CITY OF DOVER PLANNING COMMISSION
November 21, 2016

The Regular Meeting of the City of Dover Planning Commission was held on Monday, November 21, 2016 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert.

Staff members present were Mrs. Ann Marie Townshend, Mrs. Dawn Melson-Williams, Mr. Bill Cook, Mr. Eddie Diaz and Mrs. Kristen Mullaney. Also present were Mr. Kevin Minnich, Mr. Michael Braun, Mr. Edward Hazlett, Mrs. Iva Hazlett, Mr. Keith Fisher, Mr. Nick Nistazos, Mr. Robert Bartilomo, Mr. Chris Whaley, Mr. Roger Gross, Mr. Ray Thomas, Mr. Dave Kuklish, Mr. Dave Sweeney and Mr. Alex Schmidt. Speaking from the public was Mrs. Pam Salzman.

APPROVAL OF AGENDA

Dr. Jones moved to approve the agenda as submitted, seconded by Mr. Baldwin and the motion was unanimously carried 8-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF OCTOBER 17, 2016

Mr. Holt moved to approve the Planning Commission Meeting minutes of October 17, 2016, seconded by Mrs. Welsh and the motion was unanimously carried 8-0.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, December 19, 2016 at 7:00pm in the City Council Chambers.

Mrs. Townshend stated that the Delaware APA Chapter had an Annual Meeting and Mini-Conference on November 3, 2016 in Milford, DE. Mrs. Maucher was there and she thinks that she found it to be beneficial. She believes this is something that the APA Chapter will be doing in the future. She would encourage members of the Commission if they are interested to let Staff know as these types of events come up. They will also be getting the schedule shortly and Staff will share it with the Commission next month for the Institute for Public Administration's Planning Classes. She knows that Mr. Tolbert has been to a few and a number of other members have been to a few. They are very helpful in learning the regulatory and legal context of Planning and why they do things the way we do things in Delaware.

Mrs. Townshend provided an update on the regular City Council and various Committee meetings held on October 24 & 25, 2016 and November 14 & 15, 2016.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Townshend presented the audience information on policies and procedures for the meeting.

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

NEW BUSINESS Regarding APPLICATIONS

1) S-16-21 – Lands of Michael Braun at 834 South State Street – Review and Consideration of Waiver Requests for the Elimination of the Curbing Requirement and the Partial Elimination of the Opaque Barrier Requirement associated with the Administrative Site Plan for conversion of a 1,600± sq. ft. residence to office use. The Plan consists of adding a new five-space parking lot and other site improvements necessary to make the property suitable for the change in use. The property is located on the west side of South State Street north of Wyoming Avenue and is zoned C-PO (Commercial and Professional Office Zone). The owner of record is Michael W. & Winifred M. Braun. Tax Parcel: ED-05-077.17-03-45.00-000. Council District 2. *This project is associated with Rezoning Application Z-16-03 that rezoned the property from R-8 to C-PO with Ordinance #2016-04 as approved by City Council on March 14, 2016.*

Representatives: Mr. Kevin Minnich, Minnich Engineering; Mr. Michael Braun, Owner

Mr. Diaz stated that there are two standalone waiver requests for this project which is undergoing administrative review. The project is on the west side of South State Street, south of Gooden Avenue. It is zoned C-PO (Commercial and Professional Office Zone). The project is to convert a 1,600 square foot one family dwelling to office space. It qualifies for administrative review because the site disturbance is less than 2,500 square feet. The first of the two waiver requests is curbing. The applicants are installing five (5) parking spaces at the rear of the lot off of the alley that runs behind the property and they would like to not install curbing on these five (5) spaces. Staff is recommending approval of this waiver request because adding curbing would not improve stormwater drainage on the site and also because they concur with the applicant that curbless parking would be more appropriate for the residential character of the neighborhood. Staff is recommending as a standard for this type of waiver that parking bumpers be used instead of curbing.

The second of the two requests is related to the opaque barrier requirement. The property is next to one residential property on the north and most of the property line is screened by existing trees. The *Zoning Ordinance* allows waiver of the fence component of the opaque barrier when a vegetative barrier alone would be preferable for aesthetic reasons. In this case, applying the code would be having a six (6) foot fence in what still looks like a residential yard so Staff is recommending approval of this waiver request. The vegetative barrier would still be a required part.

Mr. Minnich stated that he is representing Mr. Braun. They are asking for waivers for the two components of the project that Mr. Diaz stated and they are in agreement with what Staff recommends in order to grant those waivers.

Dr. Jones stated that for the opaque barrier option for an evergreen screen or hedge at least six feet in height, is that a growing hedge or a hedge that must reach six (6) feet. Responding to Dr. Jones, Mrs. Townshend stated that it's usually six (6) feet at the time of planting.

Dr. Jones questioned if the applicant would have the option to do either of those options? Responding to Dr. Jones, Mrs. Townshend stated yes.

Dr. Jones moved to approve S-16-21 Lands of Michael Braun at 834 South State Street to waive the curbing requirement and the opaque barrier with the understanding that there will be a barrier and parking bumpers, seconded by Mrs. Welsh and the motion was carried 8-0 by roll call vote. Mr. Holden voting yes; he thinks it's an appropriate use of the waivers for upright curbing and the elimination of fencing and it keeps the feel of the surrounding areas. Mr. Roach voting yes. Mr. Holt voting yes; he is in favor of the waiver of the requirements for the opaque barrier. Mr. Baldwin voting yes; it meets the requirements. Dr. Jones voting yes; for reasons previously stated. Mrs. Welsh voting yes; for the reasons previously stated. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; the waivers remove unnecessary barriers that would be in the way of the development of this application.

NEW DEVELOPMENT APPLICATIONS

1) Z-16-06 Lands of Capital Grange on South Bradford Street – Public Hearing and Review for Recommendation to City Council on rezoning of a 0.32-acre parcel located on the west side of South Bradford Street south of Waples Avenue and to the rear of 911 South Governors Avenue. The property is zoned R-8 (One Family Residence Zone) and the proposed zoning is RG-1 (General Residence Zone). The owner of record is Capital Grange No. 18 Inc. Property is an unaddressed parcel on South Bradford Street. Tax Parcel: ED-05-077.17-03-15.00-000. Council District 2. Ordinance #2016-23. *This application is associated with item MI-16-13: Nonconforming Uses in Residential Districts. The Rezoning is proposed in order to comply with City Council action requiring the sunsetting of nonconforming uses in residential zones.*

Representative: Mr. Edward Hazlett, President of Capital Grange; Mrs. Iva Hazlett

Mrs. Townshend stated that this is an application for rezoning of the property located on the west side of South Bradford Street adjacent to 911 South Governors Avenue. It is currently a parking lot for the Grange and it's proposed to continue that use. This is part of Planning Office's cleaning up of non-conforming uses and the parking lot is not a permitted use within the R-8 (One Family Residence Zone). Staff has met with the applicant and reviewed what makes sense in the context of the *Comprehensive Plan* and the *Zoning Ordinance*. The proposed zoning is RG-1 (One Family Residence Zone) which does allow for parking lots as a conditional use. If the rezoning goes through there would be no further action unless they were looking to expand or change the parking lot. Based on the *Comprehensive Plan* and the benefit of sunsetting non-conforming uses and the character of the area, Staff recommends approval of the proposed rezoning from R-8 (One Family Residence Zone) to RG-1 (General Residence Zone).

Mrs. Hazlett stated that they are just asking that the rezoning be approved.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Mr. Holt moved to recommend approval to City Council for Z-16-06 Capitol Grange, seconded by Mrs. Welsh and the motion was unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; it will keep the use identical with what has been here historically which is working for the neighborhood. Mr. Roach voting yes. Mr. Holt voting yes; it will clean up the area and put this in

the right zoning for the area. Mr. Baldwin voting yes; for the reasons previously stated. Dr. Jones voting yes, in view of the fact that Staff has recommended and supports the request. Additionally, there is no one here to speak against the rezoning. Mrs. Welsh voting yes; this will bring the property in compliance with the plans for the City. Ms. Maucher voting yes, to bring the property into compliance. Mr. Tolbert voting yes; for the reasons previously stated.

2) S-16-13 Revised Dunkin Donuts at 1116-1128 Forrest Avenue – Public Hearing and Review of a Site Development Plan application to permit the construction of approximately 34,813 S.F. of retail and office space in four buildings and other site improvements. The project is to include a Parcel Consolidation Plan to merge the six parcels on site. The project's initial phase consists of one 7,389 S.F. building with three tenant spaces, one of which will be occupied by a Dunkin Donuts, and one 3,712 S.F. building with one tenant space. Construction would involve demolition of all existing buildings on site. The property consists of 7.7 acres and is located on the south side of Forrest Avenue west of Saulsbury Road. The property is zoned C-2A (Limited Central Commercial Zone) and subject to the COZ-1 (Corridor Overlay Zone). The owner of record is Ennis Business Associates, LLC. And developer/purchaser is Franchise Management Services, Inc. Property Address: 1116-1128 Forrest Avenue. Tax Parcels: ED-05-076.11-02-22.00-000, ED-05-076.11-02-59.00-000, ED-05-076.11-02-20.00-000, ED-05-076.11-02-21.00-000, ED-05-076.11-02-23.00-000 and ED-05-076.11-02-20.01-000. Council District 1. *Waivers Requested: Partial Elimination of Curbing, and Opaque Barrier Requirements – Fence Component (Material & Location); and Consideration for Determination of Superior Urban Design. This application was originally to be heard at the July 2016 meeting of the Planning Commission but was withdrawn. The applicant has requested to rejoin the review process utilizing the previous plan submission.*

Representatives: Mr. Keith Fisher, Fisher Architecture; Mr. Nick Nistazos, Nistazos Holdings

Mr. Diaz stated that this project is proposing to construct about 34,800 S.F. of commercial and office space on properties addressed as 1116-1128 Forrest Avenue that's on the south side of Forrest Avenue across from the Modern Maturity Center. There are four buildings proposed in two (2) phases and at least six (6) tenant spaces. They are calling it the Dunkin Donuts plan because while the other ones are still up for grabs, they know that the front tenant space in the building which is the easternmost building on the site will be Dunkin Donuts. This project was originally supposed to come to the Planning Commission in June 2016 and then later was pushed to July 2016 and then withdrawn. It was resubmitted for the November 2016 meeting after the developers secured purchase of the site. As noted in the packet, the comments that Staff has on the plan are the same ones that they would have had at the July meeting. Staff has worked closely with the developers to work out a plan that meets Code requirements and will fit into future plans for the City. Particularly, the plan is now compliant with the Corridor Overlay Zone and provides fifty (50) foot wide easements along the west and south sides of the property to allow for the future construction of a connector road that's planned under the Dover Kent County MPO's *2008 Delaware Route 8 Concept Plan and Operation Study*.

The rearmost building on the site is proposed to be two (2) stories and the front three (3) buildings are each supposed to be one story. Each of the front three (3) buildings also has an associated drive through. There are a large number of recommendations that they would like the Planning

Commission to consider tonight for this project. First, are a couple of recommendations related to the Corridor Overlay Zone. Staff is recommending that the Commission recognize that the site has met the criteria to qualify as "Superior Urban Design" as that is defined under the *Zoning Ordinance*. The applicants have provided a written statement on why they qualify and if the Commission decides that they do qualify, certain requirements of the Corridor Overlay Zone will be relaxed. Those are the prohibition against parking in the front yard and the maximum setback requirements for the front yard. Second, Staff is recommending that the Commission approve an alternative building placement for Building A, the Dunkin Donuts building. Buildings in the Corridor Overlay Zone are typically required to have their longest edge facing the street but they believe that the short edge placement would be more appropriate for a lot that's this deep.

Next, Staff has some recommendations on couple of waiver requests. They are recommending the Commission approve a curbing waiver for the easternmost and westernmost drive aisles to allow those drive aisles to forego curbing so that stormwater can sheet-flow into some of the stormwater management facilities on the site. These micro-bio areas that are essentially rain gardens. Second, they are recommending approval of an opaque barrier requirement waiver to allow swapping the locations of the fence that's along the west side of property and the vegetative evergreen screen. Normally, the trees would have to be planted to the west of the fence but they would like to plant them to the east of the fence. Finally, they have a few recommended minor site design changes that they would like the Commission to concur with. The first is that a potential inter-parcel access location be added to allow off-corridor access to the commercial properties that are to the east. There is a phasing diagram in the packet that already shows where this connection location would be. The second is that bicycle parking should be distributed around the site so that each building has its own bicycle parking. The third design recommendation is that the sidewalk network be improved to allow easier pedestrian access to buildings towards the rear of the site. As he has said before, they have worked extensively with developers to improve the site design so their overall recommendation is for approval of the project.

Mr. Tolbert stated that the Traffic Study hasn't been completed on this property. Responding to Mr. Tolbert, Mr. Diaz stated that it is in progress.

Mr. Tolbert stated that the actions that the DelDOT takes on this application won't have any bearing on what the Commission does here this evening. Responding to Mr. Tolbert, Mr. Diaz stated that it will not have any bearing on the ability of the Commission to approve the application. It may have some impact on the phasing of the site. The recommendations they have for the intersection where the site entrance would be, they may not come into effect until the second phase.

Mr. Tolbert stated that he did read in the literature that there is an on-site traffic circulation problem. Responding to Mr. Tolbert, Mr. Diaz stated that it's not so much a problem. It's basically a recommendation for clarification of the way that the traffic would be circulating on the site so there would be adequate signage to ensure that people know where the entrances to the drive-throughs are and where to go so they are not crossing the stream so to speak with the traffic.

Mr. Fisher stated that he is representing the developer and civil engineer tonight. In an effort to keep everything brief, Mr. Diaz did an incredibly thorough job and they are in agreement with all of the comments that he made tonight.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Mr. Roach stated that from the pictures, there looks like there is going to be an entrance and an exit on the end towards Wawa and then just an exit from the back of the drive through. Responding to Mr. Roach, Mr. Diaz stated that was not correct. The site plan rendering is from an earlier version of the application. There is only going to be one entrance and exit for the site.

Mr. Holden moved to approve S-16-13 Revised Dunkin Donuts at 1116-1128 Forrest Avenue to include the waivers for partial elimination of curbing and opaque barrier requirements and to affirm Staff's determination that the design meets the Superior Urban Design Standards. Also, to include that the vinyl fencing is acceptable, seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; for the reason previously stated. Mr. Roach voting yes; he really likes the project and he hopes that it happens quickly. He sees Dunkin Donuts at 8:00AM and it's so dangerous having everyone backed up onto Route 8. To be able to have it pushed off of Route 8, he thinks will be beneficial for everyone. Mr. Holt voting yes. Mr. Baldwin voting yes; for the reasons previously stated. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; it's a great design. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; the application is making desirable use of a site and productive use of a site.

3) S-16-22 Redevelopment of Liberty Court Apartments - Public Hearing and Review of a Site Development Plan application proposing to demolish the fourteen apartment buildings at Liberty Court Apartments and to construct thirteen new buildings on the existing foundations, leaving one building not reconstructed. The redevelopment would reduce the number of dwelling units on site from 108 to 100 dwelling units. The properties consist of a total of 7.92 acres and are located on the north side of Walker Road opposite the end of Independence Boulevard. The property is zoned RM-2 (Medium Density Residence Zone). The owner of record is the Delaware State Housing Authority and project redeveloper is Liberty Court Preservation Corporation. Property Address: 1289 Walker Road. Tax Parcels: ED-05-067.18-01-72.01-000 and ED-05-067.18-01-72.00-000. Council District 4. *Waiver Requested: Elimination of Rear Emergency Access Requirement*

Representatives: Mr. Robert Bartilomo, Architectural Alliance; Mr. Chris Whaley, DSHA; Mr. Roger Gross, Merestone Consultants

Mr. Diaz stated that this project is to demolish the fourteen (14) apartments buildings at Liberty Court Apartments and to construct thirteen (13) new buildings using the original foundations. The apartment complex is located at 1289 Walker Road on the north side of Walker Road, opposite the end of Independence Boulevard. The property is zoned RM-1 (Medium Density Residence Zone). The main intention of this redevelopment is to increase the size of the existing dwelling units that are on the site. There are currently one hundred eight (108) units on the site right now. At the finish of redevelopment, there will be one hundred (100) units. He believes that the applicants will pass out some updated renderings tonight of what the building architecture will look like, especially along the Walker Road frontage. The reason that the number of dwelling units is decreasing is that one building is not going to be reconstructed. It is being demolished to make room for a twenty-four (24) foot wide fire lane that will go in between Buildings K, M and N on the north end of the site

which is the left edge of the page. The new fire lane is one of the several improvements that are planned to improve the fire safety of the site. Others include realignment of the existing fire lane which is about seventeen (17) feet wide and there will be sprinklers in all of the buildings. The applicants worked closely with the Fire Marshal to find a scheme that works for what's a very old site layout which is mostly grandfathered in. His understanding is that the applicants are also working with Kent Conservation District and DelDOT to determine if there is any further site work that needs to be done in terms of stormwater management and site access.

There is one waiver request associated with this project and that is a request to waive the requirement for rear emergency access to the buildings. By the *Zoning Ordinance*, an eighteen (18) foot wide rear emergency access fire lane is required to go behind all of the buildings. The requirement didn't exist when the apartment complex was originally built and if now required, significant redesign of site would be needed. It's possible to get a waiver from the rear emergency access requirement if the project exceeds the fire protection provisions that are provided by the *Zoning Ordinance*. He should note however that the Planning Commission does not have final say over this particular waiver request. The recommendation that the Commission makes on the request will be passed on to the Safety, Advisory and Transportation Committee and ultimately to City Council which will make the final decision. Staff's recommendation is that the Commission recommend approval of the request to eliminate the eighteen (18) foot rear fire lane access requirement. They recommend this in light of the applicants having worked with the Fire Marshal to find a fire protection strategy that's superior to what the rear emergency access will provide.

Dr. Jones questioned if the current units were all two (2) bedroom units? Responding to Dr. Jones, Mr. Whaley stated that they would be a mix of one, two and three bedroom units.

Mr. Tolbert questioned what is happening to the people that are living there now? How will they be handled? Responding to Mr. Tolbert, Mr. Whaley stated that the people will be temporarily relocated. They are not going to be doing the entire demolition at one time; they are going to be done in phases starting in the back of the complex. It's their hope that they can move people on-site and those people that they are not able to move on-site; Delaware State Housing Authority will lease acceptable HUD standard rental units for twelve (12) to eighteen (18) months. While they are off-site DSHA will pay 100% of their rent. The client would still continue to pay their portion of the subsidized rent. Their intention is to make whatever relocations that they have to do as easy as they can on the resident. They are also going to be paying all of the reconnection fees when they relocate to a new units. They are in the process of negotiating with those utilities right now. The residents will not have any additional expenses. Whatever moves they have to make, DSHA will be paying for. It's their intention to make this the easiest process for their residents as they can.

Mr. Tolbert further questioned if they anticipate that this process will delay the progress of their development? Responding to Mr. Tolbert, Mr. Whaley stated no, they are planning to turnover three (3) buildings at a time. They already have one building that's totally empty and in addition to that they have ten (10) other vacancies on the site at this time. Their idea is that they are going to be able to complete three (3) buildings and then move the existing residents into those three (3) buildings. They did have a resident meeting where they described this in detail to the residents earlier in the month.

Mr. Roach stated that he also had the same concern. The housing units look beautiful but he noticed

that it says one of the buildings will be demolished. Was that building already vacant or is it going to be vacant once the development project begins? Responding to Mr. Roach, Mr. Whaley stated that the building that's vacant now is Building I. It's in the very back. The building that is going to be demolished is Building K. They are going to work to keep Building K for as long as they can in working with the move around. Building K is where the new fire lane will be established that's required by the City of Dover.

Mr. Roach questioned if he was reading it wrong where it says the existing Building I would be demolished? Responding to Mr. Roach, Mr. Whaley stated that when that was written they were hoping to demolish Building I and keep Building K but when they had negotiations with the Fire Marshal, they said they wanted a fire lane where Building K is located.

Mr. Bartilomo stated that the Building K that Mr. Whaley has been referring to is actually Building L.

Mr. Roach stated that going from one hundred eight (108) units to one hundred (1000 units, some people will not have a place to live and he was wondering if there was any discussion in regards to that. Responding to Mr. Roach, Mr. Whaley stated that they already have eight (8) vacancies; they are not permanently displacing anyone.

Mr. Holt questioned the nine (9) bicycle parking spaces based on one hundred seventy-seven (177) car parking. There will be a lot of children living in these apartments; will they be providing enough bicycle parking? Responding to Mr. Holt, Mr. Bartilomo stated that they will be accommodating the bicycle parking.

Mrs. Welsh stated that the package shows two bedroom units. Are all the new units two bedroom units? Responding to Mrs. Welsh, Mr. Bartilomo stated no, there will be a mix of one, two and three bedrooms and it will be the same number of one, two and three bedroom units as it was before. He does have packets to share that show all unit types.

Dr. Jones questioned if the square footage with a ± beside it referred to the flexibility in the number of bedrooms for each unit? Responding to Dr. Jones, Mr. Bartilomo stated no, what that's related to is that they are working off of the existing foundations. If it were new construction then the square footage would be fairly exact. There are some dimensional tolerances that they are working with; some buildings are slightly different within an inch or two.

Dr. Jones stated that ideally the three (3) bedroom units will have more square footage than the two (2) bedroom units.

Mr. Bartilomo provided packets with renderings of one, two and three bedroom units to the Commission.

Mr. Roach questioned how the residents took the news as far of the move and the re-move? Responding to Mr. Roach, Mr. Whaley stated that this property was Carlyle Gardens before Delaware State Housing Authority purchased it. It was built in 1974 or 1976. When DSHA purchased it in 1989 and they renovated it in 1993, they renovated the existing structures so the apartments were basically a design layout from the mid 1970's. They brought the residents in for a

meeting and provided full plans to show them. If you see the before and after pictures you will see that the apartments are now an open concept. They no longer have a very small galley style kitchen. The tenants really like that idea. The amenities that they are going to be including in the renovations include cabinets that have a space for a microwave. They are going to have higher efficiency heating systems, black appliances, and vinyl plank flooring. Overall, the tenants were very happy. They are also going to be providing Wi-Fi and security systems and the tenants were very interested in that. Some of the comments that they made of things that they would like to have are not things that they can physically or financially afford and because of the size of their foundations such as individual washer and dryer hook ups in the apartments. But overall, they were pretty happy. He thinks that considering that they are trying to really make this move as convenient as possible given the situation, he thinks the residents are going they are going to be very happy. They had about 35-40 residents at the meeting, which for a resident meeting is very good. They sent out a reminder to all of the residents letting them know what had been discussed at the meeting. Overall, he thinks they are very happy with this. The residents want to make sure that it moves on the way DSHA said it has. They started talking about the renovations about two (2) years ago and it's taken them this long to get HUD approval to convert it to a new HUD plan and to go through the drawings and get tax credits for the property.

Dr. Jones questioned what the current arrangement for washing clothing is now? Responding to Dr. Jones, Mr. Whaley stated that they have a very large washing machine area in the Community Building. The Community Building is not going to be torn down; it's going to be renovated on the exterior as well as the bathroom inside. They have about twenty (20) machines or more in the Community Building. The residents have a separate access and key so that they have access to the facilities twenty-four (24) hours a day.

Ms. Maucher questioned if the tenants were currently responsible for their own utility bills? Responding to Ms. Maucher, Mr. Whaley stated yes. DSHA pays water and sewer and the tenants pay gas and electric.

Ms. Maucher further questioned if the gas was currently provided by Chesapeake Utilities? Responding to Ms. Maucher, Mr. Whaley stated yes, the gas is provided by Chesapeake Utilities and the electric is provided by the City of Dover. They are going to be putting in high efficient heaters and air conditioning; it's a requirement for DSHA tax credits.

Mr. Roach questioned if any income requirements going to change? Responding to Mr. Roach, Mr. Whaley stated no, what's going to happen is they are going under a plan called RAD which is the Resident Assistance Demonstration program. It was created to convert public housing to project based vouchers. The name of the assistance is going to change but the way that their housing subsidy is calculated is going to stay the same. The residents may see a difference due to whatever the utility allowance has become after the high efficiency equipment is installed but other than that they shouldn't see a difference in how it's calculated.

Mr. Holt questioned how their turnover rate is for these apartments? Have a lot of these people been at this location since the Carlyle Garden days? Responding to Mr. Holt, Mr. Whaley stated no, it's a misconception. DSHA has for individuals, who are work eligible, that they can only live in their subsidized unit for five (5) years with a possibility of a two (2) year extension. If they are elderly or disabled, they do have the ability to continue receiving assistance as long as they qualify for it.

There are no people there that are from the Carlyle Garden days. They have a moving to work program where they help families become self-sufficient. It's a misconception about what public housing is now for DSHA because of their moving to work program. They have turnover but to be quite honest, they have a lot of people that want to be at Liberty Court because it's one of their few public housing sites in Kent and Sussex Counties that's close to public transportation and close to shopping. Most of their other projects are in rural areas such as Harrington, Bridgeville, Rehoboth, Selbyville and Camden.

Mr. Holt stated that they have public transportation close by. Responding to Mr. Holt, Mr. Whaley stated yes, there is a bus stop right out front.

Mr. Holt questioned if DART stopped at that location? Responding to Mr. Holt, Mr. Whaley stated yes.

Mr. Tolbert opened a public hearing.

Mrs. Pam Salzman – 712 Independence Boulevard Dover DE 19904
Mrs. Salzman stated that she lives across from Liberty Court and she is really happy to see the changes that are going to be done. The only concerns that she has is that the problems that Liberty Court has now is the noise and the traffic going in and out and the public transportation buses and school buses. She doesn't know if they were going to try to have the school buses go into Liberty Court or stay on the street. In the morning and the afternoon, there is high traffic. The school buses stop all of the traffic and in the morning and afternoon; it's high volume.

Mr. Tolbert questioned if anyone in her community had contacted the school district about that problem? Responding to Mr. Tolbert, Mrs. Salzman stated that she has one neighbor that may have. She is new to the area and just moved here three (3) years ago.

Mr. Holt questioned if they had traffic guards? Responding to Mr. Holt, Mrs. Salzman stated they do for the kids in the morning. In fact she had to call and complain on different age groups of the kids that are waiting for the bus. They are so loud and all over the place. Corinna who is the manager of the apartments and who is outstanding put parents out there but the control of the kids is as good as people who are out there supervising. In the mornings or afternoons, you get people parking in front of Liberty Court waiting to pick their kids up. There are a lot of traffic problems at this location.

Mr. Holt stated that they used to have traffic guards there. Responding to Mr. Holt, Mrs. Salzman stated that she doesn't think a traffic guard would help the traffic flow.

Mr. Holt stated that he was thinking of the safety of the kids. Responding to Mr. Holt, Mrs. Salzman stated that they have put the parents out there to watch the kids.

Mr. Roach stated that he works for Booker T Washington Elementary and the only thing that he would suggest is to call the school district. You can contact the district office anytime and ask for Mr. Dan Shelton. Let him know that it's an issue as far as the safety of the kids and also to try to keep movement with the traffic. That may be the best bet, trying to contact the district office.

Mrs. Salzman stated that another issue is the gazebo that is to the left of the building. They have had issues during all times of the day with a lot of drug activity going on there.

Mr. Tolbert stated that these issues are not handled by the Planning Commission. He suggests that she and her neighbors contact the school district.

Dr. Jones stated that these concerns are not under the purview of the Planning Commission. Whatever districts service the children, it might be more than one, you really want to contact the Transportation Supervisor. That is the person who does all of the routing and will come out and do a feasibility study to see if they can change something. Responding to Dr. Jones, Mrs. Salzman stated that would be ideal.

Mr. Roach stated to think about it logistically. Let's just say it takes them 30 minutes to go in Liberty Court as opposed to a 2 minute stop where they can let the kids off and keep moving. Like he said before, you can talk to the school district and try to see what their mindset was for having the bus drop off and pick up on Walker Road. They definitely have a reason for why they do it. As for the gazebo, he knows they were adding those in a lot of different areas for shelter when someone is waiting for the bus. Responding to Mr. Roach, Mrs. Salzman stated that it's totally understandable. She thinks the plan looks beautiful.

Mr. Tolbert closed the public hearing.

Mr. Whaley stated that he is no expert on bus service but he thinks the reason why buses don't go into Liberty Court is because he thinks buses are not allowed to go into a facility where they cannot turn around. They don't allow buses to pull into a facility if they have to back up because of the concern about backing over a child. He is from Indian River School District and that's how they do it down there but he is not familiar with how they do it in Dover. He doesn't think there is sufficient area in the parking lot for a bus to make a 180 degree turn. They probably would have to pull in and back up which he doesn't think Delaware Department of Education allows.

Mrs. Welsh moved to approve S-16-22 Redevelopment of Liberty Court Apartments to include the waiver for the elimination of the rear emergency access requirement and the DAC comments, seconded by Dr. Jones and the motion was unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; he thinks the redevelopment is needed and is an appropriate redevelopment. It keeps the character of the property in kind and it is a needed resource for us. Mr. Roach voting yes; he really likes what they are doing in that area. He knows they just recently finished doing Walker Woods and it's starting to make that area look a lot nicer. Just as long as no one is being displaced he is 110% in agreement with this motion. Mr. Holt voting yes; he thinks it's a real plus for Liberty Court and the new development plan looks very nice. The residents are going to be a lot happier with this new plan. Mr. Baldwin voting yes; it is a much needed improvement in the area. Dr. Jones voting yes; she thinks the redevelopment really is going to be an asset to the entire neighborhood. She thinks that the proposal is going to positivity effect resident morale. Lastly, in today's climate there may be some residents that they don't expect. Mrs. Welsh voting yes; she thinks it's a great improvement to the property. She remembers when it was a field before Carlyle Gardens was built there. She has seen it go from flat to what it is now and it's definitely a good use of the parcel. Ms. Maucher voting yes; for the reasons previously stated as well as the benefits for the residents as far as the reconfiguration of the apartments and the improved efficiency. Mr. Tolbert voting yes; the

project is highly desirable and probably a lot more desirable than what has been there for all this time. He thoroughly appreciates the efforts that are being made to minimize the inconvenience to the existing residents.

4) S-16-23 Panera Bread Restaurant at 545 North DuPont Highway – Public Hearing and Review of a Site Development Plan application to permit construction of a 4,986 S.F. restaurant and related site improvements on a 36,848 S.F. pad site at the Capitol Commons development as part of the 8.417-acre parcel. The property is located on the east side of North DuPont Highway north of Townsend Boulevard. The property is zoned C-4 (Highway Commercial Zone) and subject to the SWPOZ (Source Water Protection Overlay Zone – Tier 3: Excellent Recharge Area). The owner of record is Dover, DE Retail LLC c/o TLM Realty Corp. and project developer is Lemek, LLC. Project Address: 545 North DuPont Highway. Property Address: 515 North DuPont Highway. Tax Parcel: ED-05-068.09-01-34.00-0001. Council District 3. *This application is associated with Site Development Plan S-16-02 Capital Commons that was granted conditional approval by the Planning Commission in February 2016 and Final Plan approval in May 2016*.

Representatives: Mr. David Kuklish, Bohler Engineering

Mrs. Melson-Williams stated that this is a Site Development Plan application. The project actually continues the redevelopment of what was the former K-Mart site. The main building on that property the Commission saw as a redevelopment project known as Capital Commons and that main retail building is now occupied. This project moved onto what is the first pad site location on the site. This is for redevelopment of the northern pad site area; it's an area at northwest corner of the property along the North DuPont Highway frontage near the hotel location to the north. The property is zoned C-4 (Highway Commercial Zone) and is subject to the SWPOZ (Source Water Protection Overlay Zone). This project specifically for the north pad site involves construction of a 4,986 S.F. restaurant that would include the restaurant building along with outdoor seating and a drive through. That drive-through involves circling the north side of the building and the pick-up window is along the North DuPont Highway frontage of the property. The project does not create any new entrances onto the North DuPont Highway. There is a shared entrance that exists currently between this property overall and the hotel and then there is also access from Townsend Boulevard onto the site as well. The Townsend Boulevard entrance was improved to the T intersection that they have today during the first phase of Capital Commons.

She notes that the project has property that falls within the SWPOZ (Source Water Protection Overlay Zone). In the cases of redevelopment there is a maximum lot coverage for areas that fall within the SWPOZ and anticipate that a reduction in impervious surfaces occur with the redevelopment activity. This project does actually increase some of the impervious cover in the northern pad site area but they are looking to make other improvements to get infiltration to happen in the SWPOZ to address that matter. Staff and the Kent Conservation District will continue to work with the applicant to satisfy those Code requirements.

On the desks of the Commissioners, there was a revised architectural presentation. The building is a one story building. It has a mix of masonry and effice wall finishes. The southern elevation of the building which is in the lower left of the presentation is the front of the building which actually faces into the parking lot area. That's where you find the main entry to the building as well as the

patio seating area. The revised architecture that has been provided tonight revises what is the north wall of the building and that is the lower right hand corner. On the original submission, this north wall was fairly blank and it was kind of a dark gray in color. The applicant has responded to some of the comments that Planning staff provided in regards to whether that north wall met the architectural considerations that the Code established and they have made improvements with some changes in matters as well as adding what appears to be windows and awning systems even though they may not be functional windows.

The project for a restaurant does require a specific parking requirement based on seating. The pad site area itself is able to provide thirty-seven (37) parking spaces. The seat count in the facility would require thirty-seven (37) spaces. Those additional parking spaces are found in what is the large shared parking area and under their joint provisions of parking in the Code, the parking requirements are met for the site. They actually have parking to give in that main area. The project does include the bicycle parking near the front entrance specifically to this building. Sidewalk network does exist along the North DuPont Highway frontage in the form of a shared use path. That was actually constructed with the Capital Commons project. Planning staff has made a recommendation regarding the pedestrian circulation once you get on the site. They are recommending that a sidewalk connection be made to the pad site location from the shared use path and then continuing on to provide a link from the restaurant building to the main commercial building on the site to create what is an internal pedestrian network to link the buildings on this north end of the project area. The restaurant is providing the required dumpsters and there are also tree planting requirements that are being met for this area specifically. The project does include the arterial street buffer at a full width of thirty feet in front of this restaurant building and where as part of the site did have to seek a waiver to reduce that in order to accommodate some existing conditions. Of note, the recommendations about the sidewalk interconnections to the site, Planning staff had also previously commented about the building architecture in regards to that north wall of the restaurant building but what they have presented this even goes a long way to meeting those concerns that Staff had on architecture.

The rest of the DAC Report includes comments from the City's Electric Department and Public Works regarding water, sewer and electric. It also includes comments from the Fire Marshal's Office in regards to the fire protection needs for this restaurant site; it will be a sprinklered building so they are planning for that. With DelDOT, they are not creating any new entrance locations so they hope to achieve a letter of no contention from DelDOT. They will be working with the Kent Conservation District in regards to stormwater management for the site. There are no particular waivers for this aspect of the project.

Mr. Kuklish stated that he had just a few quick additions. It was mentioned that they were pursuing DelDOT approval but they do have a letter of no contention already so they have DelDOT's final approval. As it was mentioned, there were architectural revisions made to the north façade to include some more colors and materials as the other three sides of the building. They are certainly open to discussing the sidewalk addition component. They have two concerns or thoughts on the addition of the sidewalk from the shared use path to the store and then from the restaurant to the main shell. One, by adding the sidewalk from the shared use path to the restaurant you would be forcing customers/pedestrians in front of the drive through exit lane. On the surface, that may not seem like a bad idea but their concern is that you present yourself with a vehicle and pedestrian conflict potential. Customers leaving drive throughs have a tendency to check their bag for

completeness so with that people may be looking down in their lap or bag and may not be paying attention to the stop sign that are in place. There is a connection from a bus shelter that is existing to the parking lot and it's about one hundred thirty (130) feet to walk from that location to the store. As you find in most commercial centers, there are no sidewalks within the parking lot. Customers walk up and down drive aisles. That is what they would propose for this location. It gives the customer flexibility but also doesn't channel them right to the drive through exist lane. They thought on the sidewalk to the shell is it's a minor addition that they are not opposed to but as you see in any other drive aisle in a shopping centers they are not a designated walkway for customers. They didn't see that as a burden any more than customers parking across the drive aisle that would be walking down the drive aisle any how to get to the main store.

Mr. Holt stated that he had one question on the water source development with the restaurant. They were going to make some other improvements for the use of the infiltration in the water protection zone but they didn't see what they were going to be. Responding to Mr. Holt, Mr. Kuklish stated that they are proposing to capture run-off through infiltration and send it into the ground. Those are the proposed improvements to treat the source water protection area that is a City requirement.

Mr. Tolbert stated that Big Lots and Burlington are already located in Capital Commons. If they have sales and draw crowds will the parking interfere with the parking for Panera Bread? Responding to Mr. Tolbert, Mr. Kuklish stated that it would act as a shared parking element so it's possible that you may have a customer in front for the Big Lots and Burlington walk to Panera Bread and vice versa.

Mr. Tolbert stated that he has seen a lot of cars parked there for Burlington already. Responding to Mr. Tolbert, Mr. Kuklish stated that the center is already over parked per Code so they meet the Code for parking for both uses.

Mr. Tolbert stated that when the application for Capital Commons was before the Commission the applicant told them that there was going to be two restaurants, one on each side of Capital Commons. Do you know what other restaurant is coming to the site? Responding to Mr. Tolbert, Mr. Kuklish stated that he did not know. He is not privy to that information. He will note that it is required to come before the Commission once it's decided.

Mr. Tolbert questioned if they were satisfied with the overview of the application and if they could work with Staff on anything? Responding to Mr. Tolbert, Mr. Kuklish stated yes.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Mr. Holden moved to approve S-16-23 Panera Bread Restaurant at 544 North DuPont Highway as presented inclusive of Staff comments, DAC comments and the requirement of the sidewalk connection from the multi-use path to the restaurant and then from the restaurant on to the retail stores. Also to include the architecture presented tonight in regards to the north wall improvements. The motion was seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; for the reasons stated and for Staff comments. Mr. Roach voting yes; he loves the improvements to the north wall and he also agrees with the applicant regarding the sidewalks. He thinks it will kind of force people to walk in front of the drive through lane but

outside of that he does agree with the motion. Mr. Holt voting yes; he thinks the improvements to the north wall will be a plus to the project and he thinks it's a plus for the whole area. Mr. Baldwin voting yes; for all of the reasons previously stated. Dr. Jones voting yes; she can't wait to go to Panera Bread. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; for all of the reasons previously stated. Mr. Tolbert voting yes; even though he would like to see something done with the flat roofs and if something can be done great but he wouldn't hold up an application approval for just that reason.

5) S-16-24 Advantech at 151 Garrison Oak Drive, Garrison Oak Technical Park Lot #13 – Public Hearing and Review of a Site Development Plan application to permit construction of a 15,945 S.F. office building and light manufacturing facility, together with outdoor loading areas and other site improvements. Review of the Performance Standards Review Application associated with the Site Plan to determine if the proposed use will conform to the applicable performance standards as outlined in *Zoning Ordinance,* Article 5 §8 Performance Standards. The subject property consists of 10.06 acres and is located on the east side of Garrison Oak Drive north of White Oak Road; also known as Lot 13 of the Garrison Oak Technical Park. The property is zoned IPM-2 (Industrial Park Manufacturing Zone - Technology Center). The owner of record is Protective Properties, LLC. Property Address: 151 Garrison Oak Drive. Tax Parcel: LC-05-068.00-02-13.00-000. Council District 3. *Waiver Request: Partial Elimination of Upright Curbing*.

Representatives: Mr. Dave Sweeney, Advantech; Mr. Alex Schmidt, Century Engineering

Mrs. Melson-Williams stated that this is a Site Development Plan for one of the lots in the Garrison Oak Technical Park, specifically Lot 13. The Garrison Oak Technical Park in zoned IPM-2 (Industrial Park Manufacturing Zone – Technology Center). This site is actually across the street from the Uzin Utz facility that moved through this process that is built and operating for almost one year. This property is actually addressed as 151 Garrison Oak Drive. It is a for a combination office building and what they are terming a light manufacturing facility. Some of their activities involve the manufacturing of some of the components which this company installs as part of their business. The building is just under 16,000 S.F. in size. It is a one story building with the front portion of the building being the office component and then as it kind of T's off the back, becomes more of warehouse storage and manufacturing elements of the building itself. Lot 13 in the Garrison Oak Technical Park was the location of what is known as the George Paris Farmstead Complex. Prior to the demolition of the house and several out building that were there, the Planning Office did prepare some historic property documentation measured drawings of the facility so that those can become part of the Delaware Culture Resource Survey information that the State Historic Preservation Office retains on file. This project includes the building; it has two access points from Garrison Oak Drive which is City street. There is an existing sidewalk that was constructed as part of the Garrison Oak Drive project. Once on the site, there are kind of two parking areas that wrap the building. One more so for employee parking and the other more of a work related and loading area for their fleet of vehicles. This project because it is in the IPM-2 (Industrial Park Manufacturing Zone – Technology Center) is subject to the Performance Standards Review process. There is a separate report that focuses on the Performance Standards Review of the application. There are a series of elements that are outlined in Article 5 §8 of the *Zoning Ordinance* that the project has to prove its compliance with the series of standards for what are called dangerous and objectionable elements. Page 4 of the Staff Summary Report on the Performance Standards Review outlines what those

elements are. They are related to fire, radio activity, noise, smoke, and air quality type elements. As part of their application the applicant filed a two-page narrative letter that addressed each of the performance standards in noting how their project may or may not be even creating any of those elements. Staff has reviewed that submission and finds that it contains adequate information for the Commission to confirm the project's compliance with the Performance Standards of the *Zoning Ordinance*. A number of the items are actually regulated by another City, State or Federal regulations so this project, they feel, can certainly satisfy those Performance Standards measures. The Commission's action tonight on the Site Plan should make reference to the Performance Standards Review application and whether they have satisfied those requirements.

The building architecture for this site as mentioned is a one story building. It has a hipped asphalt singled roof over the office portion of the project and then transitions into what is more of an industrial look to the building where the rear section is clad and a metal siding versus the brick of the front office portion of the building. It complies with the height limitations that are established in the zoning district. The project site does have areas that are located within the one-hundred year flood plain as depicted on the FEMA firm map panels. Those areas are found to the east and the southern portion of the site. The project is also in the vicinity in what was a series of drainage improvements made to the little river White Oak tax ditch which is just to the south of this parcel and those improvements to that waterway system are currently being documented through the letter of map revision process with FEMA which will result in the refinement of the flood plain locations that impact this property. The City is the party that is working on the materials needed to submit that lomar to FEMA for consideration. The project is meeting the parking requirements based on an employee count rather than a building square footage count. The applicant provided a narrative regarding their employees. There are a number of employees that report directly to this site for their work during the day while others report directly to their project locations throughout the region. The parking is based on the establishment of a fifty (50) employee count for the site. They are choosing to maximize the parking on the site at the maximum allowed parking of sixty-two (62) parking spaces. They are also providing the required bicycle parking for the site.

There is one waiver that is requested and that is the partial elimination of curbing. There are several areas within the parking lot and the work yard area where they seek relief from the curbing requirement and the Planning office is in support of that request for the elimination of upright curbing. They will be planting one hundred forty-six (146) trees on the site. There are a number of them that are near the building but the bulk of them occur on the far eastern portion of the site in a re-forestation approach to that area. The DAC comments continue with the comments from the other agencies including the City's Electric and Public Works Departments. Also the Fire Marshal's Office since this will be a sprinklered building and they are continuing to work with the Fire Marshal on fire lanes and addressing some of the gate systems that they need on-site for security. There are comments from DelDOT and the Kent Conservation District as well included in the packet.

Mr. Holt questioned if they business would be open five days a week or on weekends also? Responding to Mr. Holt, Mr. Sweeney stated that the office staff would primarily be five days a week with the potential for on-call personnel to be there during off hours.

Ms. Maucher questioned if the map update would remove the property from the flood plain or is it a map reconfiguration? Responding to Ms. Maucher, Mrs. Melson-Williams stated that currently a

portion of the property falls within the one hundred year flood plain. They anticipate that there may still be areas of the site that are within the one hundred year flood plain but not in the location where they are proposing this construction. Yes, parts of the property will still be subject to the one hundred year flood plain requirements.

Mr. Schmidt stated that they want to note that Advantech is an established business that is currently north of Dover. They are growing and looking to move into a larger building within the City. They have been working with DAC to make sure that all of the comments are addressed. They have already identified resolutions to most of the issues. There are a few comments left, specifically regarding the flood plain that they are continuing to coordinate with the City on. They anticipate a satisfactory resolution to that. Regarding the waiver, they are requesting to allow stormwater run-off from the parking to sheet flow onto grass areas of the site which is a more natural integrated approach to stormwater. They have had two meetings with the Kent Conservation District and they are generally in support for this approach. They have two letters of character reference concerning the applicant from existing neighbors. (These letters were provided to the Commission) Regarding the Performance Standards, manufacturing that occurs here is strictly of a physical nature. It involves assembling electronics components inside of a control panel structure. There are no chemical process or chemical manufacturing, there's no welding, there's no situations with fumes or noise or any sort of objectionable elements might be generated. That's all covered within the write up that Dawn mentioned.

Mr. Tolbert questioned if the light manufacturing would be conducted by Advantech? Responding to Mr. Tolbert, Mr. Sweeney stated yes.

Mrs. Townshend stated that the two letters that were provided by the applicant are current neighbors; Brenford Animal Hospital located at 4118 North DuPont Highway in Dover and Century Engineering located at 4134 North DuPont Highway in Dover both submitting favorable references as neighbors of Advantech in terms of how they manage their property.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Mr. Holt moved to approved S-16-24 Advantech at 151 Garrison Oak Drive, Garrison Oak Technical Park Lot #13 with the waiver request for the partial elimination of curbing, the DAC comments and the Performance Standards Review application, seconded by Mrs. Welsh and the motion was unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; it's great to have Advantech moved here into the technical park. He thinks it's a well-designed plan and the elimination of curbing makes sense and their application for Performance Standards is complete. Mr. Roach voting yes; he agrees with the statements previously stated and he wishes Advantech luck and success. Mr. Holt voting yes; he thinks it's a great plan and it's going to be good for the City of Dover. Mr. Baldwin voting yes. Dr. Jones voting yes; in review of the DAC comments and the recommendations from Staff. Mrs. Welsh voting yes; for all of the reasons previously stated. Ms. Maucher voting yes; for reasons previously stated as well as the opportunity for the business to expand and provide more employment. Mr. Tolbert voting yes; the site that is being developed is a site that has been there for a while and it needs to be developed. It seems that Advantech has a creditable project for that site. They are going to have light manufacturing included with the office space so maybe it will create some jobs.

Meeting adjourned at 8:37 PM.

Sincerely,

Kristen Mullaney
Secretary