CITY OF DOVER PLANNING COMMISSION
April 18, 2016

The Regular Meeting of the City of Dover Planning Commission was held on Monday, April 18, 2016 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Cregar, Mr. Holt, Mr. Baldwin and Mr. Tolbert. Colonel Welsh, Dr. Jones, and Ms. Still were absent.

Staff members present were Mrs. Ann Marie Townshend, Mrs. Dawn Melson-Williams, Mr. Jason Lyon, Mr. Bill Cook, and Mr. Eddie Diaz. Also present was Mr. Troy Adams, Mr. Gregory Moore, Ms. Carol Ohm, and Mr. Jonathan Street. Speaking from the public was Ms. Jennifer Cappola and Ms. Debra Handel.

APPROVAL OF AGENDA

Mr. Cregar moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 5-0 with Colonel Welsh, Dr. Jones and Ms. Still absent.

APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MINUTES OF FEBRUARY 17, 2016

Mr. Holt moved to approve the Planning Commission Quarterly Workshop minutes of February 17, 2016 as submitted, seconded by Mr. Baldwin and the motion was unanimously carried 5-0 with Colonel Welsh, Dr. Jones and Ms. Still absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF MARCH 21, 2016

Mr. Baldwin moved to approve the Planning Commission Meeting minutes of March 21, 2016, seconded by Mr. Holt and the motion was unanimously carried 5-0 with Colonel Welsh, Dr. Jones and Ms. Still absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, May 16, 2016 at 7:00pm in the City Council Chambers.

Mrs. Townshend stated that the next Planning Commission Quarterly Workshop is scheduled for Wednesday, May 18, 2016 at 12:00 noon in the City Hall Conference Room.

Mrs. Townshend provided an update on the regular City Council and various Committee meetings held on March 28 & 29, 2016 and April 11 & 12, 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:
   A. C-14-02 YMCA of Delaware Kent Swim Club at 825 Kenton Road – Request for one year extension of the Planning Commission approval granted April 21, 2014 to the Conditional

Use Site Plan Review to permit the construction of a new 1,600 S.F. pavilion, conversion of the property to public sewer service, and associated site improvements on an 18.3 acre parcel. The property is zoned R-10 (One-Family Residence Zone). The property is located on the east side of Kenton Road and south of Walker Road. The owner of record is YMCA of Delaware. Property Address: 825 Kenton Road. Tax Parcel: ED-05-067.18-02-01.00-000. Council District 1.

Representatives: None

Mr. Cook stated that this was a request for a one year extension of the Planning Commission's approval from April 21, 2014 to the Conditional Use Site Plan review to permit the construction of a 1,600 S.F. pavilion, conversion of the property to public sewer service and other improvements on the 18 acre parcel. The property is zoned R-10 (One-Family Residence Zone). The engineer representing the applicant is here if there are any questions. His understanding is that the issues pertain to the conversion of the property to public sewer. Commission members may recall the facility was trying to tie into a sewer connection located on the English Village Condominium property and there have been difficulties in obtaining that and at this time the applicant is trying to find other alternatives.

Mr. Holt questioned what happened with the sewer connection? Responding to Mr. Holt, Mrs. Townshend stated that English Village Condominiums did not wish to grant the easement for the sewer so they have to look at other alternatives.

Mr. Holt further questioned if that's where they were in the process now? Responding to Mr. Holt, Mrs. Townshend stated yes.

Mr. Cregar moved to approve C-14-02 YMCA of Delaware Kent Swim Club at 825 Kenton Road to grant a one year extension to allow them to continue to seek the necessary approvals to get sewer, seconded by Mr. Holt and the motion was unanimously carried 5-0 by roll call vote. Mr. Holden voting yes; it's a reasonable request for reasonable reasons. Mr. Cregar voting yes, for the previous reasons stated. Mr. Holt voting yes; it seems to be a reasonable problem and he hopes that they can work it out in enough time. Mr. Baldwin voting yes, for the previous reasons stated. Mr. Tolbert voting yes; they didn't have much choice.

NEW DEVELOPMENT APPLICATIONS

1) AX-16-02 Lands of Heartland Delaware, Inc – Public Hearing and Review for Recommendation to City Council on an Annexation Request and Rezoning Request for two parcels of land located south of Webbs Lane between South Governors Avenue and South DuPont Highway abutting existing City limits. The annexation category according to Dover's *2008 Comprehensive Plan* is Category 2: 0-10 Years Priority Annexation Areas and the land use designation is Residential Medium Density. The owner of record is Heartland Delaware, Inc. Proposed Council District 2. Ordinance #2016.12.
   A. Property located at 1411 South Governors Avenue consisting of 0.2158 acres ±. Property is currently zoned BG (General Business District) in Kent County. Proposed zoning is C-4 (Highway Commercial Zone). Located on the east side of South Governors Avenue. Address: 1411 South Governors Avenue. Tax Parcel: ED-00-086.09-01-21.00-000.

B. Property located at 1417 South Governors Avenue consisting of 0.4497 acres ±. Property is currently zoned BG (General Business District) in Kent County. Proposed zoning is C-4 (Highway Commercial Zone). Located south of Webbs Lane with frontages on South Governors Avenue and South DuPont Highway. Address: 1417 South Governors Avenue. Tax Parcel: ED-00-086.09-01-22.00-000.

Representatives: Mr. Troy Adams, Mountain Consulting, Inc

Mr. Cook stated that this annexation request and rezoning request is for two (2) parcels located south of Webbs Lane between South Governors Avenue and South DuPont Highway abutting the existing City limits. The annexation category according to the *2008 Comprehensive Plan* is Category 2: 0-10 Years Priority Annexation Areas and the land use designation is Residential Medium Density. The owner of record is Heartland Delaware, Inc. There are two (2) properties and the Zoning Map is located in the packet. They are addressed as 1411 South Governors Avenue Parcel C on the map and 1417 South Governors Avenue Parcel D on the map. Each property is currently zoned in Kent County as BG (General Business District). The proposed zoning in the City would be C-4 (Highway Commercial Zone). Property A is the property located closest to City limits with frontage only on South Governors Avenue. Also for reference, the property adjacent nearby in the City is the Wendy's. The two (2) properties are kind of in between the Wendy's and the Burger King. The second property fronts on both streets.

Mr. Adams stated that there were really no DAC comments and what Mr. Cook stated was accurate.

Mrs. Townshend stated that she wanted to re-emphasis the fact that while the *Comprehensive Plan* shows this area as Residential Medium Density in the Annexation Plan. When you look at the Land Use Plan for what's in the City, we would consider this a Minor Variation. When we submit the Plan of Services later this week to the State Planning Office, we will demonstrate that it's a Minor Variation in terms of the land use in the *Comprehensive Plan.*

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

Mr. Cregar moved to recommend approval to City Council for AX-16-02 Lands of Heartland Delaware, Inc, with the appropriate zonings as indicated in the report from Staff (zoning of C-4), seconded by Mr. Holt and the motion was unanimously carried 5-0 by roll call vote with Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Holden voting yes; it's in the Priority Annexation Area and, it's a Minor Variation. It's keeping with the trend of growth in that area in commercial and it will be nice to bring that piece into the City. Mr. Cregar voting yes, for reasons previously stated. Mr. Holt voting yes; based on the reasons previously stated. Mr. Baldwin voting yes, based on the reasons previously stated. Mr. Tolbert voting yes; it's a minor change that is desirable at this point.

2) AX-16-03 Lands of Dover International Speedway, Inc – Public Hearing and Review for Recommendation to City Council of an Annexation Request and Rezoning Request for multiple parcels of land located east of State Route 1 abutting existing City limits. The annexation category according to Dover's *2008 Comprehensive Plan* is Category 2: 0-10 Year Priority Annexation Areas and the land use designation is to be master planned at the time of annexation. The owner of record is Dover International Speedway, Inc. Proposed Council

District 3. Ordinance #2016-13. *A Master Plan of the annexation area and certain adjacent properties was submitted with the application.*

A. Three (3) unaddressed lots of a single parcel totaling 29.57 acres ±. Property is currently zoned AR (Agricultural Residential District) in Kent County. Proposed zoning is RC (Recreational and Commercial Zone). Located adjacent to State Route 1 and surrounding the intersection of Leipsic Road and Persimmon Tree Lame. Tax Parcel: LC-00-058.00-01-29.00-000.
B. Property located at 1229 Persimmon Tree Lane consisting of 228.86 acres ±. Property is currently zoned AR (Agricultural Residential District) in Kent County. Proposed zoning is RC (Recreational and Commercial Zone). Located northwest of Persimmon Tree Lane. Tax Parcel: LC-00-058.00-01-02.00-000.

Representatives: Mr. Gregory Moore, Becker Morgan Group

Mr. Holden recused himself from discussion and voting due to his employer being the engineer of record.

Mrs. Townshend stated that this is a proposal to annex 258.43 acres of land known as Lot 9, 8, 10A and 18 of the Dover International Speedway property; all of the property is east of Route 1. This is shown in the *Comprehensive Plan* in the Category 2: 0-10 Years Priority Annexation Areas and it has a note that it would be Master Planned at the time of annexation. When they did the *Comprehensive Plan,* it was before they had the Firefly Music Festival. As Firefly has taken root and grown they have been working closely with Dover International Speedway to position things so that they could move toward the annexation of the property. That way everything is in one jurisdiction for the ease of things such as permitting, enforcement and public safety. This is the Annexation application that they have been working toward with the Speedway.

The current zoning in Kent County is AR (Agricultural Residential District) and the proposed zoning classification is RC (Recreational and Commercial Zone) and again as per the *Comprehensive Plan* it was stated that it would be Master Planned at the time of annexation. There is a plan sheet that shows the Master Plan which is really just the festival layout. At this point in time, there are no permanent improvements that are planned and any improvements that would be planned would be consistent with that overall layout. She shouldn't say "no" permanent improvements; there are a number of things that they will be working on whether they will be permitted under Kent County. She thinks a couple of things will be constructed under Kent County jurisdiction prior to the full annexation but really it's storage buildings and a VIP platform that would be associated with the festival. The types of improvements reflected in the Master Plan are all of the things that would be to support the festival. At this point, they have entered into a long term agreement with Red Frog. The purpose of the annexation is to avoid a lot of that confusion as it relates to who's responsible for what as it relates to the County and the City or the State Fire Marshal versus the City Fire Marshal and those types of things. This did go to PLUS with the Master Plan that was submitted. They do not yet have PLUS comments but they were very consistent with the types of things that they saw when they did the *Comprehensive Plan* amendment. They want to make sure that the City does things like protect the woodlands and those types of areas which the City obviously has ordinances that would address those issues.

Mr. Moore stated that all what Mrs. Townshend stated was the reason that they have been planning to bring all of these properties into the City for a number of years and also planning to have all of the zones under Dover International Speedway under one consistent zoning so that there's understanding as to what they are doing there for now and the future. They don't have a large amount of plans for construction but as Mrs. Townshend alluded to Red Frog did come to them this year and say that they needed to build two (2) structures. One is a small maintenance building and the other is a lofted area which is actually a platform for people to sit on. The loft area is something that they actually build already and they remove it from the property and take it apart. They are asking to just have it permanent so that they don't have to do that for every single event. Beyond that, they think that they may build a bathroom or a shower facility or something that is a part of the Red Frog facilities today and that's why they submitted the plan as their Master Plan. They are solely gearing for the Firefly over a twenty (20) year agreement between Dover Downs and Red Frog.

Mr. Holt stated that he thinks that it's a good deal for the City. It brings everything under the City's 'roof' and he thinks it's a win-win.

Mr. Cregar stated that some of the challenges that they have had are when they have had these jurisdictional issues. He knows that they have good cooperation but this will allow for good public safety. Responding to Mr. Cregar, Mrs. Townshend stated that they have their Special Event Permit process that the City administers and Kent County has a different process. For instance, the City makes sure that the all vendors have whatever licenses that they need. The Speedway is very good at controlling those things but they don't want anything to fall through the cracks between the two jurisdictions. One of the things from when they made the changes to the RC (Recreational and Commercial Zone) is that they added hours for use of outdoor PA systems or amplification systems. If the main stage or the camping areas are in Kent County that doesn't apply but the City is still getting the complaints. One of the things that they have heard from the Public Safety Staff at the Speedway is that the City has standards for how campers are parked. There have been times where people will say "well how come they don't have to do it?" as they are pointing across the road at some of the adjacent camp grounds that the State Fire Marshal regulates. A few years ago there was an issue where someone was burned and Staff had to look at the map to determine if the City Fire Marshal should respond or if it was the State Fire Marshal. It is really about a more seamless approach to the public safety. While there are Municipal Aid Agreements in place and there is some degree of jurisdiction. It makes it less confusing and overall safer.

Mr. Cregar stated that they have this Master Plan which is basically kind of a layout. If there is some building, depending on the size would it be done through administrative review? Responding to Mr. Cregar, Mrs. Townshend stated that if it meets the threshold for Planning Commission review then it would come to the Planning Commission.

Mr. Tolbert opened a public hearing.

Ms. Jennifer Cappola – 102 Gordon Place Dover DE 19904

Ms. Cappola stated that from what she understands the City is going to be rezoning them from Agriculture to City. She isn't sure if that's just a rumor but she wants to know how this is going to affect her actual community. She lives in Persimmon Park Place so she is close to the RV's. How is this going to affect her community and where she lives? Is the City going to be raising her taxes?

Are they going to be digging up her community? Why did she get this notice and how does this change affect her? Responding to Ms. Cappola, Mrs. Townshend stated that the *Zoning Ordinance* requires that the applicant send notice to all property owners within two hundred (200) feet of the property that is subject to rezoning. This wouldn't directly affect your property; it doesn't rezone your property or change anything specific to your property. This brings property that is currently outside of the City under the City's jurisdiction and it applies the zoning classification of RC (Recreational and Commercial Zone) which is where they have the standards that they would apply to the music festival. From a practical standpoint, you shouldn't see anything different than what you are seeing now with the festivals. It adds a little more structure because of the zoning classification.

Ms. Cappola questioned if this will make her taxes go up? Responding to Ms. Cappola, Mrs. Townshend stated that this would not affect her taxes.

Ms. Debra Handel – 1160 Persimmon Tree Lane Dover DE 19904

Ms. Handel stated that she lives across from the driveway to 1299 Persimmon Tree Lane. It's the big green area with the little green strip that the City is calling a driveway. It is actually more like a three lane paved road and on some Internet sites it's referred to as Moor's Farm Lane because it has become such a road. Most of her issues concern the noise and the traffic from that area. When you mentioned the PLUS review, you didn't mention the line in there that "our suggestion is rather than rezoning the City should accommodate the festival uses as Conditional Use protecting both Dover Downs and the residents in the area from unforeseen changes." Her problem is that once this property is rezoned, they (City) doesn't have plans to do anything in the foreseeable future. Responding to Ms. Handel, Mrs. Townshend stated that they have not received a PLUS letter from the State as of yet.

Ms. Handel stated that the letter was addressed to Mrs. Townshend on February 23, 2016. Responding to Ms. Handel, Mrs. Townshend stated that's regarding the *Comprehensive Plan* amendments.

Ms. Handel stated that she just knows that the letter is referring to the rezoning of the property and Mrs. Townshend already stated that ten (10) years ago when the *Comprehensive Plan* was done no one expected Firefly. Once you rezone the property we are stuck with it. Who knows what's going to happen ten (10) years from now. They are saying in the letter that they could eventually build hotels, casinos and race tracks. Once it's rezoned, it's rezoned. There's no getting it back. The other issue is that there is no Site Plan required because it's not really a development; however, there are all these gravel roads and unpaved roads on the property. She and several neighbors have asked Dover Downs in the past why they can't reconfigure those gravel roads and make them paved roads so that you take the traffic off of Persimmon Tree Lane and onto their property but they said that they couldn't do that because it affects their back door operations. So basically they don't mind screwing over the neighbors as long as their operations are going well. They have put so much time and effort into what they are calling a driveway but she can't understand why. For example, the Dover Mall has the road that goes around it and all of the other roads to get into it. Why can't Dover Downs do something like that on their property back where Leipsic Road hits Persimmon Tree Lane where there are shoulders and there are no ditches and plenty of real estate to do this? Versus having all of that camping traffic come up their little two (2) lane road where there are no shoulders and has deep ditches. You are talking about people, golf carts, cars, and people using their

driveways as turnaround areas. There has got to be a way to manipulate that property layout so that they can build their own access road on the property.

The second issue is the noise ordinance. You said by bringing this property into the City of Dover that it would also be subject to the City of Dover noise ordinance. That means no noise after certain hours. Her problem with that is how is the City going to enforce that when they are already advertising on the website that the Hub is going to be open until 4:00AM Wednesday through Saturday and open until 2:00AM on Sunday? There are stages that have performance that play until 3:00AM or 4:00AM. What is the City going to do to address the noise concerns of the residents who live in this agricultural residential quiet neighborhood that is now going to be zoned RC (Recreational and Commercial Zone)? Responding to Ms. Handel, Mrs. Townshend stated that the RC (Recreational and Commercial Zone) addresses noise hours.

Ms. Handel stated that Article 3, Section 18.1 states that the "use of loud speakers and other amplification systems shall be prohibited between 12:00AM and 7:00AM Monday through Friday and between 2:00AM and 9:00AM on Saturday and Sunday." There is no way that Firefly is going to adhere to that; they never have in the past. Responding to Ms. Handel, Mrs. Townshend stated that's part of the reason that they added it to the Ordinance. She is unaware of anything scheduled beyond those hours. They worked with the Speedway on the construction of the Ordinance.

Ms. Handel questioned if Mrs. Townshend was saying that what's happened in the past three (3) years is not going to happen for this year coming? That's been their history before. Responding to Ms. Handel, Mrs. Townshend stated that's what they have discussed with the Speedway that the outdoor amplification needs to adhere to those hours.

Ms. Handel stated that in another part of that Ordinance there is a Section that talks about hearing noises and vibrations beyond the Speedway boundaries. Obviously it's a music festival and they are not going to be able to contain that but there has to be something so that she is not sitting in living room listening to her walls vibrate every time there is a bass bumping thing on one of those stages. There has got to be a way that they can turn those down. Everybody thinks this is great and that Firefly brings a lot of money to the community but nobody wants it in their back yard. Yet, they have it in their back yard and they didn't ask for it. There has got to be some concessions made to the people that live there. It's very hard on them. She has already taken off work on Thursday and Friday because she is going to have to stay home to make sure that there aren't people in her yard. In the past they have urinated in their trees and slept in the driveway. It is awful, there are people sitting in trees and on fences. They are zombies half of the time. There is a strip of Persimmon Tree Lane that is County and not City but yet they are dealing with City property. How are they going to coordinate that with the State Police? They have always put a post at the end of the driveway where a State Trooper sat around the clock but how is the City going to deal with it? Responding to Ms. Handel, Mrs. Townshend stated that will probably not change. There are meetings that occur throughout the year that include the Police jurisdictions, DelDOT, the Speedway and Red Frog to coordinate those issues. This does not mean that there won't be a State Police presence during Firefly. It's not just the City of Dover Police; it's the State Police and officers that come up from other municipalities.

Ms. Handel stated that she knows that but where they are, they only get State Police. Responding to Ms. Handel, Mrs. Townshend stated that she would not expect that to change.

Ms. Handel stated that her biggest issue is that there has got to be a way that they can build an access road on the property to keep pedestrians, golf carts, bicycles and cars off of their two lane road. You can't even move around them half of the time because they are taking up the whole road walking. There has to be a way to keep that on the property just like you would any other shopping mall or development and to do something about the noise.

Mr. Tolbert questioned if they have had contact with the police regarding the nuisances? Responding to Mr. Tolbert, Ms. Handel stated yes, every year.

Mr. Tolbert further questioned what kind of response she was getting from the Police? Responding to Mr. Tolbert, Ms. Handel stated that in the beginning it's all great. She gets a lot of lip service about the wonderful things that they are going to do and how they are going to take care of them. Then the festival happens and it gets thrown to the wayside to the point where they have actually had State Troopers at the end of that lane say to just go sit in their yard or their neighbor's yard. They use it as a turn-around lane so that they don't impede traffic. It's awful and her property value has sunk because of this. Anyone who knows where Firefly is and sees where she lives, they are not going to want to buy her house. Everybody says the festival brings in so much money but what is doing to the property owners in that area? She understands that they are not going to get rid of it but at least do something to alleviate some of the pain by doing something about the noise and considering requiring some sort of an access road. They have got that entrance to Lot 10 right on the other side of the bridge. There is another entrance that they are calling the south bridge. These are major access points already so why can't they be funneled along the perimeter road that already exists? There is a map that has all of the gravel roads shown on it. The gravel roads can be re-configured to make the campers go up through the property instead of using their road. Make pedestrian pathways so that they can walk from the north camping to the Hub down by the race track without walking on the road. There is enough land back there where they can take a little bit away from the festival to try to make the neighborhood better.

Mr. Tolbert questioned if she had talked to her neighbors? Responding to Mr. Tolbert, Ms. Handel stated yes, there was one neighbor who was supposed to be here tonight but she thinks it is best that he didn't come because he has a lot of anger about this situation. He lives right in that lot next to the driveway that is wide enough to handle three lanes of traffic plus pedestrians. Persimmon Tree Lane can't even handle that; it's wider than the actual road and they are calling it a driveway.

Ms. Jennifer Cappola – 102 Gordon Place Dover DE 19904

Ms. Cappola stated that there are some houses along the main road where people walk and use golf carts and it is really hard to get in and out. Are they allowed to come and party in the separate communities or can they kick them out? They are only supposed to be on that main strip and behind the barriers walking to their vehicles or whereever. Sometimes when she is home, she found an Acme shopping cart in her back yard and she lives all the way in the back in a community so how that got there is beyond her. Are they going to be allowed to go into these private communities as well and just drink, party and stay up all night? Responding to Ms. Cappola, Mr. Tolbert stated that his understanding is that Wild Meadows is one of the developments and they keep people out by having guards at the entrance. No one can come in without being allowed to come in by the guards. The Council at Persimmon Park Place can also keep people out; they have the authority to do that.

They can also have guards at the entrance to stop people from coming in who don't belong there. They can do that with the cooperation of the State Police and City Police.

Mr. Tolbert closed the public hearing.

Mr. Cregar stated that in thinking about how this is developing in this area, has there been any consideration about interior movement, roadway, pathways, walkways or eliminating some of the stuff that happens on the main roads? Responding to Mr. Cregar, Mr. Moore stated that Red Frog re-evaluates the festival every year. They reconvene with DelDOT on a yearly basis to help make the improvements to traffic flow.

Mr. Cregar further questioned if that was part of the on-going meetings that take place? Responding to Mr. Cregar, Mr. Moore stated yes and they happen every year so as they hear things like they have heard tonight, they will incorporate that into the meetings with Red Frog and DelDOT as it relates to the public ways. They are here listening and they want to make the festival successful and as least unintimidating to their neighbors as they possibly can and they will work to do that.

Mr. Cregar stated that at this point this is just about the annexation and they will deal with the rezoning next. Responding to Mr. Cregar, Mrs. Townshend stated that this is the annexation and rezoning for the stuff that is currently unincorporated Kent County. The next application is the rezoning of what is already in the City.

Mr. Cregar moved to recommend approval to City Council for AX-16-03 Lands of Dover International Speedway, Inc. to annex this property for the reasons discussed; safety, logistics, allowing this to be Master Planned, a better opportunity for more input from the City of how these plans are used and that they recommend that the zone be RC (Recreational and Commercial Zone), seconded by Mr. Holt and the motion was unanimously carried 4-0 by roll call vote with Mr. Holden recused and Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Baldwin voting yes, based on Staff Report and this would help the City better work with the Speedway to manage large events. Mr. Tolbert voting yes; it will facilitate some of the problems that are not new and facilitating the management and organization of the activities is essential. It's been a problem for some time. This will help alleviate some of those problems. Whenever you have two local governments dealing with the same issue you are going to have problems and this will help to resolve some of those problems. Other problems will occur and hopefully they can resolve those too as we go along. Mr. Cregar voting yes, for the reasons stated in the motion. Mr. Holt voting yes, for the reasons stated in the motion.

3) Z-16-04 Lands of Dover International Speedway, Inc. – Public Hearing and Review for Recommendation to City Council on a rezoning application for fourteen (14) parcels totaling 291.07 acres ±. The parcels are located in three different areas (A, B and C) outlined in the application. The proposed zoning of all parcels is RC (Recreational and Commercial Zone) with some areas also subject to the SWPOZ (Source Water Protection Office Zone). The owner of record is Dover International Speedway, Inc. Not all parcels have addresses. Council District 3. Ordinance #2016-15.
   A. Area No. A: twelve (12) parcels located east of Leipsic Road and west of State Route 1, totaling 195.13 acres ± and zoned CPO (Commercial and Professional Office Zone) and R-8 (One-Family Residence Zone), partially subject to the SWPOZ (Source Water Protection

Overlay Zone). Tax Parcels: LC-05-058.17-02-01.00-000, LC-05-058.17-01-07.00-000, ED 05-058.17-01-11.00-000, LC-05-058.17-01-08.00-000, ED-05-058.17-01-18.00-000, LC-05-058.17-01-09.00-000, ED-05-058.17-01-19.00-000, ED-05-068.05-01-02.01-000, LC-05-058.00-02-08.00-000, ED-05.068.05-01-16.00-000, LC-05-068.00-01-01.00-000 and LC-05-068.10-01-01.00-000.

B. Area No. B: located east of State Route 1 and south of Pitstop Lane, totaling 10.43 acres ± and zoned MHP (Mobile Home Park Zone). Tax Parcel: LC-05-058.17-02-01.00-000.
C. Area No. C: located north of Persimmon Tree Lane adjacent to the city limits, totaling 85.51 acres ± and zoned A (Agriculture Zone). Tax Parcel: LC-05-058.00-02-15.00-000.

Representatives: Mr. Gregory Moore, Becker Morgan Group

Mr. Holden recused himself from discussion and voting due to his employer being the engineer of record.

Mrs. Townshend stated that this is a rezoning application for 14 parcels totaling 291 acres of land that is currently in the City. It is currently under a variety of zoning classifications: CPO (Commercial and Professional Office Zone), R-8 (One-Family Residence Zone), MHP (Mobile Home Park Zone), A (Agricultural Zone) and there is a small portion that is subject to SWPOZ (Source Water Protection Overlay Zone). The rezoning application would take all of these properties to RC (Recreational and Commercial Zone) and that small portion would still be subject to the SWPOZ (Source Water Protection Overlay Zone). This is in accordance with the plans that they have been working on with Dover International Speedway to manage the large events such as the Firefly Music Festival and put everything under one jurisdiction and one zoning classification. This is related to the annexation that was just considered but it is separate properties. It is also directly related to the *Comprehensive Plan* Amendment that City Council approved in March 2016 (MI-16-01).

Mr. Moore stated that similar to the Annexation they were trying to bring all of the Speedway grounds under one zoning and under one jurisdiction for the same reasons stated before.

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

Mr. Holt moved to recommend approval to City Council for Z-16-04 Lands of Dover International Speedway, Inc. (Rezoning to RC with SWPOZ) as he feels this is the right thing to do and it's going to make maintenance of this property a lot easier for the City, seconded by Mr. Baldwin.

Mr. Cregar stated that in the DAC Report there is Exhibit B which specifies each one of these. Do they need to add that as part of the motion? Responding to Mr. Cregar, Mrs. Townshend stated no, they can refer to the Report or Exhibits A and B that show the extents of the rezoning. They are also attachments to the Ordinance that City Council will act on.

Mr. Holt moved to recommend approval to City Council for Z-16-04 Lands of Dover International Speedway, Inc. (Rezoning to RC with SWPOZ as presented in Exhibits A and B) as he feels this is the right thing to do and it's going to make maintenance of this property a lot easier for the City, seconded by Mr. Baldwin and the motion was unanimously carried 4-0 by roll call vote with Mr.

Holden recused and Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Cregar voting yes, this is consistent with what they have been trying to do with Dover International Speedway and its uses. It allows the City for a more comprehensive idea of how to deal with this and to handle logistics around all of this. Mr. Holt voting yes; it is in line with the Comprehensive Plan and brings everything under one roof. Mr. Baldwin voting yes, this zoning is consistent with the overall 2008 Comprehensive Plan. Mr. Tolbert voting yes, for the same reasons as previously stated. It does facilitate management of the area and it's something that has been a problem for some time. He's glad that something is being done about that problem.

4) S-16-10 Dover Behavioral Health Systems: Phase II Building Addition at 725 Horsepond Road – Public Hearing and Review of a Site Plan application to permit the construction of a 10,629 S.F. ± addition at the rear of the existing hospital building to consist of eight bedrooms and support space. The addition would connect to the existing hospital building by way of the Phase I addition currently under Administrative Site Plan review. The property consists of 14.746 acres and is located on the east side of Horsepond Road north of Lafferty Lane. The property is zoned IO (Institutional and Office Zone) and is subject to the AEOZ (Airport Environs Overlay Zone). The owner of record is UHS of Dover LLC. Property Address: 725 Horsepond Road. Tax Parcel: ED-05-078.00-01-08.00-000. Council District 2. *Waiver Requested: Reduction in Parking Requirement, Reduction in Bicycle Parking Requirement. This project site is also associated with the Administrative Site Plan application S-16-04 Phase I: Building Addition received by the Planning Office on February 1, 2016.*

Representatives: Ms. Carol Ohm, Apex Engineering Inc.

Mr. Diaz stated this addition is the second phase of Dover Behavioral Health's upcoming expansion. It proposes about 10,600 S.F. of new bedroom space and support space and when combined with the 1,300 S.F. Phase I addition that is currently in the final stages of their Administrative Site Plan review makes for an overall addition of about 12,000 S.F. The property is located on the east side of Horsepond Road north of Lafferty Lane. It is zoned IO (Institutional and Office) and it is also in the AEOZ (Airport Environs Overlay Zone).

Staff didn't find any substantial issues with the project. The addition is of a size that's permitted under the AEOZ (Airport Environs Overlay Zone). The architecture mostly matches the original although it does have a flat roof instead of a pitched roof as the rest of the building does. This project requires action on the waiver requests. One is a parking waiver and a similar request came before the Commission last month for the Phase I addition and the reasoning behind this waiver request is the same as the last one. They want to serve the site with one hundred fifty-one (151) spaces when two hundred thirty-seven (237) spaces would be required without the waiver. The other waiver that they are requesting is a bicycle parking waiver. There are six (6) bicycle parking spaces on-site and this project would require eight (8). Staff is recommending approval for both waiver requests. For the parking, even though this addition slightly reduces the number of spaces on-site there is still far more than enough parking left to meet the facility's needs. There are going to ask that the applicant to increase the size of their reserved parking area since it's not quite big enough to make up the deficit. For the bicycle parking, they are supposed to demonstrate that providing bicycle access to the site would present a safety issue. In response, they pointed out the large amount of truck traffic that goes on Horsepond Road to the surrounding commercial and industrial uses. Staff concurred with them on the safety issue.

Ms. Ohm stated that Mr. Diaz did an accurate assessment of the issues that they have before them. The only additional item that she would like to add is that they did a traffic count at the entrance to the facility back in December. It noted no bicycle traffic at the time of the count. In addition to the very narrow shoulders on Horsepond Road, they do see that as a safety issue.

Mr. Cregar questioned if the applicant was okay with enlarging the reserved parking area? Responding to Mr. Cregar, Ms. Ohm stated yes, they have a Site Plan that the owner is taking a look at to provide the additional parking spaces that they are deficient by.

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

Mr. Holt moved to approve S-16-10 Dover Behavioral Health Systems: Phase II Building Addition at 725 Horsepond Road inclusive of the reduction in parking, the reduction in bicycle parking and the DAC comments, seconded by Mr. Cregar and the motion was unanimously carried 5-0 by roll call vote with Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Holden voting yes; the applicant has done a good job of supporting the requested waivers. He has also been impressed with the well thought out applications that the applicant has brought forward in the past and he thinks it's going to be a good addition for the community. Mr. Cregar voting yes; he concurs with Mr. Holden's comments. As he stated last time when they were dealing with the Administrative Review and the parking issue, he has been out there numerous times at various times of the day and evening with his job and rarely is there a parking issue. He also wants to add that he has never seen a bicycle there. Mr. Holt voting yes; for the same reasons stated by Mr. Cregar and he thinks it's going to be a necessity for the community. Mr. Baldwin voting yes; for all of the reasons stated. Mr. Tolbert voting yes; it's well thought out and it doesn't present a problem.

5) S-16-11 Chesapeake Utilities Dover Campus at Northgate Center, Lot 6 – Public Hearing and Review of a Site Plan application to permit construction of a 56,000 S.F. ± office building, a 36,000 S.F. ± warehouse building, vehicle storage, material storage, compressed natural gas dispensers, and associated site improvements on a 20.6275 acre parcel. The proposed campus is intended to consolidate the operations of Chesapeake Utilities and Eastern Shore Natural Gas. The submission is subject to Review of a Performance Standards Review Application. The project site is located on the south side of Stover Boulevard and Krisko Circle between Bay Road and State Route 1. The property is zoned IPM (Industrial Park Manufacturing Zone) and is partially subject to the SWPOZ (Source Water Protection Overlay Zone). The owner of record is Eastern Shore Natural Gas. Tax Parcel: ED-05-077.00-03-06.00-000. Council District 2. *Waivers Requested: Partial Elimination of Curbing, Reduction of Parking Requirements. The property was created by application MI-15-07 Northgate Center Parcel Consolidation and Right of Way Abandonment.*

Representatives: Mr. Jonathan Street, Becker Morgan Group; Mr. Gregory Moore, Becker Morgan Group

Mr. Holden recused himself from discussion and voting due to his employer being the engineer of record.

Mrs. Melson-Williams stated that is Site Development Plan application for the Chesapeake Utilities Campus at what is now called the Northgate Center. The project proposes the construction of multiple buildings to include an office building, a warehouse building, a vehicle material storage yard including a vehicle canopy area as well as a compressed natural gas dispenser opportunity on the site. The property is zoned IPM (Industrial Park Manufacturing Zone) and is actually part of what was originally platted as the Stover Professional Campus. This is a planned industrial park and with that original planning of the industrial park there was a waiver related to the rear setbacks for the overall planned industrial park that reduced that requirement from one hundred (100) feet to forty (40) feet so that exists on this property. This project was most recently seen by the Commission as part of MI-15-07 which was a Parcel Consolidation Plan and right-of-way abandonment. That application actually consolidated what were originally seven (7) parcels of the Stover Professional Campus into the subject site that we are dealing with today. The application as stated does consist of a number of buildings. Some of the square footages as they continue to design have been slightly refined. The office building is proposed to consist of 57,143 S.F., the warehouse building to consist of 35,903 S.F. and the vehicle or truck canopy is proposed at 10,000 S.F. It is in fact just a canopy; it's not an enclosed structure with any wall system.

The application did go through the PLUS review process due to the size of the facility being planned. The Commission was provided both the PLUS review comments that were issued from that review as well as a copy the applicant's response to those comments. The property does have a very small portion that is located within the SWPOZ (Source Water Protection Overlay Zone). It kind of clips the northwest corner of the parcel but there is no building or paving improvement in that area other than the work that exists in the right-of-way in that location.

The architecture renderings have been given the Commissioners. The office building and warehouse building focus on the use of brick masonry, metal panels and multiple windows. The east elevation of the warehouse faces the stormwater management pond that exists on the property. The south side of the warehouse is the overall loading dock and satisfies the loading space requirement for the property. The project is subject to the Performance Standards Review process as it is located in the IPM (Industrial Park Manufacturing Zone). The Planning Commission is charged with judging the project on whether it meets the Performance Standards for a series of what the *Zoning Ordinance* refers to as the dangerous or objectional elements. The Staff Report outlines what those elements are and the applicant has provided a letter. They react to each of those elements for both the office use and for the other uses on the site. Basically, the project cannot cause any of these elements to exist so that they adversely affect the surrounding area or adjoining properties. These things are related to fire explosion, radio activity, noise, vibration or smoke and the list goes on. As part of the process tonight, the Commission will need to confirm whether or not they think the applicant complies with the Performance Standard Review process.

For this site there is a parking requirement. In this case, it is being based on the employee count for the project. Based on the employee calculations, it would be required to have three hundred eight-nine (389) parking spaces. They have submitted a waiver request to reduce that parking requirement to two hundred fifty (250) spaces. That's a reduction of 36%. They must placehold or reserve an area for the parking lot spaces that they are seeking a reduction of and that will need to be shown ultimately on their Final Plan approval. Also somewhat related to parking is a waiver request for the partial elimination of curbing. There are specific areas of the work yard area that they are seeking relief from installation of curbing. The work yard area is basically an area of compacted gravel to

facilitate the types of work activities that would be occurring in that area rather than asphalt pavement. They are providing the required number of bicycle parking spaces on the site and will also be constructing the street frontage sidewalks for the property that exists along part of the frontages along Stover Boulevard and then Krisko Circle that terminates in the cul-de-sac to the far east end.

The tree planting requirements are shown on the project plans and as part of the planned industrial park there is a landscape buffer along all property lines and a percentage of the site that must be retained as grass or landscaping.

Staff is recommending approval of both of the waivers as noted in the DAC Report. The Commission must also take action on the Performance Standards Review Application. Staff is recommending that the Commission affirm that the site's proposed use as presented conforms to all of those performance standards outlined in the *Zoning Ordinance*. The application as a Site Plan that includes comments from the Public Works Office, the City's Fire Marshal, DelDOT and the Kent Conservation District.

Mr. Street stated that they are in receipt of the DAC comments and they agree with them. Members of the architectural team of here to answer any questions about the architecture and he also has a representative from the owner if the Commission has any questions for Chesapeake Utilities.

Mr. Moore stated that what's actually going to be going on here is a consolidation of a couple of different operations that Chesapeake has in Dover. They are going to be liquidating some of those other properties when they bring all of their employees to this location. Any of the things that they are showing on this plan have actually been occurring in Downtown Dover throughout the history of them being here. You'll notice that there is about twenty (20) acres of property. They did consolidate a number of the Stover lots into one parcel which is overall twenty (20) acres. They are developing about fourteen (14) acres of it and they would like to do their calculation of their tree calculation based on those fourteen (14) acres. About four (4) acres of the remaining six (6) acres is actually a storm-water management pond. They are reserving land for future development and they will be coming back with plans. They would rather be landscaping that once they bring those plans forward.

Mr. Tolbert questioned what the relationship was between Eastern Shore Natural Gas and Chesapeake Utilities? Responding to Mr. Tolbert, Mr. Moore stated that they are separate corporations under one umbrella corporation. The natural gas is actually the conduit that brings the gas here and then they have a company who actually distributes and that's why there are a number of different names.

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

Mr. Cregar stated that in the review of the Performance Standards based on what the Commission has from them and what the City has reviewed, do we have a comfort level with meeting those standards? Responding to Mr. Cregar, Mrs. Townshend stated that she would refer to Mrs. Melson-Williams but she believes that the answer is yes.

Mrs. Melson-Williams stated that the answer is yes. If you look at specifically Page 3 of the report and then a Staff recommendation which is found on Page 8. There's a number of these Performance Standards that are regulated by other types of either City Ordinances or regulations related to things with the Fire Marshal. There are also some State permitting things related to the natural gas aspect of having the tanks so there will be some State permits as well. Staff is comfortable that the regulatory items are in place for them to achieve compliance.

Mr. Tolbert questioned if he was correct in assuming that even some of these Performance Standards are regulated by the Federal government? Responding to Mr. Tolbert, Mrs. Townshend stated that there a probably things regulated by the Federal government but delegated to the State so they would be enforced at the State level.

Mr. Cregar moved to approve S-16-11 Chesapeake Utilities Dover Campus at Northgate Center, Lot 6 based on the DAC recommendations and to also include the partial elimination of curbing and the waiver for parking reduction as recommended by Staff and to affirm that the Performance Standards as set forth by the City of Dover have been met and the City will continue to monitor that to make sure that everything continues on the way it should be, seconded by Mr. Holt and the motion was unanimously carried 4-0 by roll call vote with Mr. Holden recused and Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Baldwin voting yes, based on Mr. Cregar's explanation. Mr. Tolbert voting yes; they have answered all of his questions and concerns and he has no reason to vote otherwise. Mr. Cregar voting yes; he thinks that this is marvelous plan that looks well thought out. He thinks the combination of putting all of the offices into one area will make a much better situation for the companies. Mr. Holt voting yes; it looks like a great plan to bring everything under one roof and the elevations of the new building are very attractive.

6) MI-16-04 Text Amendment: Revise Parking Provisions of Article 6 Section 5.3 – Public Hearing and Review for Recommendation to City Council on a Text Amendment to the *Zoning Ordinance,* Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 5.3. The proposed Ordinance revision would clarify the supplementary parking regulations for multiple dwellings by removing the references to the housing types and rely on the definition of "multiple dwellings." Ordinance #2016-14. *Public Hearing and Final Reading before City Council on May 9, 2016.*

Representatives: None

Mrs. Townshend stated that at last month's meeting they saw the duplex units that were proposed by Mautiste Development. One of the things that they found in the Code which in all honesty they have not consistently enforced in the past if you look at the way places have developed is that the *Zoning Ordinance* specifically states that "supplementary parking regulations for multiple dwellings including duplexes, multiplexes and apartments. No parking space shall be located in any front yard or within three (3) feet of any lot line." What that effectively does is it says that when you have duplexes which nowhere else in the Code does it say that a duplex is multi-family, when you have a duplex you can't have parking in the front and you can't have a co-located side-by-side driveway. If you look at a number of the housing developments within the City, her guess is that they didn't read this section of the Code in reviewing those applications but none the less it is in the Code. The term "multiple dwellings" is defined in the definition section so in reviewing this section of the Code, Staff's recommendation is to simply strike the language "including duplexes, multiplexes and

apartments" and therefore just rely on the definition that they have in Article 12 for multiple dwellings.

Mr. Tolbert stated that everybody parks all over the place during NASCAR and if he is understanding this correctly people that park at residences and places like that will have to get permits now. Responding to Mr. Tolbert, Mrs. Townshend stated not for temporary parking. If they are parking many cars the City would look to see that. The parking requirements as it relates to large events (she thinks it specifically says motorsports) but needs to probably be expanded. It does kind of relax the parking around those events.

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 MI-16-04 Text Amendment: Revise Parking Provisions of Article 6 Section 5.3, seconded by Mr. Holt and the motion was unanimously carried 5-0 by roll call vote with Colonel Welsh, Dr. Jones and Ms. Still absent. Mr. Cregar voting yes, based on Mrs. Townshend explanation of why this needs to happen; they need to do this as part of their clean-up. Mr. Holt voting yes, for all of the reasons previously stated. Mr. Baldwin voting yes, based on Staff recommendations. Mr. Tolbert voting yes, because this petition will facilitate the Ordinance and it's understanding making it a little easier and less complicated. Mr. Holden voting yes, due to Staff comments and their experience here last session with the potential confusion with the existing language.

Meeting adjourned at 8:22 PM.

Sincerely,

Kristen Mullaney
Secretary