noted that in December the Commission approved the recommendations of its Architectural Committee, but had not received complete minutes for the 30 November 1989 meeting. A full report had been furnished, and Mr. Montgomery asked for a motion to ratify the Minutes of the Architectural Committee from 30 November 1989. A motion to ratify the report was made, seconded, and carried.

THE REPORT of the Architectural Committee of the Philadelphia Historical Commission held on 25 January 1990, David Hollenberg, Chairman. On 25 January 1990, the Architectural Committee reviewed seven proposals: six for alterations to historically designated buildings, and one for the construction of a garage in the rear of a property in the proposed Rittenhouse Fitler Historic District. Upon the request of Elliot Rothschild, Architect, the Committee also discussed a site planning study for the proposed construction of an addition to the Kearsley Home, Christ Church Hospital, Monument Road. The Committee informed the applicant that the study's preferred location for the new addition facing the front facade of the old building was unacceptable and that other locations on the site should be considered.

The formal recommendations of the Committee follow.

<u>RECOMMENDATIONS FOR FINAL APPROVAL</u>
The Architectural Committee voted to recommend a final approval of illegal work undertaken to the facade of 154 N. 3rd Street. Although averse to approving alterations which exceeded the scope of the permit, the Committee deemed that the facade alterations were of high quality and basically in character with the historic building. Though reluctant, the Committee recommended approval. Upon request, Mr. Baron offered a summary of the considerations of the Architectural Committee. Indicating that the alterations were in character with other buildings in the district, he stressed that the main difference was the elimination of transom lights in the new storefront. Mr. Baron explained that the

staff occasionally allowed applicants to appear before the Architectural Committee for review of work undertaken without a permit so that they may avoid a violation from the Department of Licenses and Inspections. If the Committee found the work unacceptable, a violation would be requested by the staff.

Ms. Golab expressed concern regarding the applicant's apparent disregard for procedure. Noting that the permit application explicitly disallowed exterior alterations, she stated that the total demolition of an old and construction of a new storefront constituted a blatant violation. Mr. Nathan reinforced this point, stating that architectural concerns were not the issue. Rather, the applicant's failure to comply with established procedure was the problem. He stressed that if the Commission ignored this violation that it would project an image of inconsistency. Ms. Kaplan stated that it was improper to offer the owner an opportunity to avoid a violation, adding that the Department of Licenses and Inspections at least deserved the fee for the permit. Approval of this request only would encourage evasion of the Ordinance. Based on these points, Ms. Golab recommended disapproval of this application. Mr. Wilds inquired into the impact of such action. Mr. Tyler noted that the Commission could require the restoration of the original facade. Ms. Kaplan stated that these alterations constituted a violation of the Building Code. Mr. Brownlee noted that the Historical Commission should not excuse violations. Mr. Nathan suggested that the Commission express its concerns to the Architectural Committee. Mr. Brownlee noted that the Committee may have made the recommendation because the alterations were not substantial and may have been acceptable to the Commission in a normative procedural context. Councilman Street reminded the other members that Mr. Hollenburg and the members of his committee rendered a valued service to the Commission. Therefore, as a measure of respect, he insisted that the Commission defer action on this application.

A MOTION was made by Councilman Street to defer action on this application until the chairman of the Architectural Committee presented and explained the recommendations of his committee. Mr. Wilds seconded the motion, which carried unanimously.

Mr. Montgomery stated that the Commission should share its concerns with the members of the Architectural Committee. Mr. Wilds requested that the Commission notify the Department of Licenses and Inspections of their responsibility to attend the meetings of the Historical Commission. Ms. Kaplan strongly recommended that the staff report building violations to the Department of Licenses and Inspections.

RECOMMENDATIONS FOR APPROVAL IN CONCEPT

Mr. Tyler resumed the report of the Architectural Committee and reviewed their recommendations for approval in concept for two proposals. The first proposal was a revision to previously approved drawings for alterations to the facade of The Bourse, 21 S. Fifth Street. Mr. Tyler clarified the scope of work for the Commission, indicating that the application was submitted for a tenant on the northern portion of the S. Fifth Street facade of The Bourse. Though the Commission previously approved a double-leaf door for this tenant's entrance, Building Code requirements appeared to preclude the use of this design for the door. The applicants proposed a single-leaf of similar materials. Although provisions existed for exemptions from the Building Code for Historical Buildings, Mr. Tyler indicated that the Commission would not support variances from life-safety provisions of the Building Code. He added that the Committee's recommendation also was contingent upon the similar treatment of any entrance proposed in the future on the southern portion of the facade.

The Committee also recommended an approval in concept for the proposed construction of a hotel incorporating the designated buildings located at 228-230 Arch Street. Ms. Kaplan noted a technical error in the presentation of the applicants who claimed that they did not need a variance from the Code. Depending upon their final proposal, the applicants may need a variance, however, none had been obtained to date.

A MOTION was made to approve the recommendations of the Committee for approval in concept for applications made for 228-230 Arch Street and The Bourse, 21 S. Fifth Street. The motion was seconded and approved.

RECOMMENDATIONS FOR APPROVAL CONTINGENT ON CONDITIONS

The Architectural Committee recommended approval, contingent upon conditions, of two applications. It recommended approval of a proposal for the construction of a garage at 222 S. Quince Street, contingent upon the substitution of a stucco wall for the proposed glass block on the Quince Street elevation.

A MOTION was made to accept the recommendation of the Architectural Committee and grant approval contingent upon the noted conditions for 222 S. Quince Street. The motion was seconded and carried.

The Committee also recommended approval contingent upon conditions for a proposal by Mr. Michael Young, Classic Management Services, Inc. Mr. Young requested approval for the demolition of properties situated at 5324-26-28 Germantown Avenue. The applicant submitted a photographic study illustrating the deterioration of these properties. The Committee recommendation was contingent upon the verification of imminently dangerous conditions by the Department of Licenses and Inspections. Subsequent inspection of the properties by the Department reported that the properties were a public nuisance; neither could be classified as either imminently dangerous or dangerous. Mr. Tyler noted that this assessment precluded favorable consideration of a request for demolition on the basis that the buildings were imminently dangerous. Mr. Tyler recommended that the applicant submit a complete application under the economic feasibility provisions of the Ordinance.

The Commission asked Mr. Young to clarify a few points relevant to his request. Mr. Young informed the Commission that he once had owned the properties in consideration, but sold them nearly five years ago. Despite the good intentions of the subsequent owner, he allowed the properties to deteriorate. In the past year, Mr. Young has tried to obtain title to the properties, which presently are in the possession of the Sheriff. Mr. Young reported that neighbors have complained about the condition of the properties and have tried to seal the building entrances. Despite their efforts, the buildings have not remained sealed. Holes were cut in the doors, and the buildings had become targets for vandals and centers for illicit drug abuse. At present, the floors are in poor condition, with some appearing near collapse. Mr. Young concluded that rehabilitation of these buildings was not economically feasible.

Ms. Golab asked for clarification regarding the history of the properties' ownership. Mr. Wilds expressed concern that demolition of these buildings would alter the character of the streetscape of Germantown Avenue. He asked Mr. Young if he had spoken to the Penn-Knox Neighborhood Association, and inquired into the applicant's intention if his request were not granted.

Mr. Young noted that he was not aware that the Penn-Knox Neighborhood Association may oppose his intentions, but indicated that neighbors had attempted to seal the doors. Aware that any demolition of older buildings would alter the character of their environment, Mr. Young stated that given his extensive involvement in rehabilitation in the Germantown area that he did not perceive an economically feasible means of rehabilitating these properties. He indicated that if his request were not granted he probably would leave the property with the Sheriff. Responding to an inquiry into the likely fate of these buildings if they were left in the possession of the Sheriff, Mr. Tyler noted that they probably would continue to deteriorate. Mr. Wilds suggested that given recent redevelopment in the area, that there may be interest in these properties.

Mr. Tyler returned to the point that the report from the Department of Licenses and Inspections precluded approval on the premise that the buildings were imminently dangerous. He reminded Mr. Young that if he was interested that he could apply for demolition under the economic hardship provisions. Though Mr. Young offered a brief analysis of the viability of the restoration of these properties, Mr. Tyler informed him that he would need to submit a thorough report. Mr. Wilds stated that he also would want to review a summary of the applicant's involvement with the property. Mr. Tyler also requested that the applicant submit a schematic drawing of his proposal for the site. Mr. Montgomery asked Mr. Young if these suggestions were acceptable to him. Mr. Young indicated that they were. The Commission took no formal action on this application.

Mr. Brownlee later noted that as the historic fabric on this site occupied only a small corner of the larger site in consideration, that the applicant may want to incorporate its preservation into a proposal for a larger development.

The Architectural Committee recommended a conditional approval for an application for facade alterations undertaken without a permit to the building situated at 1022 Race Street. The Committee recommended approval contingent upon the applicant's provision of measured drawings of the historic storefront as well as an agreement to preserve the original fabric remaining beneath the alterations. The recommendation was made in consideration of the particular cultural interests of the applicant, as well as in the context of the aesthetics of Chinatown.

Mr. Brownlee objected to the suggestion of an approval of this application. He noted that this submission was the second in this meeting for alterations undertaken without a permit. Though acknowledging his respect for the expressed cultural concerns of the applicant, he indicated the importance of balancing those interests with the cultural concerns that the Historical Commission had the authority to protect. He stressed that the interests of historic preservation, in this case, were not inconsistent with the expressed cultural concerns of the applicant. He noted that the desired off-centered entrance could have been accommodated within the historic cast-iron facade, as the new opening pierces an existing bay on the historic cast-iron facade. He stated that an approval of this request would appear a substantial abdication of Commission responsibility for historic preservation.

Mr. Tyler noted that many of the buildings in Chinatown which were on the Philadelphia Register were designated years ago, were scattered throughout the district, and were not likely to meet current standards. Mr. Brownlee indicated that this particular building appeared in good condition, that the cast-iron facade distinguished it as significant, and that there was no conflict between the interests of historic preservation and the stated cultural concerns of the applicant. Mr. Baron informed the Commission that the historic fabric remained intact behind the recent alterations and noted that this structure was among a row of Federal buildings. Ms. Kaplan also registered concern that this application constituted the second transgression of established procedure arising in this meeting. Mr. Baron noted that a violation had been issued for these alterations, and would be removed only if the Commission approved the present request.

Mr. Wilds asked whether the overall aesthetics of the 1000 block of Race Street were more inclined toward the ambience of Chinatown, or of historic Philadelphia. Mr. Brownlee proclaimed that such a distinction was artificial, stressing that Philadelphia's Chinatown was a mixture of historic buildings and more contemporary alterations which projected an image of Chinatown. Emphasizing that the interests of historic preservation did not conflict with the cultural milieu or the particular interests of this individual, Mr. Brownlee urged an unconditional disapproval of the request. Ms. Golab stated that it seemed inappropriate to dismiss illegal alterations solely because of their location in Chinatown. Ms. Kaplan added that simple adherence to procedure would have avoided this problem.

A MOTION was made by Mr. Brownlee for unconditional disapproval of the request. Ms. Golab seconded the motion which passed by a vote of 4-2, with Councilman Street and Mr. Wilds opposed.

OLD BUSINESS

136 South Front Street - Application for Demolition. Report of M. Richard Cohen, consultant retained by the Historical Commission. Upon the request of Mr. Montgomery, Mr. Tyler presented a summary of the report prepared for the Historical Commission by M. Richard Cohen. The report responded to the assumptions and conclusions of a study undertaken by Mr. Steven Feldman of North American Development Services, Inc., a consultant retained by the applicant.

Mr. Tyler submitted that the fundamental differences between the two studies was that the Cohen Report estimated a lower hard cost for rehabilitation of the property. He stressed that the preservation of the building would have been economically feasible if the acquisition cost were three hundred thousand ($300,000), instead of five hundred and thirty thousand ($530,000), the price paid at an auction by Mr. Taxin. The report underscored a critical issue: that the applicant appeared to have acquired the property at an inflated price, only to return to the Commission to claim economic hardship. The Cohen Report identified this practice as a fundamental problem. Complete copies of the Cohen report had been circulated to the Commission, the Old City Civic Association and the applicant. Councilman Street asked if the applicant had furnished a written response to the Cohen Report. Mr. Stack, attorney for the applicant, indicated that Mr. Taxin received this report with a letter of transmittal dated 6 February 1990. He indicated that, at present, Mr. Taxin's consultant was preparing a response. Mr. Tyler asked Mr. Stack if he wanted to request a deferral. Mr. Stack responded that he was prepared to proceed.

Mr. Stack addressed the Commission, focusing on two issues in the Cohen Report. He contested the assumption that the cost paid at auction was necessarily inflated. His own experience inclined him to believe that these auctions often took place in the context of distressed sales, and that the prices often were below fair market value. He added that if the bidding were spirited and concluded with Mr. Taxin's final bid, that this process had established the market. His second disagreement with the Cohen report was its assumption that the property should have been marketed only to rehabilitators.

Councilman Street contended that the idea that people were negotiating prices for historic buildings which would prevent or prohibit the reasonable rehabilitation, then filing for economic hardship, did not apply in this case. He stated that the acquisition through an auction, where the price paid was the result of a public process, negated such a possibility. Mr. Nathan stated that a public auction may obliterate all other conflicting title claims, but it did not release a property from existing public regulation on the property. Councilman Street indicated that the sale by auction did undermine the assertion that a person deliberately paid a higher price to avoid surreptitiously the restrictions of the ordinance. Mr. Tyler noted that the purchaser acknowledged that he acquired the property in order to demolish it. Further, he indicated that the applicant was aware of the Commission and its procedures from past experience. Councilman Street stated that the reasons for purchase were not relevant. He stressed that the price paid for the property was higher than the fair market value, and that subsequent assessments of the value by a consultant, after the fact, were moot. He stated that this situation offered legitimate reasons to invoke the financial hardship provisions of the Ordinance. Mr. Nathan stated that if the purchaser paid too much for the property, that the choice had been his to make. No one forced Mr. Taxin to purchase the property. Councilman Street countered that the applicant was forced to purchase at the elevated auction price. Councilman Street objected to the perception that the applicant paid too much in order to elude preservation. Mr. Brownlee noted that the means of sale indicated that there were a number of people interested in the property. Several members of the Commission stated that they were not arguing his intent.

Ms. Kaplan stated that the decision to disregard the restrictions on a property in consideration of the sale should not incline the Commission to relax their restrictions -- especially when the purchaser explicitly stated his intent to demolish. She stated that the price paid was too high given the restrictions on the property. Mr. Taxin took a risk. At present, the Commission faced only a decision whether these three properties merit preservation. The Ordinance does not state that either economic feasibility or financial hardship are the only criteria for the Commission in deliberating such requests.

Mr. Tyler stated that the auction was driven in part by the interest of another developer in the assembly of several parcels for the construction of an hotel. This particular bidder dropped out. Mr. Tyler indicated that regardless of the details of the auction that this building was more important that the Hancock Street building. The siting of the building and access underneath tells much of the evolution of early development. Though he disagreed with the Commission on the refusal of a demolition permit for the Hancock Street building, Mr. Tyler stressed that the Elisha

Webb building was more significant than it. Ms. Golab stated that the price paid was less relevant than the fact that the purchaser was aware of the historic restrictions of the building.

Before yielding the floor to Mr. Feldman, Mr. Stack addressed the Commission's statement that there was interest in assembling the lots for a larger development. He indicated that there were at least four properties east of Bookbinder's, and that none of those owners bid on this property.

Councilman Street asked if Mr. Cohen, the consultant to the Commission, was in attendance. Mr. Tyler informed the Commission that Mr. Cohen was asked to attend, but had to appear elsewhere at a court hearing.

Mr. Steven Feldman introduced himself as a professor of City and Regional Planning at the University of Pennsylvania, though noted that he was not appearing as a representative of that institution. Retained as a consultant by Mr. Taxin, Mr. Feldman indicated that he agreed with many of the assumptions of the Cohen report. However, he differed on several issues. The basic difference was that Mr. Cohen assumed that the property should be sold to a developer for two hundred and thirty thousand ($230,000) less than the price paid by Mr. Taxin at the auction. Mr. Feldman stated that in considering the price paid, it was important to weigh the purchaser's multi-objective criteria. He stressed that the criteria used by John Taxin in bidding on this property may not have coincided with those of other bidders. Therefore, Mr. Taxin may have been willing to pay a higher price. The criteria he used were: the correlation between parking availability and business in certain areas of Philadelphia, the declension in revenues at Bookbinder's, and the complaints by surrounding restaurants of insufficient parking. Mr. Feldman asserted that there just was not enough parking in the area, and alluded to studies written fifteen years ago by the City Planning Commission and the Parking Authority to support his statement. Faced with this shortage, Mr. Taxin perceived the auction of 136 S. Front Street as an opportunity to create nearly one hundred parking spaces, which would allow him to seat three hundred more diners on each night of the weekend. This would not compensate him for losses in the last three years, when his surface parking across the street was removed. However, Mr. Feldman asserted, one hundred diners translated into one hundred thousand dollars ($100,000), in restaurant revenues.

Mr. Nathan asked Mr. Feldman to clarify the point that parking had declined, despite the construction of a large public parking garage one-half a block away. Mr. Feldman first established that spaces were taken away from Bookbinder's for the construction of the Sheraton Hotel. These spaces were not replaced by the construction of the public garage. Ms. Golab asked if the issue was that Mr. Taxin once did not pay for parking, whereas now he had to pay. Ms. Kaplan clarified that Mr. Taxin did not own the Sheraton lot, even if it did offer him one hundred more spaces. Mr. Feldman stated that Old City had not been planned for the current level of commercial traffic. The Elisha Webb site held a potential of one hundred thousand dollars ($100,000) in potential revenue for Mr. Taxin. This potential income justified the price which he paid for the parcel at auction. He needed the parking for his business and acted to assemble the lots in order to construct an office building with subterranean parking. Mr. Taxin saw the auction as an opportunity to profit while ameliorating a severe problem. To Mr. Taxin, the parking spaces are worth more than any construction on the site.

Mr. Montgomery asked why Mr. Taxin purchased an historic property. Mr. Albert Taxin stated that his father wanted the parking desperately. Business had declined, not just because of the parking, but that is important. He described several incidents which illustrated the plight of insufficient parking. These examples reinforced Mr. Taxin's perception that people do not want to walk two blocks to a parking space. They are afraid of crime, and more people want to use the parking lot. The restaurant has raised the prices of parking and have changed their valet parking service; neither of these efforts resolved their problem. Mr. Taxin disclosed that his restaurant lost money for the first time last year. He expressed his feeling that although the building is historical and important -- so is Old Original Bookbinders. The Taxins have tried to maintain a tradition, and feel that no one cares. They requested the demolition of the Hancock Street buildings for parking, and the Commission disapproved the request. Since then, the buildings were given to the Redevelopment Authority, and there has been no redevelopment. The building is an eyesore and attracts problems. While there may have been some benefit to saving the building, the structure remains vacant and has not helped the area. Mr. Taxin asserted that Old City was dying, and that his family desperately wanted to maintain the tradition of Old Original Bookbinder's Restaurant. If the Commission wants to leave the building standing, then it will stand, but Old Original Bookbinders will die, and the Commission will have another building on its hands.

Councilman Street compared the present issue with his attitude toward demolition in North Philadelphia when he first was elected to City Council. He saw beautiful historic buildings and pursued a vision of people living in them once more. Accordingly, he worked to preserve some of these buildings and many buildings were saved. The Department of Licenses and Inspections wanted to demolish a number of the structures and Councilman Street acted to stop them for several reasons. First, he did not think it was necessary. Second, he held on to a hope of saving and restoring these building.

Then a number of constituents approached him. They acknowledged that he had saved the buildings, and expressed their appreciation for his concern. Then they told him of the problems which the buildings nurtured. They reminded him of his grandiose plans to raise money to fulfill a vision for the community, then described the living hell that some buildings imposed upon their lives. They also told him that they were not aware of any plan, by any person to restore these properties.

Councilman Street stated that this made him consider the cost of his standards. He did not want to tell his constituents to endure problems inflicted by his vision. Councilman Street said that if he could not find a way to restore a building, that he would let it go. At present, he is talking to the Redevelopment Authority and a number of the buildings which he once wanted to preserve will be demolished. One on the 3100 block of Diamond Street nearly fell upon a man who occupied the building. Councilman Street admitted that these events led him to draw a line on his idealism.

Accordingly, he was incredulous upon reading speculative sections of the Cohen report. In particular, he questioned the emphasis placed on the suitability of the site for a "boutique hotel." He dismissed this conjecture as "pie-in-the-sky." As well, Councilman Street objected to the implication that the property was not properly marketed. He stated that as the property was marketed, Mr. Taxin bought it because he desperately wanted the site for parking. Councilman Street stressed that Mr. Taxin bought the property with good reason, the survival of his restaurant. Old Original Bookbinder's or any other restaurant in the city, has as much a right to survive as we have to impose that building on Mr. Taxin regardless of its perceived potential.

Although the issue is difficult, Mr. Street supported the request for demolition, particularly because he was convinced that someone inflated the price at the auction. He saw a legitimate need of a restaurant which is a Philadelphia institution with a reputation across the nation and the world. Councilman Street stated that he was forced to make difficult decisions every day. He did not like to lose another building which could be saved, but presently he did not see anyone who was going to save the building. Given the opportunity to help someone who wants to undertake a project which will be good for his business, and ultimately good for Philadelphia, Councilman Street reaffirmed his support for the request to demolish the building.

Mr. Nathan disagreed with several points made by Mr. Taxin and Councilman Street. Mr. Nathan did not accept the argument that sale by auction mitigated the apparent self-induced hardship imposed by the purchase at an inflated price. Nor did he accede that an auction allows a purchaser to disregard existing regulations. Mr. Nathan did agree that it was a difficult issue, but noted that he opposed demolition, until Mr. Taxin made a critical point. Mr. Nathan expressed profound concern for the fate of the Hancock Street buildings. Although the Commission disapproved Mr. Taxin's request to demolish that structure, Mr. Nathan asked if anyone knew, for certain, if there were plans for the preservation of that building or if it just was deteriorating.

Ms. Kaplan stated that City Planning Commission reviewed an agreement of sale by the Redevelopment Authority for the property. Mr. Nathan asked if there were definite plans for the restoration of the Hancock Street building. He indicated that if there were, then the property illustrated that alternatives exist. Yet, if it is deteriorating, as indicated by Mr. Taxin, then there seems little purpose in denying this request. Ms. Kaplan asked for further investigation of the issue. To her recollection, the City Planning Commission approved a redevelopment agreement.

Mr. Roger Prichard, chairman of the Developments Committee of the Old City Civic Association, addressed the Commission. He stated that he had heard that the Redevelopment Authority was prepared for settlement on the Hancock Street property. Mr. Prichard also stated that he knew the owner of the property adjacent to 136 S. Front Street was interested in acquiring the property and had approached Mr. Taxin with an offer double what Mr. Taxin had paid for the property. Mr. Prichard noted that while the Commission only may admit this information as hearsay, that the Cohen report, drafted by its own consultant, who had an excellent record, indicated that such a property would be marketable. Councilman

Street asked if Mr. Prichard believed that the consultant's report presented a condition contrary to the hearsay that someone was willing to pay double the price paid by Mr. Taxin. Mr. Prichard stated that the difference is that the adjacent owner, by virtue of his holdings on these properties, has economies of scale because he can plan for a larger development on the site, such as a hotel. Members of the Old City Civic Association who have undertaken similar projects reviewed the Cohen report and stated not only that this proposed use was viable, but also that the site was superior to their own developments. Councilman Street stated that everything could have been done if Mr. Taxin had not paid the final price for the site, but the fact was that he did pay the amount previously stated. Mr. Prichard agreed that the developers with whom he had spoken noted that their calculations were contingent upon the market value of the property, not the price paid. Granted that assumption, Mr. Prichard asked the Commission why anyone would bid so high, if they were aware of the restrictions on the property. Answering his own question, he offered that the response was respect, or a lack of respect, for the Commission. He stated that he perceived a general opinion in certain circles that the Commission did not have teeth, and that it could be eluded.

Ms. Kaplan stated that there were economic implications related to the restrictions. The purchaser took a considerable risk in purchasing the property, for he stated that he would try to demolish them, despite these restrictions. Mr. Montgomery stated that there was a clear letter delivered to the auctioneer, which was read before the bidding, which explained the ramifications of the designation. Mr. Brownlee reinforced the point, indicating that there were certain circumstances which were not favorable to particular types of development, such as wetlands and historic restrictions. He indicated that the purchaser gambled on the Commission to turn around after having offered clear, explicit warning of the restrictions placed on the property by designation. Though admitting that he was sympathetic to the concerns presented by Mr. Taxin, Mr. Brownlee stated that this sympathy did not overcome his opposition to the request.

Ms. Kaplan objected to the demolition of historic buildings for limited surface parking, particularly when the public garage on S. Second Street often was not filled. She stated that if a large development of over one hundred spaces were proposed that she might give more consideration to the request.

Mr. Feldman stated that ninety spaces would be economically feasible. This development would be viable even if it were entirely underground. He stressed that Mr. Taxin's primary interest was to obtain more parking for weekend nights, the peak time for his restaurant business. The economic assumptions made in the Feldman Report were predicated on calculations for only the three nights of a weekend, Friday, Saturday and Sunday. Mr. Taxin stressed the fluctuating nature of his need for parking. He added that this demand was shared by all of the restaurants in the Old City area, and reiterated that Bookbinder's desperately needed the parking.

Ms. Kaplan asked if subterranean parking would develop within a reasonable time-frame, after demolition, regardless of the prospects for the surface development. Mr. Nathan stated that he believed that the value of the subterranean parking would exceed that of the above-ground development. Mr. Feldman stated that subterranean parking could be developed only if both properties were used. Otherwise there would not be sufficient room for turn-arounds. Ms. Kaplan again asked if the development of subterranean parking would proceed independently of a proposal for the ground level. Mr. Feldman stated that he only could claim that the economic return from such a project would be more than satisfactory.

Mr. Montgomery asked the applicant if he was aware that the property was historically designated at the time of purchase. Mr. Taxin responded affirmatively, and reiterated his desperate need for parking. He emphasized that his restaurant would die without it. Mr. Stack stated that despite reluctance and embarrassment in the admission, that the restaurant was suffering losses in the current year. Mr. Montgomery stated that the Commission was not questioning the practices of Mr. Taxin's business, but rather whether he purchased the property aware of its historic designation by the Commission. Mr. Stack responded in the affirmative. Mr. Montgomery asked if Mr. Taxin, upon purchasing the property, was aware that he was placing himself in economic hardship. Mr. Montgomery stated that any economic hardship existing had been imposed by the purchaser and not by the Commission. Mr. Stack stated that Mr. Taxin purchased the property with the financial hardship provisions of the Ordinance in consideration. Mr. Montgomery asked the applicant if he received any indication from the Historical Commission that it would approve his request for demolition. Mr. Taxin responded that no such indication had ever been given. Mr. Montgomery asked Mr. Stack if he agreed that the property possessed historic value. Mr. Stack agreed that it did, though added that this value deserved consideration in the context of the value to the City of Old Original Bookbinder's Restaurant.

Mr. Wilds addressed Mr. Stack's statement regarding the decline in business, inquiring whether any factors not inhering to the restaurant itself had changed. Mr. Taxin responded that a perceived decline in the City, particularly a heightened fear for personal safety, had hurt his business. He noted that people once preferred on-street parking to large, expensive garages. Yet, given the present concerns, he indicated that his clientele desired valet parking. Councilman Street added emphasis to the importance of the impact of this perception and the existing fear, noting that a group of Center City merchants recently declared a "state of emergency." He referred to studies which have shown that if people cannot park within two blocks of their destination, they would not travel there.

Mr. Taxin stated that parking was available two or three blocks away from his restaurant, but people did not want to park there. Mr. Tyler noted that there was a parking garage only one-half block north of the restaurant. Mr. Feldman stressed the intensity of existing fear, stating that even though he lived only a block away from the restaurant, that he insisted upon using the valet parking at the restaurant because of his concern for the safety of his wife and children. Addressing Mr. Taxin, Mr. Feldman asked if there were "three bums" who constantly were behind the restaurant. Mr. Taxin responded affirmatively. Mr. Feldman asked if there were "two bums" who often were on the corner of Walnut Street. Mr. Taxin confirmed that there were. Mr. Feldman then asked if a person could walk from Society Hill to Old City without being solicited for money on every block. Mr. Taxin indicated that he could not.

Several members noted that the problems of the homeless were not limited to a single block in Old City. Mr. Brownlee stated that these problems would not be resolved by the demolition of historic buildings. Ms. Petrillo stated that the problem was a police issue, and inquired of Mr. Taxin if he had notified the Police Department of these problems. Mr. Taxin stated that the police did not respond to calls in that area immediately, and therefore the restaurant did not call the police for minor problems. Ms. Petrillo asked Mr. Taxin if he informed his clients that they could park in the garage. Mr. Taxin responded that he operated a service business which illustrated considerable care for its area. They cleaned the sidewalk, maintained their block well, and offered valet service for their customers. He asked that the Commission address the problem with which he approached them.

Councilman Street asked Mr. Taxin if a refusal by the Commission would have costs other than its effect on his business. Mr. Taxin estimated that the building would cost him fifty to sixty thousand dollars ($50,000 to $60,000) a year.

Mr. Nathan assumed the validity of Mr. Taxin's claim that people would not park more than two blocks away, but noted that the parking garage was only one-half block away. He added that one of the reasons for the construction of the parking garage was to provide parking for Bookbinders. He inquired into Mr. Taxin's preference for a new garage a block away when this public facility was only a half block away. Mr. Taxin stated that it differed considerably from valet service. He noted that there had been a mugging in the garage, and that the clientele of his restaurant expected valet parking service.

Ms. Kaplan asked why the valet service did not use the parking garage. Mr. Taxin stated that use of this facility caused confusion. He also noted that the restaurant had used a small space within the garage. Mr. Montgomery asked why the other restaurants were not seeking parking. Mr. Nathan stated that the other restaurants were relatively small compared to Bookbinders.

Mr. Taxin stated that he would bring other restauranteurs of to a Commission meeting if the Commission wished. Mr. Nathan expressed his empathy for the problem presented by Mr. Taxin. However, he registered his concern that a fixation upon the perceived need for their own parking facility had precluded consideration of alternatives. He asked Mr. Taxin if he would be interested in seeking more space within the Parking Authority garage. Mr. Nathan noted that at an earlier meeting, at which Mr. Albert Taxin was not present, that Mr. Tyler informed the Commission that the Parking Authority was willing to offer Bookbinder's spaces, and that the restaurant had not expressed interest in the offer.

Mr. Taxin stated that they had used space within the Sheraton garage, but that was now filled. Mr. Taxin said that he could not tell his valet where to park cars. Mr. Nathan asked if as much money were spent on using an existing facility, or if parking were such a significant concern whether Mr. Taxin considered the construction of an above ground facility as well.

Councilman Street stated that there had been considerable resistance to parking in an adjacent area. He described the outcry against a proposed parking facility near South Street. He stated that until government addresses the problem of parking comprehensively, that individuals like Mr. Taxin would seek individual solutions.

Ms. Kaplan said that she would not vote for the demolition of this property in order to provide fifteen to twenty more parking spaces for the restaurant. She expressed disbelief that so few spaces were critical to the fortunes of the restaurant. She felt this claim was undermined further by the fact that there were existing alternatives to which the restaurant could avail itself. She suggested negotiation of a new agreement with the Parking Authority for spaces in the garage. She also suggested insisting that the valet service use that garage. She stated that her decision may differ if she were approached with a firm proposal for a larger underground parking facility. She added that she was prepared to say that she may support demolition if the construction of a garage were certain. Mr. Nathan asked Ms. Kaplan if she would accept a multi-level parking garage, as long as it complied with existing height limitations and other applicable restrictions. Ms. Kaplan replied that she would be amenable so long as it met existing requirements for the area. Mr. Nathan said that if there were feasible solutions to the parking problem, and if the proposed construction of a parking garage were uncertain, that he would vote to oppose the request for demolition. However, he stated that if such a request were based on compelling reasons, and the proposal offered a solution to the problem, that he would weigh the merits of preservation versus demolition.

Mr. Montgomery expressed disbelief regarding the acceptance of a claim for hardship when there were thirty spaces allocated by the Parking Authority only one-half block away. Mr. Nathan stated the arguments made implied that thirty spaces were insufficient. Mr. Wilds noted that the proposed structure also would be a half block away. Mr. Taxin indicated that there were other establishments which demanded parking spaces within the garage. He also noted that use of the public garage offered no control over price or placement of cars. He stated that foremost, the garage did not offer the amenities of valet parking.

Mr. Stack noted that he could accept a provision appended to the approval of demolition for the construction of a hotel, office or parking garage which would include subterranean parking of at least two levels. He stated that Bookbinders would retain at least ninety spaces in that facility. Councilman Street asked Mr. Stack if his comments implied a commitment to construct a parking facility if the Commission approved demolition.

Mr. Tyler interjected that such an agreement contained inherent dangers. If the building were demolished and the terms of the agreement were not met, the historic building could not be replaced. Mr. Nathan stated that the demolition would not occur until the applicant was prepared to construct the garage. Ms. Kaplan said that if this proposal offered a substantial increase in parking for Bookbinder's on a permanent basis that she would be more amenable to the present application for demolition.

Mr. Stack requested limited approval of a year, contingent upon the condition that the applicant would not demolish the building at 136 S. Front Street until a financial commitment was secured. Ms. Kaplan indicated that she would want proof that financial support existed before voting.

Mr. Tyler suggested a denial of the application and noted that the applicant could return to the Commission when plans for the site were prepared. Councilman Street objected to this proposal, contending that Mr. Taxin would need indication of approval in order to secure financing for such a proposal. Mr. Tyler stated that approval of this application effectively would send a clear signal that the Commission was amenable to requests based on economic hardship made subsequent to overpayment for a property. He stressed that such a perception would end the Commission's effectiveness.

Ms. Petrillo interjected that as counsel to the Commission, she wished to remind her clients, and the applicants, of the requirements of the Ordinance. The questions which the Commission is required to address by the Ordinance are: whether the sale of the property was impractical, whether the commercial rental can provide a reasonable rate of return, and whether other potential uses of the property were foreclosed. Ms. Petrillo advised the Commission to await the receipt of a written response to the Cohen Report from the consultant chosen by Mr. Taxin. This response would provide more information than could be gleaned through present conjecture. Ms. Petrillo asked that the Commission consider Ms. Kaplan's inquiry of firm plans for the proposed use of the site. She also noted her own confusion regarding the presentation of the parking problem in the Old City area. She observed: 1) if parking is a critical concern, 2) if spaces are available less than one block away, 3) if the applicant retains valet service, and 4) if the other entrepreneurs in Old City want to address the issue, then it seems likely that there are other options. She stated that the valet service could use the parking garage. She concluded that she failed to understand why that particular point had not been addressed with sufficient clarity.

She requested that the Commission consider these issues because, from the applicants' perspective, she did not want to have a vote which could not be substantiated on the record, which could prejudice the applicants, and which may involve all parties in protracted litigation.

Councilman Street added that he would like Mr. Cohen to appear at the next meeting of the Commission. Ms. Kaplan requested that the applicant furnish a study of existing surface parking in the Old City area. Mr. Brownlee asked Commission members to consider the ramifications of accepting the perceived need for parking as a justification for demolition. He stressed that there was an enormous perceived need for parking and expressed grave concern that this demand for parking may still exist after many more historic buildings have been demolished.

Mr. Taxin stated that if this application were denied that he was not likely to return to the Commission. Mr. Stack stated that if the Commission would defer, he would furnish the information requested to Mr. Tyler within two weeks. Mr. Montgomery asked that the applicant provide a study of existing surface parking, a proposal for development, and the response to the Cohen Report. Councilman Street asked for these materials at least a week prior to 14 March 1990. Mr. Stack indicated that the parking in the area was so severe that the Sheraton Hotel approached Bookbinder's with a request for parking spaces. In conclusion, Mr. Stack stated that he would attempt to provide all the information requested.

A MOTION was made by Councilman Street to defer action on this application until the Meeting of 14 March 1990. The Reverend Mr. William B. Thompson seconded the motion, which carried, with no members voicing opposition.

Mr. Nathan asked if the Commission could approach the Parking Authority to inquire about the garage. Councilman Street quipped that it would be unprecedented for two government agencies to communicate. Several members noted no problems parking in the area, and a few indicated that they nearly always found a space in the public garage. Mr. Montgomery supported Mr. Nathan's request and asked Mr. Tyler to obtain relevant information from the Parking Authority. Mr. Montgomery also requested that Mr. Tyler obtain information from the Redevelopment Authority regarding their intent for the Hancock Street property. Ms. Petrillo asked that all correspondence be written.

Projected Timetable for Adoption of the Rules and Regulations and for the Designation of the Rittenhouse/Fitler, Society Hill and Spruce Hill Historic Districts. Ms. Petrillo stated that she intended to have the Law Department's comments on the Rules and Regulations before the next meeting. Mr. Tyler indicated that he had drafted twenty pages of revised text to incorporate suggestions made by Councilman Street at the December 1989 meeting. Mr. Tyler noted the only substantive task remaining was drafting provisions for the application for financial hardship by non-profit corporations. This task was complex, as these provisions would encompass groups and institutions as varied as small charitable organizations, the University of Pennsylvania and Pennsylvania Hospital. A complete draft of the revised Rules and Regulations would be distributed to the Commission before the meeting of 14 March 1990. Ms. Petrillo noted that review of any revisions would not entail further delay.

Following discussion of the required time period between public dissemination and public hearing, the Commission agreed to convene one week later than previously scheduled in April 1990. The Commission directed the staff to make public notice of this change in date from 11 April 1990 to 18 April 1990.

Mr. Montgomery expressed interest in accelerating the process, and concern with a perception in certain quarters that the Commission was delaying the adoption of these districts. Mr. Wilds expressed specific disappointment with the scheduled review of the Spruce Hill Historic District. Noting that he had been chided by members of his civic association as well as by his neighbors, he requested more expeditious review and adoption of the district. He suggested that the Commission accept any existing offers of assistance from the Preservation Coalition and the respective civic associations.

Mr. Tyler noted that the schedule submitted to the Commission was based on past experience with the logistics of mailing the letters of notification to the property owners in the Rittenhouse Fitler District. Mr. Montgomery asked for a revision of the timetable, and urged the expeditious approval of these districts. Mr. Tyler asked Ms. Petrillo for the delay allowable between notification of property owners and the public hearing for adoption of a district. Noting that there was a minimum sixty (60) day requirement, the Commission agreed that this period could not extend much beyond ninety (90) days.

Ms. Kaplan urged the use of community associations and the Preservation Coalition in the notification process. She also suggested drafting a fact sheet on the benefits and restrictions of adoption of Historic Districts. Mailing this educational pamphlet before notification may reduce resistance and increase support.

A MOTION to adjourn was made at approximately 1:30 p.m. The motion was seconded and carried.

Respectfully submitted,

Daniel W. Simcox,
Executive Secretary