CITY OF DOVER PLANNING COMMISSION
January 17, 2017

The Regular Meeting of the City of Dover Planning Commission was held on Tuesday, January 17, 2017 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Maucher and Mr. Tolbert. Mr. Holden, Mr. Roach and Mrs. Welsh were absent. (Mr. Holden arrived at 7:03 PM)

Staff members present were Mrs. Ann Marie Townshend, Mrs. Dawn Melson-Williams, Mr. Eddie Diaz, Mr. Bill Cook, Mr. Jason Lyon and Mrs. Kristen Mullaney. Also present was Mr. David Kuklish, Mr. Raymond Thomas, Mr. Henry Meeks, Mrs. Bonnie Meeks, Mr. Vernon Ingram, Mrs. Alice Ingram, Mr. Jonathan Jordan and Mr. Jeff Nagorny. Speaking from the public was Ms. Ronda Oden.

APPROVAL OF AGENDA

Dr. Jones moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 5-0 with Mr. Holden, Mr. Roach and Mrs. Welsh absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF DECEMBER 19, 2016

Mr. Holt moved to approve the Planning Commission Meeting minutes of December 19, 2016, seconded by Mr. Baldwin and the motion was unanimously carried 5-0 with Mr. Holden, Mr. Roach and Mrs. Welsh absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Tuesday, February 21, 2017 at 7:00pm in the City Council Chambers.

Mrs. Townshend stated that tonight's agenda notes that the Institute for Public Administration Planning Education Series: Planning 101 was held on January 13, 2017. We did have two members of the Commission, Dr. Jones and Ms. Maucher who attended that class. The next in that series is Planning 102 which is being held on February 10, 2017 at 9AM at the Paradee Center in Dover. If any Commissioners are interested in the remainder of the training and seeing the schedule for the Spring, you can look at the University of Delaware's website at www.ipa.udel.edu/events. That will give you the remainder of the training for the spring.

Mrs. Townshend provided an update on the regular City Council and various Committee meetings held on January 9 & 10, 2017.

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

2) Revised Plan Information:

A. S-16-23 Panera Bread Restaurant at 545 North DuPont Highway – Information on Revisions to Site Development Plan application for construction of a 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 proposed Revisions consist of a revised building form & architecture and reconfiguration of parking area and drive-through access. 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. *The Planning Commission granted conditional approval of the Site Plan S-16-23 on November 21, 2016. 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; Mr. Raymond Thomas, Lemek LLC

Mrs. Melson-Williams stated that this application is a Site Plan. They have submitted some revisions to that plan and that is what's being presented to the Planning Commission this evening. The application S-16-23 was heard by the Planning Commission through the public hearing process for that Site Plan at the November 21, 2016 meeting. It was a proposal for a one-story restaurant building with a drive-through proposal including outdoor seating and to be located on the northern pad site of what is now the Burlington and Big Lots location at Capital Commons.

First, she wants to highlight the minor revisions to the Site Plan itself. While the building placement and its associated site improvements remains the same, there are some changes to the building form itself. Most particular is the movement of what is the drive-through pick-up window. It was originally proposed on the DuPont Highway or what is the west elevation of the building. That has been relocated to the north elevation of the building. As a result, there has been some reconfiguration of the outdoor seating areas associated with the building. They continue to be on the south face of the building which faces the large parking lot but also kind of wraps around that corner onto the west elevation as well. The parking lot specifically on the pad site area has been revised as well; however, it still provides the access to the drive-through lane that circles to the north of the building. In general, the elements have stayed the same in relation to the improvements but with some slight tweaks to their configuration. The Revised Plan has also started to address some of the DAC comments in that they are showing the sidewalk connection from the street frontage shared multi-use path on North DuPont Highway into the restaurant building. The plan at this point does not show that sidewalk continuing on to make the link to the main commercial building on the site as was requested for their initial plan by Staff and approved by Planning Commission.

Mrs. Melson-Williams showed a rendering of the general concept that was presented in November. As you can see, the parking lot also has a slightly different configuration in that initial plan that has been revised. The most significant changes to the project come with the architecture which is the real reason that Staff felt it needed to come back to the Planning Commission as an informational item. The building is now what she would call a building of two segments. The northern portion of the building is a masonry with kind of flat roof system building and the southern section of the

building is now clad in a horizontal siding and has a pitched metal roof to it. (Referring to the visual PowerPoint presentation.) The images that you see would be the west elevation that faces DuPont Highway and then the south elevation which is the main entry to the building which faces the parking lot.

Mrs. Melson-Williams showed a picture of the east elevation at the top of the screen and the north wall as it exists in the revision that includes now the drive-through pick-up window.

Mrs. Melson-Williams showed a picture of what the original architecture of those four elevations was presented as.

The Planning Staff felt that it was important to bring these revisions to the Commission as an informational item. They did in the memo in regards to these elements, note some Staff comments. The DAC Report that was previously issued and that the Commission's approval was conditioned upon would still remain in place. The applicant would need to address the comments that are in that review report. As she had noted, they have started to work on making the pedestrian circulation connections and have made the one from the street frontage to the restaurant but still need to work on the design of the sidewalk from the restaurant to the main commercial building on the site. For parking, they will need to re-evaluate the seat count and ensure that parking is provided adequately on the site. While they can include some on the pad site itself, they have the opportunity to share parking with the larger parking field that's to the south of this building. They will still continue to work on being in compliance with the Source Water Protection Overlay Zone (SWPOZ) as part of their project and also look to see if there's any tree plantings on the Landscape Plan that need to be adjusted because of the slight changes in the site improvement locations. Specifically, the architecture does create kind of two sections to the building and Staff does suggest that the applicant look at the material choices. If there is a way to better link the two sections of the building by perhaps utilizing some of the same materials in a watertable format on south elevation. They do have some concern about the north wall elevation in that it does give a very blank appearance if you take away the signage that is on that side of the building. The signage, in looking at what's presented in this package, they aren't sure that it will comply with the Sign Regulations for the City but that will be subject to a separate Sign Permit application.

Mr. Kuklish stated that they are working on the Site Plan to work towards those comments, specifically the sidewalk addition from the shared use path up front. On the architecture, the sloped roof has been incorporated from the last Planning Commission meeting. They are still working with Panera to address Mrs. Melson-Williams' comments about some of the materials so that's still a work in progress. On the site element, connecting the front of the Panera itself to the main shopping center that still needs to be designed and submitted to the City for a detailed review. The changes themselves are pretty minor in nature. The building square footage doesn't change. The number of seats is pretty consistent with what was before which is driving the parking calculation. The layout itself is consistent with what was submitted and approved before. They understand that they still have a process to go through.

Mr. Holden stated the architecture and the aesthetics of the building are different now. Are there comments from you or the owner on Staff's comments or a direction to consider bringing a brick veneer watertable around from the northern portion of the building or tying them in? It appears that it's a brick building with an addition built onto it. He would mirror Staff's comments to bring the

materials or the aesthetics of that to be tied together better. Responding to Mr. Holden, Mr. Kuklish stated that it's understood and they are working towards accommodating that.
Mr. Tolbert questioned if they would be able to work with Staff regarding their concerns about the application? Responding to Mr. Tolbert, Mr. Kuklish stated yes.

Mr. Holden moved to approve the revisions to S-16-23 Panera Bread Restaurant at 545 North DuPont Highway and inclusive of Staff comments contingent upon the engineer and developer working with Staff to address the Staff raised concerns over the architecture and exterior finish of the building, seconded by Mr. Holt and the motion was carried 6-0 by roll call vote with Mr. Roach and Mrs. Welsh absent. Mr. Holden voting yes; for reasons previously stated. Mr. Holt voting yes; provided that the applicant follows through with all of the Staff recommendations. Mr. Baldwin voting yes; for the reasons previously stated. Dr. Jones voting yes; she is happy to see Panera Bread come to Dover and also for the aforementioned statements. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for all of the reasons previously stated and the applicant has stated that they are willing to work cooperatively with Staff.

NEW DEVELOPMENT APPLICATIONS

1) Z-17-01 Lands of Meeks at 301 North Bradford Street – Public Hearing and Review for Recommendation of a rezoning of a 11,362.5 S.F. parcel located at the northeast corner of North Bradford Street and Mary Street. The property is zoned RG-1 (General Residence Zone) and the proposed zoning is C-1 (Neighborhood Commercial Zone). The owners of record are Harry O. Meeks Jr. and Bonnie G. Meeks. Property Address: 301 North Bradford Street. Tax Parcel: ED05-068.17-02-34.00-000. Council District 3. Ordinance #2016-29. *This zoning map amendment completed First Reading on December 12, 2016. Public Hearing before the Planning Commission is scheduled for January 17, 2017 and Final Reading/Public Hearing is scheduled before City Council for February 13, 2017.*

Representatives: Mr. Harry Meeks Jr. and Mrs. Bonnie Meeks, Owners

Mrs. Townshend stated that this is a property that is currently zoned RG-1 (General Residence Zone). The *Comprehensive Plan* designates it as Medium Density Residential. It's the location of The Grocery Basket which is a corner market that has been at the location of the northeast corner of North Bradford Street and Mary Street for over 30 years. As you know from several previous applications that Staff has brought forward, they are in the process of cleaning up non-conforming uses in residential zones. That is what precipitated this application. For the C-1 (Neighborhood Commercial Zone) when looking at the Land Use Compatibility Table that's in the *Comprehensive Plan*, the C-1 (Neighborhood Commercial Zone) is consistent with the Medium Density Residential Zone. So that would be an appropriate zone for this location to allow the corner store to continue to thrive and then also to be in compliance with the *Zoning Ordinance*. Based on that information and the fact that this is an existing business, Staff would recommend in favor of the rezoning.

Mr. Meeks stated that he and his wife have been the owner and operators of this business for 31 years. They employ twelve (12) people. The economic impact that they provide to the City is over $1 million a year; sales are about $800,000 and then the salaries are about $200,000, In their opinion, they have been a beacon of light to their community. They have helped to solve two major crimes in Dover; one of which where they had seventy-five (75) windows broken out of businesses and/or car

windows. His wife was instrumental in solving that crime; she is a great detective. The second crime was a double homicide on Governors Avenue. They knew the perpetrators; they came into their business earlier that morning of the crime and they tried to sell some of the merchandise that they had stolen from that property. They hid the merchandise in the grate across the street from their business. They reported that fact and that gentleman is in jail at this time.

They are proactive in their community. He is the director of the community association. They have helped to make their community a better place to not only live but to do business. They protect their community and their friends as if they were their own. As far as donations to their community, they regularly donate over $3,000 a year to Dover High School and Wesley College. His son is now the general manager and he thinks that he will do a great job.

Mr. Holt stated that he thinks if the Grocery Basket closed then Wesley College would have to close. Responding to Mr. Holt, Mr. Meeks stated that Mr. Carper would not be very happy with him.

Mr. Holt further stated that he feels that The Grocery Basket is a big asset to Dover. Responding to Mr. Holt, Mr. Meeks stated that he and his wife have worked very hard. His wife has probably worked 65 hours a week for 30 years. He didn't really want to retire but for her welfare he rescinded and she is a much happier individual as a result of it.

Mr. Meeks stated that in 2015 they were awarded the State of Delaware Employers of the Year award. What they did was they took females that were on welfare with children and they gave them an opportunity for gainful employment. They mentored them and even today, one of these ladies is his night manager and she has done a wonderful job. They have another lady who has been with them for three (3) years who opens for them and she has done a wonderful job as well.

Ms. Maucher questioned if there have been any public opinions received? Responding to Ms. Maucher, Mrs. Townshend stated that they have not received any but there will be a public hearing this evening.

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

Dr. Jones stated that she hopes that they are still committed to helping to improve the lives of people who need just a boost. She was very pleased to hear that and she has been to their establishment. Mr. Meeks stated that they have gotten compliments because of their pricing. They try to make everything affordable for everybody in their community and they have had a lot of people thank them for that. They are really very good negotiators with their big firms and they try to pass on the savings to the customers.

Dr. Jones stated that she would suggest that it also has to do with the respect from your core customers.

Dr. Jones moved to recommend approval to City Council for Z-17-01 Lands of Meeks at 301 North Bradford Street to rezone from RG-1 (General Residence Zone) to C-1 (Neighborhood Commercial Zone), seconded by Mr. Holt and the motion was unanimously carried 6-0 by roll call vote with Mr. Roach and Mrs. Welsh absent. Mr. Holden voting yes; he is a long time patron of this establishment.

They run a good business and he is happy to see them continue. Mr. Holt voting yes; they have done a great job and will continue to be an asset to the community. Mr. Baldwin voting yes; he has visited the establishment and he votes yes for the reasons previously stated. Dr. Jones voting yes; for the reasons stated prior to making the motion as well as all other comments. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for all of the reasons previously stated and he has to further comment on Mr. Meeks' presentation because it was very impressive and he wishes that all employers would take his example and use it throughout Dover.

2) Z-17-02 Lands of Ingram at 11-15 North Queen Street – Public Hearing and Review for Recommendation of a rezoning of a 9,020 S.F. parcel located on the east side of North Queen Street north of West Division Street. The property is zoned RG-1 (General Residence Zone) and the proposed zoning is C-3 (Service Commercial Zone). The owner of record is E. Vernon Ingram Jr. Property addresses: 11-15 North Queen Street. Tax Parcel: ED05-076.08-05-04.00-000. Council District 4. Ordinance #2016-30. *This zoning map amendment completed First Reading on December 12, 2016. Public Hearing before the Planning Commission is scheduled for January 17, 2017 and Final Reading/Public Hearing is scheduled before City Council for February 13, 2017.*

Representatives: Mr. Vernon Ingram Jr. and Mrs. Alice Ingram, Owners

Mrs. Townshend stated that this is a similar circumstance just a few blocks away on North Queen Street just north of Division Street. The property is currently zoned RG-1 (General Residence Zone). It's located at 11-15 North Queen Street. It is Mixed Use in the *Comprehensive Plan*. It is a location for automobile service associated with the automobile shop on the corner of Queen Street and Division Street. The portion of the property that fronts Division Street is zoned commercial and then just north of that is an alley and the remainder of Mr. Ingram's property is zoned RG-1 (General Residence Zone) but is used in conjunction with that business. Again, this is part of Staff's attempt to clean up the non-conforming uses in the City as a whole within the residential zones. In this case, the requested zoning and the recommended zoning is C-3 (Service Commercial Zone). They have stated that if it were a vacant piece of land that may not be the most appropriate zone; however, the idea is that it is actively used in a classification that is allowable under C-3 (Service Commercial Zone) and is not allowable under the other commercial zones. If at some point, the use was to cease they could look at rezoning it during a Comprehensive Rezoning process. But at this point, they are trying to bring these uses into a classification that is consistent with the use of the land. So the C-3 (Service Commercial Zone) would allow the use and the *Comprehensive Plan* shows this area as Mixed Use which would allow for the C-3 (Service Commercial Zone). There is a business at this location that has been there for seventy (70) years. For both of tonight's applications, there are applicants in businesses that have been pillars in the community for many years. Staff really just wants to clean up the zoning.

Dr. Jones questioned if the business was only automobile repair now? Responding to Dr. Jones, Mr. Ingram stated no, it's both repair and sales.

Mrs. Townshend stated that the sale is on the front portion of the property.

Mr. Holt stated that he has known the Ingram's for almost his whole life and has bought a lot of vehicles from him. His business is a real asset to the community.

Mr. Ingram stated that he would like to give the Commission a little history of Delaware Auto. His father was licensed to sell and repair automobiles in 1932 and his family has continued through to this day. He has poured out his heart and soul into this business and this property. They employee ten (10) full time people that completely depend on their employment with them. As you can imagine, this would be a terrible hardship for everyone. This parcel of property is most unique and is so viable for the business. They need it for the purpose that it's used for and that's three shops. Over the past 70 years of running their business on Division Street, they have made it a high priority to keep a clean and neat friendly atmosphere and have had a great rapport with all of their neighbors. They hope that the Commission will make a good and fair decision concerning the importance of this matter. For years, he has put out an air pump for children during the summer and has been patching tires for all of the young people in the neighborhood. They have worked to keep it so that anybody and everybody could be happy there. His employees, one of them has been there for 44 years and two others have been there for 20 years. He thinks that with any business that you try to sell; you only have one thing to sell and that's yourself. He has worked for the City long and hard. He would really hope that you would grant us this variance and he will try to always do what he has been doing for years.

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

Mr. Holden moved to recommend approval to City Council for Z-17-02 Lands of Ingram at 11-15 North Queen Street to rezone to property from RG-1 (General Residence Zone) to C-3 (Service Commercial Zone). He would add that in his estimation during his years here it has been a very well run business and it's an asset to the community; it's what we need in this area of Downtown Dover, seconded by Mr. Baldwin and the motion was carried 6-0 by roll call vote with Mr. Roach and Mrs. Welsh absent. Mr. Holden voting yes; for the reasons previously stated. Mr. Holt voting yes; he feels like it's real asset to the community and it's a proper thing to do at this time. Mr. Baldwin voting yes; it's a good business and this will bring it into compliance with the Comprehensive Plan. Dr. Jones voting yes; she thinks that it is commendable and the integrity that the Ingram's demonstrate in the running of the business. She has had contact with the business in recent months and the integrity and respect is certainly an asset to the community and she did not know about the air pumps. She thinks that they are serving in an area where we need to serve. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for the reasons previously stated. They have a relatively small business which is an example of how important small businesses are not only to Dover but to this entire country. Most of the employees of small businesses are honest and are people of integrity and principal and are an asset to the community.

3) <u>C-16-04 REVISED 90 Saulsbury Road Clubhouse and Pool, Associated with The Grande: Planned Neighborhood Design – Senior Citizen Housing Option</u> – Public Hearing and Review of a REVISED Conditional Use Site Plan application to permit the construction of a 2,620 S.F. +/- clubhouse building, pool, pickle ball court, parking and access walkway connecting to The Grande apartment complex. Revisions are proposed to the overall layout of the site and the site access. The clubhouse property consists of 1.48 acres and is located on the west side Saulsbury Road near Carver Road. The property is zoned C-2A (Limited Central Commercial Zone) subject to the COZ-1 (Corridor Overlay Zone), and will become part of The Grande PND-SCHO. The owner of record is 90 Saulsbury Associates, LLC. Property Address: 90 Saulsbury

Road. Tax Parcel: ED-05-076.07-01-28.00-000. Council District 1. *Waiver Request: Partial Elimination of Upright Curbing. Application C-16-04 was granted conditional approval by the Planning Commission on August 15, 2016.*

Representatives: Mr. Mark Prata, Developer's representative; Ms. Monika Sloan, Northpoint Engineering

Mr. Diaz stated that this project is to construct a 2,620 SF clubhouse, pool and a pickle ball court for the benefit of The Grande Apartments. Like the Panera Beard project from earlier tonight, this one is also coming back again before the Planning Commission for a second time. This one was originally heard in August 2016. Unlike that project, the degree of the changes made to the Site Plan is much greater in this case so that triggered a full re-review of the project and will require a new conditional approval.

The site is on Saulsbury Road just to the east of The Grande Apartment complex and it is zoned C-2A (Limited Central Commercial Zone). It's also coming forward to the Planning Commission as a Planned Neighborhood Design Senior Citizen Housing Option. However, despite this project's association of The Grande it is not intended to contribute to the active recreation requirements of that project. The biggest change between the plan that's here today and the one that came before the Commission in August is the location of the site access. Access was previously from Saulsbury Road but now it's from a network of access drives that connects The Grande and a few other properties to both Saulsbury Road and Forrest Avenue. Those other properties include the Walgreen's on the corner and the TD Bank. Taking this cross access is in line with recommendations that Staff made back in August and it also became a DelDOT requirement. The applicants have given us information indicating that they are working towards getting access to the easement that the properties use in common for those access drives. The relocation of the drive causes a few other changes in the layout of the site. The site will no longer be configured so that golf carts can use the sidewalks to get around because they can now just use the access drive without having to go out onto Saulsbury Road.

The architecture of the Clubhouse has also changes somewhat. The entrance used to be more towards the right side of the façade but now it's a bit more centered and we also have a floor plan for the building for the first time showing the great room, the exercise room and a few other rooms such as a pool equipment room and some restrooms.

Going back to the Site Plan, one other main change is that the parking lot has moved along with the access drive. It is going from the north side of the pool to the south side of the pool and accordingly, the stormwater from it is going to be handled differently. He believes that in the old version of the Site Plan the run-off from the parking lot was going to use the storm drains on Saulsbury Road but now it should be going to the main stormwater management area on the site. A curbing waiver was previously approved for the north side of the parking lot to assist stormwater management. Now that the parking lot has moved, action on that waiver will have to be reconsidered. The applicant is currently asking to waive all of the curbing on the drive aisle and parking lot except at the entrance where it connects to the existing drives. Staff recommendation is partial approval of the waiver because they don't yet have a Grading Plan for the site. They can't yet determine where would be the best places to eliminate curbing to help with stormwater. What they would ask is that the Planning Commission allow Staff to work with the applicant to determine how much curbing and

where curbing should be removed. They would handle that administratively before Final Plan approval.

Ms. Sloan stated that they came here in August and got conditional approval of the plan. They were all set to go and the met with DelDOT. They had two entrances to the site; there was actually a loop road in the front on Saulsbury Road. They were willing to give up one and then DelDOT said that they couldn't have any. The building is the same, the pool is the same, they still have the long face facing Saulsbury Road but in order to get access to the site they had to come off of the easement. Some of the things that they are doing are already in the process and she has sent things to Mr. Diaz on this. They have a first amendment to the reciprocal easement and the restrictive covenants which is for all of the easements that tie the properties together. The other thing that they have in the works is a Declaration of Restrictions which the Planning Commission recommended in order to be sure that the property was only used by the residents and their guests of The Grande since it will be associated with The Grande. Once the fourth building of The Grande is completed they will do a Record Plan and tie these two parcels together. They have had conversations with the Department and they can't do that now because it would hold up the Certificate of Occupancy's of The Grande. You are never sure how long it's going to take to get all of the approvals and then do the construction. They didn't want to hold off CO's for the apartment and will tie it to this until afterwards. They are definitely going to curb at the entrance because they have grade elevations and the way it looks right now, they are in the process of contracting a soils person to go out and do testing for infiltration for the bi-retention area. The site slopes now from left to right and top to bottom so they know they will end up with curbing along the left side of that access aisle there because there is going to be a drop down to where a swale goes and then they have a trench drain going under the drive. At this point, they are still working out the details on that but they are willing to work with the Department to do as much as they can.

Mr. Tolbert questioned if they would be able to work cooperatively with the Staff regarding their application? Responding to Mr. Tolbert, Ms. Sloan stated absolutely.

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

Mr. Holt stated that he had one question regarding the maintenance and upkeep of the pool. Is that going to be with the homeowner's association? Responding to Mr. Holt, Ms. Sloan stated no, it was going to be the responsibility of the owners of The Grande. The owners of the apartments will also take care of all of the maintenance for everything on-site. These two properties are going to become one property down the road.

Ms. Maucher moved to approve C-16-04 REVISED 90 Saulsbury Road Clubhouse and Pool, Associated with The Grande: Planned Neighborhood Design – Senior Citizen Housing Option to include the partial elimination of upright curbing subject to the stormwater management needs of the site, seconded by Dr. Jones and the motion was carried 6-0 by roll call vote with Mr. Roach and Mrs. Welsh absent. Mr. Holden voting yes; due to Staff comments and a well-designed Site Plan. Mr. Holt voting yes; it's in line with all of Staff comments and with the plan itself. It looks like it's a win situation for senior citizens of Dover. Mr. Baldwin voting yes; for all of the reasons previously stated. Dr. Jones voting yes; in view of Staff's comments and in view of the fact that the owners are willing to work cooperatively with Staff to iron out any details that need to be worked out. Ms.

Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; for all of the reasons previously stated and he is always appreciative with applicants are willing to be cooperatively with Staff.

4) S-17-01 Cellco Partnership d/b/a Verizon Wireless: Telecommunication Monopole at 277-293 North DuPont Highway - Review of a Site Development Plan application to permit installation of a 108 foot telecommunications monopole with associated 2,500 SF fenced compound area and consisting of a 38,424 SF project area (Site Name: DOV-Central Dover). The subject site is located on a 10.733-acre parcel developed as a shopping center known as The Centre at Dover. The subject site is located east of North DuPont Highway and northeast of Centre Drive (private drive). The property is zoned SC-2 (Community Shopping Center Zone). The owner of record is MDR Dover, LP. Property Address: 277-293 North DuPont Highway. Tax Parcel: ED-05-068.14-01-03.01-0001. Council District 3. *Waiver Request: Elimination of Opaque Barrier (Fence Component). This application is associated with Application V-16-14, a height variance approved by the Board of Adjustment on October 19, 2016.*

Representatives: Mr. Jonathan Jordan, Riley, Riper, Hollin & Colagreco; Mr. Jeff Nagorny, Advantage Engineers

Mr. Cook stated that this is a Site Development Plan to permit construction of a 108 FT telecommunications monopole and associated fence equipment compound. The project is located on a portion of a parcel of land; the total parcel consisting of 10.73 acres and is zoned SC-2 (Community Shopping Center Zone). The site is outlined in the packet in the submitted Site Plan.

Mr. Cook showed a display of the site. The site is located near Kohl's and The Centre at Dover shopping center. The proposed site for the tower is in the grassy area which is in the corner of the property adjacent to existing asphalt parking and also adjacent to a stormwater management facility. The parcel is very odd shaped; it extends out to DuPont Highway. It's an odd shaped parcel that goes around the Kohl's parcel which is separate.

The fence compound area is approximately 2,500 square feet and there's an adjacent vehicle access or turnaround area connecting to that asphalt parking area which is approximately 500 square feet. There's a canopy structure to house equipment and this is not for human occupancy so a lot of the typical site considerations that we go through such as parking and curbing are not applicable in this case.

The Board of Adjustment granted a variance at its meeting of October 19, 2016 to permit the construction of the 108 FT monopole. The reason being that the maximum height in the SC-2 (Community Shopping Center Zone) zoning district is 75 feet so a variance was required to construct the tower. This is a common situation with the essence of telecommunications towers.

They have referred mainly to three different Site Plan sheets that showed the Site Plan, the location of the compound and some details of the compound. The Center Drive which is the internal street network throughout is curbed. There is also an internal sidewalk network that goes throughout the shopping center and also connects it to the DuPont Highway and White Oak Road frontages. In this case, there is no requirement for additional sidewalk or curbing. Parking doesn't really apply either as this is not a structure which is for human habitation or occupancy. There is one parking space which is proposed to be adjacent to the gate of the compound and this would be for maintenance

staff to utilize when they are servicing the site.

Bicycle parking and ADA parking is not required because parking is technically not required. Same with dumpsters and trash; there is no requirement for trash collection for utility uses of this type. Staff did make some comments about fencing. The compound is proposed to have an enclosed eight-foot-tall chain link fence topped with barbed wire. There is a provision in the *Zoning Ordinance* about barbed wire when it is adjacent to residential zones but in this case because this fence is actually between 75 feet and 135 feet from the property lines which are adjacent to the residential zones, Staff's determination was that barbed wire is permitted because it's not on the property line itself; it's well inside of the property.

There is a requirement for a Landscaping Plan as with a typical Site Plan. The number of trees required is eight and per the tree list, evergreen typed plants are permissible. This plan has thirteen trees proposed and these are evergreens planted outside of the fence perimeter of the compound. On the portions that are facing the residentially zoned areas there is an opaque barrier as part of the barrier and landscape buffer requirement. Typically, an opaque barrier would be a wooden fence which is specified in the *Zoning Ordinance*. In this case, the applicant has submitted a waiver request for the elimination of the opaque barrier requirement. In this case, the request is to permit the use of the chain link fence and in conjunction with the landscaping element of the barrier requirement. For the landscaping in this case, Staff believes that the additional trees as part of that perimeter buffer satisfy the requirement for the landscape buffer requirement when it's adjacent to residential property. Also, in the area adjacent to Towne Pointe Apartments and the area adjacent to the residential zone along Frear Drive there is existing vegetation. With that existing vegetation in conjunction with the tree plantings required around the fence compound, they thought that the buffer requirement was met in this case.

In regards to the motion, in addition to recommending approval or denial of the request the Commission would also take action on the waiver request. Staff does recommend approval of the waiver request to eliminate the opaque barrier requirement for the reasons that they've cited about the compound is inside of the boundaries, there's existing vegetation there and noise is not a concern for this particular use.

There were some comments from some of the other agencies that review. Typically, the Fire Marshal's Office will make the most comments about this type of use in regards to their access to the site, access through the gate as well as the width of the drive aisle. Those comments are provided in the DAC comments.

Dr. Jones questioned if this is one of the situations where there is notification? Responding to Dr. Jones, Mrs. Townshend stated yes, there would be a mailed notice to property owners within 200 FT of the property.

Mr. Cook stated that there was also public notice when the variance application went through the Board of Adjustment. In this particular case, the property owners within 200 FT range would have gotten public notice for both the Board of Adjustment hearing as well as the Planning Commission hearing tonight.

Dr. Jones questioned if there is a public notice mailed and if there is a sign posted on the property?

Responding to Dr. Jones, Mr. Cook stated yes and there is also newspaper ads.
Dr. Jones stated that the barbed wire fence that is going to surround the tower, is it normal procedure to have a posting on that fence or area that states danger? Responding to Dr. Jones, Mr. Nagorny stated that typically there is always signage on a telecommunication installation. There are mandated FCC signs that are required. In this case, it would basically identify the carrier that would be mounted on the facility as well as a FCC license number and a 1-800 phone number to call. In this case, there is not a physical hazard to anyone being on the ground or in the area because the antennas that omit the signal are up in the air but there would be some kind of warning sign.

Dr. Jones stated that she was talking about the barbed wire fence. Responding to Dr. Jones, Mr. Nagorny questioned if she meant a warning about the barbed wire being there?

Dr. Jones stated yes. Responding to Dr. Jones, Mr. Nagorny stated that it's not anything that he has ever come across or had to post signage about. Technically, he thinks that they work for most of the major carriers. There is some flexibility because some Ordinances don't permit it and Boards are not amiable to grant the variance. Anybody with a pair of wire cutters or something like that could probably just cut through the chain link fence if they wanted to. It's mainly to discourage vandals from getting inside.

Dr. Jones was thinking more of kids who might be in the area. It is really close to residential area. Responding to Dr. Jones, Mrs. Townshend stated that the property is adjacent to residential but this tower is over 100 FT from the residential property lines.

Dr. Jones questioned if they have had any input from those persons who were contacted? Responding to Dr. Jones, Mr. Cook stated that with regards to the Planning Commission hearing they have not. At the Board of Adjustment hearing they did have Ms. Rhonda Oden attend the meeting. She is also here tonight and if she wishes to speak later she can. They did not receive any comments either verbally or written in regards to tonight's hearing.

Mr. Holt stated that some places go through the trouble to actually disguise the towers so they look like a tree so they're not so noticeable. Have they thought to do something in that nature in this case? Responding to Mr. Holt, Mr. Nagorny stated that they have occasionally. They don't actually design the tower itself the manufacturer does. But yes, they have occasionally had applications where a mono-pine or a tree pole was either requested by the authority having jurisdiction or maybe it was something that was required in that zoning district. It's kind of unique as you watch the design evolve. When they first came out nobody in their right mind would think that it's a real tree. They are getting better. For example, if you drive on the northeast extension of the Pennsylvania Turnpike there is a silo in the middle of the woods. Anyone who knows anything about farming knows that they don't put a silo in the middle of the woods. But it's a stealth tower. There are sometimes limitations on those structures. One of the things with this particular application is that they originally had a total height of 128 FT. Verizon calculated the numbers and realized that they could actually meet the need with 108 FT height instead of 128 FT so they ended up reducing the height on the tower overall.

Mr. Jordan stated that one of the drawbacks of the camouflaged towers is that it's harder to locate multiple carriers. What they like to do is have a tower that you could put 4 or 5 sets of antennas on it and that lessens the demand for more towers. A lot of the stealth ones like the tower that looks like the silo; you usually can't put as many antennas in there. He had a hearing last week in New Castle County. There is a tower near the Christiana Mall that is a mono-pine that looks like a tree but it doesn't look like a tree as all; it looks

ridiculous. Personally, he feels like people are getting more and more used to the sight of a cell tower and if you try to camouflage it they look more noticeable. He thinks people are getting used to seeing these but that is just his opinion.

Mr. Jordan stated that they had a long hearing in front of the Zoning Board of Adjustment regarding why the tower is necessary. They had a radio frequency engineer at the hearing and he submitted a report because in order to get the zoning approval they had to justify the need for the tower. As part of the report, they talked about the coverage areas and the coverage gaps and how this tower fills a coverage gap. They talked about the other sites that they looked at. There were some hotel properties across the street but they weren't made available to them. At the Board of Adjustment hearing, they talked about why this particular tower needs to be on this particular spot at this particular height. As Mr. Nagorny mentioned, after they filed the application they did do their deeper dive into the radio frequency data and realized that they could drop the height by 25 FT which they did. If there are any more questions, Mr. Nagorny would be better to address them regarding the need for the tower.

Mr. Tolbert stated that he wants them to utilize their time to address the overview. Are you satisfied with it? Do you have any questions? Responding to Mr. Tolbert, Mr. Jordan stated no, they had an in depth report. They met with the Development Advisory Committee and there were some comments. This is the second time that they have gone through this process as Verizon Wireless so it was a little smoother in terms of interfacing with the different agencies. They think it's been really well run the way everything works around here. Staff is incredibly helpful and fair and the people from the agencies gave them good feedback. He thinks that right now they seem to be on the right track.

Mr. Nagorny stated that he wanted to touch on a couple of items that they discussed with the Development Advisory Committee a couple of weeks ago. One of the things that the Fire Marshal requested is that their gate which is normally a 12 FT wide double swing gate be 14 FT wide. They have revised the drawings for that. He also noted that the Fire Department would like either a Knox box or a Knox padlock which is basically a way to lock the gate so that the Fire Department can have access to open it. That has also been modified on the drawings to note that a Knox padlock is required. There was a comment from DelDOT from Jonathan Moore who did the review that they reach out to Josh Thomas who is with DelDOT's Aeronautical Division. He spoke with Mr. Thomas today and basically Mr. Thomas said that they are fine. They do have a clearance letter from the Dover Air Force Base for this particular location and tower stating that they do not conflict with the air space approach zones. Also, Kent Conservation District was at the DAC meeting and after making a submission to Kent Conservation District, he received a Standard Plan Approval letter. He would echo what Mr. Jordan said; it's a pleasure working with Staff who help walk you through the process to make sure that you cross your T's and dot your I's so that when they come in front of the Commission they actually look like they know what they are doing.

Mr. Tolbert opened a public hearing.

Ms. Ronda Oden – 372 Frear Drive Dover DE 19901

Ms. Oden stated that she is one of the residents located within 200 FT. Her residence is located on Frear Drive. Their backyard faces the drainage ditch and the back of AC Moore. She wants to thank the Planning Commission. She agrees that the Commission has done a lot of very hard work in terms of this proposal. She appreciates the fact that they have let her community know about this proposed cell phone tower. She wants to make a quote from an AT&T attorney who was involved in a litigation of a cell phone tower in a different area. One of the things that he said was that people want cell phones; people need cell phones but they don't want the towers. In her family's case and neighborhood's case, it's not that they don't want the cell phone tower because they do understand the need for enhanced communication. Their issue is integrity. Welcome to her Verizon nightmare. She is not going to go into detail about her Verizon nightmare just to say that her family and members of her community had dealings with Verizon corporate staff from May to October 2016.

Unfortunately, their dealings with the corporate staff demonstrated a lack of integrity, a lack of honesty and the practice of acceptable risk. Which basically means that you the consumer, the client, the patient, the customer are going to be placed at risk and the corporation is going to do whatever they want to do until they are forced either by the judicial entities or the legislative entities to resolve the problem. Her issue is not that they don't want a cell phone tower; it's when it comes to development and construction of a cell phone tower or a building people run into issues with construction and safety. Whether you think cell phone towers emit radiation or not, there are safety issues. Again, her family's dealings with Verizon corporate their unwillingness to be cooperative and to deal with their minor issues have lead them to believe that if they couldn't deal with the minor issues related to her family which put her family's health and safety at risk, what is going to happen when there is a construction issue or safety issue that's going to cost thousands of dollars? Are they going to sweep it under the rug or wait until they get sued? They don't live here; they don't have to worry about their children going to Towne Point Elementary, and they don't have to worry about what else is going to happen to the community or the neighbors. Her concern is the lack of integrity from Verizon. She talked with corporate staff who said that they report directly to the CEO. Her issue of the safety issue and the lack of cooperation that they have seen from corporate staff. She just really urges this body to make sure that there is a major amount of oversight on this project. She knows that the Planning Commission has worked so diligently on every phase and she really urges that there be oversight. If the neighbors have to sit at the construction site or whatever they have to do ensure that this process goes the way it should go and according to the FCC and everyone else's regulations that these things are followed the way they should be then that's what she would like to urge to protect the health and safety and welfare of their neighborhood. She is not this crazy women who is mad a Verizon. A cell phone tower is going to affect everybody in the area. It's not like they can just turn it off when they don't want to deal with it. Radio waves are emitted 24/7. The FTC says that there is a certain amount of radiation that is safe and that's fine as long as all of the safety measures are put in place. She would like to thank this body for giving her the opportunity to speak on behalf of her neighbors and she would like to urge that whatever needs to be done to make sure that this is a safe process for the community that it be done. If the neighbors of the community need to help, she volunteers her services. She has talked to several neighbors and they are all willing to do whatever they need to do to make sure that this process goes as safely as possible. So far, she has dealt with Verizon corporate staff from May to October and they had issues. It lead them to believe that corporate staff was practicing the theory of acceptable risk. Since that's how they demonstrated that the way they felt about the community, she really feels that the community needs to be involved as much as possible in making sure that this process goes according to the Planning Commission's plan.

Mr. Tolbert closed the public hearing.

Dr. Jones stated that in a situation like this, she knows that when there's a construction project going on for a building typically there's a construction manager who works and provides some degree of oversight with various aspects of the project. In this kind of situation, who provides the oversight? Responding to Dr. Jones, Mr. Nagorny stated that assuming that they are successful this evening, there would have to be a Building Permit application submitted to the City with construction drawings for the tower and equipment which would be reviewed by the City initially. Verizon employees do not build these sites; they hire contractors but they do have construction managers who typically have a service area that they cover. They visit the sites that are under construction to make sure that the contractors have what they need, they understand what they are during and also occasionally meet with inspectors from the jurisdictions. Obviously, these installations are very important. They are mandated when they purchase those FCC licenses there is a big legal document that goes with that. Once they purchase the license they are required then to continue to improve the service. As you all may remember when we first started with the whole cell phone thing, "Can you hear me now?" was funny because you would go through wide spots where you would have spotty service. Nowadays, it's much better but not perfect and everybody has a smart phone that's a much more powerful computer than a laptop but they have a big data demand for all of the downloads. That's why it's continually involving. His company, Advantage Engineers works directly for Verizon. They not only prepare the drawings that were

shown this evening they actually have a construction division with construction managers who work for Verizon that actually go around and visit the sites. This is a relatively small site with probably a fairly quick turnaround on construction. Some sites are more complex and may take longer but either way they have to make sure that the jobs are being done right and responding to any issues that may arise with the municipality that's involved.

Dr. Jones stated that was pretty much the system and the process with which she is familiar. Responding to Dr. Jones, Mr. Nagorny would point out that with Verizon, they have a reputation and really the contractors as well as the engineering firms would prefer to do business with Verizon because they are a big part of their business and they want to make sure that they get the job done right.

Mr. Holt moved to approve S-17-01 Cellco Partnership d/b/a Verizon Wireless: Telecommunication Monopole at 277-293 North DuPont Highway to include the elimination of the opaque barrier, seconded by Dr. Jones and the motion was unanimously carried 6-0 by roll call vote with Mr. Roach and Mrs. Welsh absent. Mr. Holden voting yes; due to Staff comments. Mr. Holt voting yes; it looks like a very good plan and he thinks it's going to be a real asset to communications in this area. Mr. Baldwin voting yes; for the comments of Staff. Dr. Jones voting yes; she is reassured and confident that Staff has adequately imbedded this application. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; hopefully this tower will create a more appropriate and better use of our cell phones.

Mrs. Townshend stated that this evening will be Mr. Cook's last Planning Commission meeting with us. He will be moving on starting next Monday to the City of Alexandria, Virginia to be part of their development review team. He has definitely been an asset and we wish him well.

NEW BUSINESS

Meeting adjourned at 8:32 PM.

Sincerely,

Kristen Mullaney
Secretary