CITY OF DOVER PLANNING COMMISSION
February 16, 2016

The Regular Meeting of the City of Dover Planning Commission was held on Tuesday, February 16, 2016 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Cregar, Colonel Welsh, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still and Mr. Tolbert. Mr. Ambruso was absent.

Staff members present were Mrs. Ann Marie Townshend, Mr. Jason Lyon, Mr. Bill Cook, Mrs. Dawn Melson-Williams, Mrs. Tracey Harvey, Mr. Eddie Diaz and Mrs. Mullaney. Also present were Mr. Jack Kling, Mr. Michael Braun, Ms. Donna Bullock, Mr. William Grimes, Mr. Tolano Anderson, Mr. John Sigler, Mr. Sean Keblen, Mr. Gregory Moore, Mr. Bob MacLeish, Mr. Steve Hutchison and Mr. David Kuklish. Speaking from the public was Mr. William Heinz.

APPROVAL OF AGENDA

Colonel Welsh moved to approve the agenda as submitted, seconded by Mr. Holt and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

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

Ms. Still moved to approve the Planning Commission Meeting minutes of January 19, 2016, seconded by Dr. Jones and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the Planning Commission Quarterly Workshop is scheduled for Wednesday, February 17, 2016 at noon in the City Hall Conference Room. If you can let Staff know if you will be attending that way they can plan accordingly.

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, March 21, 2016 at 7:00pm in the City Council Chambers.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on January 25 & 26, 2016 and February 8 & 9, 2016.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1. Requests for Extensions of Planning Commission Approval: None

NEW DEVELOPMENT APPLICATIONS

1. MI-16-01 Comprehensive Plan Amendments 2016 – Public Hearing and Review for Recommendations to City Council on a series of Amendments to the *2008 Comprehensive Plan*, as amended. The Amendments include consideration of the following: two requests for amendment of Map 12-1: Land Development Plan to revise the Land Use Classification

of properties as associated with rezoning application Z-16-02 and with rezoning application Z-16-03, and a request for amendment of Map 12-1: Land Development Plan to revise the Land Use Classification of properties associated with the Woodlands Area of Dover International Speedway. Ordinance #2016-01. *A Public Hearing and Final Reading are scheduled for action before the City Council on March 14, 2016.*

A. Consideration of Amendment to Map 12-1: Land Development Plan Map – Request for a parcel located on the west side of New Burton Road and west of the railroad corridor to revise the Land Use Classification from Residential Low Density to Industrial and Public Utilities on Map 12-1: Land Development Plan Map. Property Addresses: 37.2 acres New Burton Road & 1436 New Burton Road. This is associated with rezoning application Z-16-02.

B. Consideration of Amendment to Map 12-1: Land Development Plan Map – Request for a parcel located on the west side of South State Street south of Gooden Avenue to revise the Land Use Classification from Residential Medium Density to Office and Office Parks on Map 12-1: Land Development Plan Map. Property Address: 834 South State Street. This is associated with rezoning application Z-16-03.

C. Consideration of Amendment to Map 12-1: Land Development Plan Map – Request for properties owned by Dover International Speedway Inc. located east of Delaware Route 1 on the north side and south side of Persimmon Tree Lane to revise the Land Use Classification from Active Agriculture to Commercial. Property Addresses: 75 Pit Stop Lane and 599 Persimmon Tree Lane. This amendment is proposed to facilitate the consistent zoning of the Woodlands Area, which is the location of the Firefly music festival.

Representatives: None

Mrs. Townshend stated that each year the City allows members of the public to request amendments to the *Comprehensive Plan*. Typical, these are done in conjunction with Rezoning requests and Staff also evaluates conditions to determine if Staff needs to also bring forward proposed amendments at that time. The annual deadline for these applications is December 15th and there are two applications this year and then one plan amendment being proposed by Staff. All of the amendments for this evening are amendments to Map 12-1 which is the Land Development Plan Map.

The first two are associated with Rezoning applications that are on this evening's agenda. The decision the Commission makes on the *Comprehensive Plan* amendment needs to also inform the decision that they will make about that particular Rezoning application.

The first of these is a request to amend the *Comprehensive Plan* regarding a 37.2 acre parcel located on the west side of New Burton Road, west of the railroad corridor. It would revise the Land Use Classification from Residential Low Density to Industrial and Public Utilities. In this case, the West Dover Connector has cut a pretty large squath through this Kesselring Farm which is a property that again is currently zoned R-20 (One Family Residence Zone) and was depicted as Residential Low Density in the *Comprehensive Plan*. The construction of the road and the associated right of way does significantly change the character of the area and leaves this piece of land bound by the new

road and the railroad tracks. It does make it certainly less desirable for residential development. The request by this applicant is to amend the Land Development Plan Map to change it from Residential Low Density to Industrial and Public Utilities.

The second of these requests is for a parcel of land located on the west side of South State Street, south of Gooden Avenue. The request is to revise the Land Use Classification from Residential Medium Density to Office and Office Parks. Again, when you look at that particular stretch of South State Street you have the old Steele's Pharmacy which is commercial and the immediately adjacent property to the south is zoned RGO (General Residence and Office Zone) and is developed as on office building. Additionally, what the Land Development Plan Map does not show is the parcel located on Bradford Street; it's the Medical Arts Building. While that shows as residential land use on the *Comprehensive Plan*, it is zoned RGO (General Residence and Office Zone) and has an office building on it. Again, in looking at the specific circumstances surrounding this property, it is consistent with the land use pattern in the area. This Land Development Plan amendment is associated with a Rezoning for that same property.

The third of the plan amendments is an amendment to the Land Development Plan Map to take lands that are owned by Dover International Speedway located east of Route 1 on the north and south side of Persimmon Tree Lane to revise the classification from Active Agriculture to Commercial. We are currently in the process of working with Dover International Speedway to annex the balance of the property where they have the festivals into the City. As you recall, there were changes made to the RC (Recreational and Commercial Zone) that would specifically address the festivals and the associated camping and other types of temporary events. They wanted to change the *Comprehensive Plan* so that all of these properties can brought under the same zoning for consistency with how it's regulated. The *Comprehensive Plan* amendments are required under State Law to go to the State under PLUS review. This did go to the State for PLUS review; they do not have the comments in hand at this point. She does know at least what was conveyed to her verbally is that they will probably have some caveats related to the change of the Speedway property from Agricultural to Commercial in the *Comprehensive Plan* but she doesn't have detailed comments yet. She thinks their concern is principally about how it develops over time and at this point it's a festival and they want to make sure that we understand that if it is changed to Commercial and rezoned accordingly that other things other than the festivals could happen there. She thinks the way they structured the RC (Recreational and Commercial Zone) changes was in anticipation of having all of the Speedway under one umbrella, all within the City and all under the same zone so it's all part of this Master Plan related to the Speedway. There are comments from the other agencies, mainly standard comments.

Mr. Tolbert has indicated that he would like to recuse himself on any discussion or vote related to the Speedway Plan Amendment. Typically in the past, they have held a public hearing on each and after all of the public hearings they would make a motion on each so that it's very clear how they are voting on each of the amendments. They will be able to accept one, two or three of them but they are not bound under one action.

Mr. Holden recused himself from Item C due to the fact that his employer has worked with the applicant and also since it was initiated by Staff.

Mr. Cregar stated in looking at the proposed designation for the State Street property and he is

looking at the individual yellow spot on the display map next to the commercial and the office; should they not have looked at extending the amendment to include that property as well? Responding to Mr. Cregar, Mrs. Townshend stated that the way they do it when it's applicant initiated they look specifically at that piece. She would say with the update the *Comprehensive Plan* which they plan to work on next year that they need to look at that particular piece at that point.

Mr. Cregar stated that because they don't have the comments regarding Dover Downs, he is curious how they proceed with that because their comments may be important. Responding to Mr. Cregar, Mrs. Townshend stated that they could certainly defer action on that specific item.

Mr. Cregar questioned if there were any Staff suggestions? Responding to Mr. Cregar, Mrs. Townshend stated that she has been very open with the State Planning Office that this Plan Amendment is very important to the overall way the City deals with the music festival. Staff recognizes that when you zone something, other things can happen. She thinks, one the economy isn't such that anything is likely to happen in the near term but she also is not entirely sure that it would be a detriment if something happened there as long as it was well planned.

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

Colonel Welsh moved to recommend approval to City Council for MI-16-01 Comprehensive Plan Amendments 2016 Item A: Consideration of Amendment to Map 12-1: Land Development Plan Map for a parcel located on the west side of New Burton Road to be changed from Residential Low Density to Industrial and Public Utilities, seconded by Ms. Still and the motion was carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes as the other land changes currently in the surrounding area supports the conversion. Mr. Cregar voting yes, because of the way the road configuration has cut that piece of property; it really is not logical for residential and he thinks it meets what they would like to see for an industrial public utility area. Colonel Welsh voting yes, it's a good revision to the Land Use Classification as has been stated. Mr. Holt voting yes, it's a good use of the land and it works in well with the whole development there as far as bringing it into the 20th century for the City of Dover. Mr. Baldwin voting yes, it conforms with the newly constructed roadway in that area. Dr. Jones voting yes, for all of the aforementioned reasons. Ms. Still voting yes, it's an appropriate change to the Land Use Classification in light of all the changes in that area. Mr. Tolbert voting yes, for all the reasons stated and it does maximize land uses.

Ms. Still moved to recommend approval to City Council for MI-16-01 Comprehensive Plan Amendments 2016 Item B: Consideration of Amendment to Map 12-1: Land Development Plan Map for a parcel (834 South State Street) located on the west side of South State Street south of Gooden Avenue to be changed from Residential Medium Density to Office and Office Parks, seconded by Dr. Jones and the motion was carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes, the slow conversion of land use in that area and also due to Staff and other advisory comments. Mr. Cregar voting yes, as they look at updating the Comprehensive Plan they should look at this property and several other properties along that area because of the nature of that area has changed considerably. Colonel Welsh voting yes, because of the reasons previously stated. Mr. Holt voting yes, because of reasons previously stated. Mr. Baldwin voting yes, for the aforementioned reasons. Dr. Jones voting yes, she thinks it's a good idea to move forward with the

consistency with the land uses in that area. Ms. Still voting yes, in concurrence with all of the previously mentioned reasons. Mr. Tolbert voting yes, he concurs with all of the statements made concerning the approval of this part of the plan.

Colonel Welsh moved to recommend approval to City Council for MI-16-01 Comprehensive Plan Amendments 2016 Item C: Consideration of Amendment to Map 12-1: Land Development Plan Map for properties owned by Dover International Speedway Inc. located east of Delaware Route 1 on the north side and south side of Persimmon Tree Lane to revise the Land Use Classification from Active Agriculture to Commercial, seconded by Mr. Holt and the motion was carried 5-0 by roll call vote with Mr. Holden and Mr. Tolbert recused, Mr. Cregar not voting and Mr. Ambruso absent. Mr. Cregar abstained from voting only for the reason that he still does not feel comfortable going ahead with this without the comments that the State would provide. It's a big chunk of land; it has the potential for a considerable amount of re-development at some point in time and he just feels like he doesn't want to vote in favor or against without having all of the pieces yet. Colonel Welsh voting yes, he thinks it's an appropriate land use and he thinks it will serve the City and Dover Downs quite well. Mr. Holt voting yes, he thinks it's a good use of the land and it will be a benefit to Dover Downs. Mr. Baldwin voting yes, he thinks it's an appropriate fit for the activities that will be taking place there. Dr. Jones voting yes, for the aforementioned reasons and also based upon the comfort level of Staff. Ms. Still voting yes, for the aforementioned reasons.

2. Z-16-02 Lands of Kesselring Company, LLC near New Burton Road: Rezoning from R-20 to IPM – Public Hearing and Review for Recommendation to City Council on a rezoning application for a 37.2 acre ± parcel. The property is zoned R-20 (One Family Residence Zone). The proposed zoning is IPM (Industrial Park Manufacturing Zone). The property is located on the west side of New Burton Road and west of the railroad corridor and surrounded by the right-of-way for the West Dover Connector. The owners of record are Kesselring Company, LLC & Others and Larry Kesselring. Addresses: 37.2 acres New Burton Road & 1436 New Burton Road. Tax Parcels: ED-05-085.00-01-07.00-000 and ED-05-085.00-01-07.00-001. Council District 2. Ordinance #2016-03. *Associated with request (MI-16-01A) for Comprehensive Plan Amendment as a land use classification revision to Map 12-1. A Public Hearing and Final Reading are scheduled for action before the City Council on March 14, 2016.*

Representatives: Mr. Jack Kling, Remax Horizons

Mrs. Townshend stated that this is a rezoning application for 37.2 acres of land on New Burton Road. Again, this is associated with the first part of the *Comprehensive Plan* Amendment that the Commission just recommended in favor of. This is a rezoning request to take the vacant land that is left now caught between the road and the rail line from R-20 (One Family Residence Zone) to IPM (Industrial Park Manufacturing Zone). The reasons are previously stated but it there are any questions she would be glad to answer them.

Mr. Kling stated that he is here on behalf of the Kesselring family to answer any questions. They made the request for rezoning of that property for obvious reasons. The bypass connector route basically made it much more feasible as an industrial property than a residential property. At least that was his opinion in the beginning and why it was brought before the Commission.

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

Mr. Holden moved the recommend approval to City Council for Z-16-02 Lands of Kesselring Company, LLC near New Burton Road: Rezoning from R-20 to IPM due to the fact that the changes in the area and changes in land use support the conversion and it would be a good use; residential is not necessarily a good use anymore, seconded by Ms. Still and the motion was carried 8-0 by roll call with Mr. Ambruso absent. Mr. Holden voting yes, due to Staff comments. Mr. Cregar voting yes, for all of the previous reasons that were discussed with the change to the Comprehensive Plan and due to Mr. Holden's comments. Colonel Welsh voting yes, for all of the same reasons. Mr. Holt voting yes, for the previous reasons discussed. Mr. Baldwin voting yes, for the reasons previously discussed. Dr. Jones voting yes, for all of the same reasons. Ms. Still voting yes, for all of the same reasons. Mr. Tolbert voting yes, for all of the same reasons; the recommendation is good for the City.

3. Z-16-03 Lands of Michael W. & Winifred M. Braun at 834 South State Street: Rezoning from R-8 to CPO – Public Hearing and Review for Recommendation to City Council on a rezoning application for a 17,000 S.F. ± parcel. The property is zoned R-8 (One Family Residence Zone). The proposed zoning is CPO (Commercial and Professional Office Zone). The property is located on the west side of South State Street and south of Gooden Avenue. The owner of record is Michael W. & Winifred M. Braun. Address: 834 South State Street. Tax Parcel: ED-05-077.17-03-45.00-000. Council District 2. Ordinance #2016-04. *Associated with request (MI-16-01B) for Comprehensive Plan Amendment as a land use classification revision to Map 12-1. A Public Hearing and Final Reading are scheduled for action before the City Council on March 14, 2016.*

Representatives: Mr. Michael Braun, Owner

Mrs. Townshend stated that this is a rezoning request that is associated with the *Comprehensive Plan* amendment request that was just considered. This is for a 17,000 square foot piece of property located at 834 South State Street. The request is to rezone the property from R-8 (One Family Residence Zone) to CPO (Commercial and Professional Office Zone). She would go back to the same reasons supporting the *Comprehensive Plan* amendment. She would also note that the house on the property has been vacant for some time and has had some issues with the repair of it. The conversion to an office could definitely be an improvement as you would have an investment in the property that would detract from any of the nuisance that would be part of dealing with a vacant building.

Mr. Braun stated that the comment that he was about to make was addressed by Mrs. Townshend. That property has a number of physical characteristics that don't make it particularly useful as a residence and lend themselves to converting it to an office. Not only is the area changing, the physical nature of the property itself sort of pushes towards a commercial operation.

Mr. Holden stated that he was curious what characteristics of the property other than the location are changing the character of the neighborhood. Responding to Mr. Holden, Mr. Braun stated that the kitchen is poorly laid out. It would not be useful as a kitchen; it would require a complete renovation. Conversely, it's fine for an office break room. The bathroom that would be for the two

bedrooms on the second floor is off the kitchen meaning the occupants of that bedroom would have to come down the stairs to the back of the house to access the bathroom. The bedrooms are small, the closets are tiny, they would have to be expanded which would make the bedrooms even smaller but they are fine in an office environment. Those sorts of things are what he sees as he looks at this property.

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

Dr. Jones moved to recommend approval to City Council for Z-16-03 Lands of Michael W. & Winifred M. Braun at 834 South State Street: Rezoning from R-8 to CPO, seconded by Ms. Still and the motion carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes, due to Staff comments and other discussion. Mr. Cregar voting yes, supporting the change to the Comprehensive Plan that was also supported and the nature of the area and how it's changed to an office area. Colonel Welsh voting yes, agreeing with previously stated comments. Mr. Holt voting yes, because the nature of the area has changed considerably. Mr. Baldwin voting yes, for the aforementioned statements. Dr. Jones voting yes, in view of previous discussion regarding the Comprehensive Plan. Ms. Still voting yes, in concurrence with all of the previous statements. Mr. Tolbert voting yes, for all of the previous statements made and he thinks it's going to make better use of that particular piece of property.

4. C-16-01 The Gathering Place Large Family Day Care at Solid Rock Baptist Church at 113 North West Street – Public Hearing and Review of a Conditional Use application to establish a large family day care serving seven children within an existing building. The property is 0.558 acres and is zoned RG-1 (General Residence Zone). The property is located on the east side of North West Street just north of Fulton Street. The owner of record is the Solid Rock Baptist Church. Property Address: 113 North West Street. Tax Parcel: ED-05-076.08-03-02.00-000. Council District 4.

Representatives: Ms. Donna Bullock, The Gathering Place; Pastor William Grimes, Solid Rock Baptist Church

Mrs. Harvey stated that the Conditional Use Site Plan is to permit a large family day care in the community room of an existing building utilized as a church at 113 North West Street to be known as The Gathering Place. The property is zoned RG-1 (General Residence Zone). The owner of record is Solid Rock Baptist Church and the leasee is Donna Bullock.

Conditional Use Site Plan application C-13-07 for the construction of a two story community center also on the property but addressed as 109 North West Street was approved by the Planning Commission on August 19, 2013. It is adjacent to the existing place of worship. The parking lot and the tree planting requirements were also included and approved in the Site Plan application. The project proposal for seven (7) children and three (3) attendants will be classified as a large family day care by the *Zoning Ordinance*. Day care facilities also require licensing through the State of Delaware. The number of children permitted in a day care facility is determined by the State of Delaware along with mandated child to attendant ratios. The applicant provided a copy of the requirements from the State Office of Child Care Licensing with regards to the requirements of Rule 265 for an outdoor play area located within a safe walking distance. The applicant indicated

that the day care intends to utilize the play area located on the corner of West Division Street and North Kirkwood Street. The applicant will need to provide approval for this site from Child Care Licensing.

Based on the square footage of the new community building and the existing use as a place of worship, the total number of parking spaces required for these uses are fifty (50) parking spaces. With the previous application C-13-07, the Planning Commission considered and approved two (2) waivers for an overall reduction in the number of off-street parking spaces and the utilization of the combined parking spaces outlined in the *Zoning Ordinance* Article 6, Section 3.9 which allows the Planning Commission to reduce the overall number of off-street parking spaces. The applicant's request for the reduction of overall number of parking spaces to twenty-six (26) was approved. Four (4) parking spaces are required in the *Zoning Ordinance* for a large family day care which meets the requirement for the parking on the site.

Based on the total site area of 24,298 square feet, nine (9) trees will be required. There are a total of ten (10) trees located on the site which met the tree planting requirements for Conditional Use Site Plan application C-13-07.

Ms. Bullock stated that she was in complete agreement with everything stated by Mrs. Harvey.

Mr. Tolbert questioned what the relationship was between her organization and the church? Responding to Mr. Tolbert, Ms. Bullock stated that there is no affiliation; her organization is a separate entity.

Dr. Jones stated that she thinks she read that there will be no worship services when the day care is in operation. Responding to Dr. Jones, Ms. Bullock stated that was correct.

Dr. Jones questioned if that would be Monday through Friday? Responding to Dr. Jones, Ms. Bullock stated yes.

Dr. Jones further questioned if this would create an issue for services held on Good Friday or on other days during the week? Responding to Dr. Jones, Pastor William Grimes stated that there will never be any services that will need to be held in the sanctuary when the day care is open. If they needed to do anything it would be in the community outreach center next door to the church.

Mr. Tolbert stated that it's described as a large family day care, what services will they provide? Responding to Mr. Tolbert, Ms. Bullock stated that they would provide minimal fee day care for children ages infant to two (2) years old.

Mr. Tolbert stated that large "family" day care threw him off; he didn't realize that the services would be for children. Responding to Mr. Tolbert, Mrs. Townshend stated that's the *Zoning Ordinance* classification.

Mr. Cregar stated the hours of operation listed were 7:30am to 5:30pm and may vary. How would they vary? Responding to Mr. Cregar, Ms. Bullock stated that the only change in hours of operation would be if a parent was late picking up a child.

Mr. Tolbert questioned if Ms. Bullock has had experience with running day cares? Responding to Mr. Tolbert, Ms. Bullock stated yes, she was the director for Mom's House on South State Street for almost nine years.

Dr. Jones questioned if this was a contractual relationship with the church? Responding to Dr. Jones, Pastor Grimes stated yes.

Mr. Holt questioned if the day care would be open to the general public or if they would have to be a member of the church? Responding to Mr. Holt, Ms. Bullock stated that they would not have to be a member of the church but they are trying to offer the service to low income mothers or families, preferably single parents how are working and trying to better themselves. With the cost of day care today, it's very high. When she worked at Mom's House, it was a free day care. She can't do a free day care but she can do a very cheap day care.

Mr. Holt questioned if the expense of the day care would be because they would have to provide food to the children? Responding to Mr. Holt, Ms. Bullock stated that there are programs where they can get food to feed the children. The overall cost at some point will be to pay rent and utilities for the property and also to cover the cost of staff. The three (3) of them are not looking to get rich; they are looking to offer a service.

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

Mr. Holden stated that for infants to two (2) year olds, he doesn't know that there will be a lot of playground use but he is curious on distance and ownership of the playground and if Planning Staff views that as a potential conflict or is that addressed by other regulatory authority? Responding to Mr. Holden, Mrs. Harvey stated that would be addressed by Child Care Licensing.

Mrs. Townshend stated that the property that they look to use is a City park just across the street.

Mr. Holden questioned if from a City standpoint that would be an issue? Responding to Mr. Holden, Mrs. Townshend stated no.

Colonel Welsh moved to approve C-16-01 The Gathering Place Large Family Day Care at Solid Rock Baptist Church at 113 North West Street, he thinks it's a good thing for the community and that it's a very good thing that Ms. Bullock is doing. The motion was seconded by Mr. Holt and unanimously carried 8-0 by roll call vote. Mr. Holden voting yes; he thinks that affordable child care is a very important thing in our community and he appreciates the efforts. He thinks the area, use and impacts to the community are reasonable. Mr. Cregar voting yes; he likes the idea that the church and citizens are working together to provide this less expensive day care. He thinks it's a good use of the building and a good mixed use to allow for people with lower incomes to have child care. Colonel Welsh voting yes, for all of the previously stated comments. Mr. Holt voting yes; he feels like it's a good asset for the community and also for the church. Mr. Baldwin voting yes, for the reasons stated; it's a much needed service and he applauds the applicant. Dr. Jones voting yes, she commends Pastor Grimes and his congregation for the vision of outreach in a high need area. She is familiar with Mom's House and looks forward to the same level of quality of child care in an area of high need. Ms. Still voting yes; she thinks it's a very appropriate Conditional Use for the

area and she thinks it's a good opportunity for people to have low cost day care. Mr. Tolbert voting yes, for all of the reasons previously stated. He is particularly impressed with what Ms. Bullock stated about the cost of services at her facility. There is no question that day care today is a very costly thing for a lot of parents and she is going to try to help as many people as they can with that cost and he appreciates that.

5. C-16-02 Residential Treatment Facility on property of Healing Wings Christian Center – Public Hearing and Review of a Conditional Use application to establish a residential treatment facility as a philanthropic use within an existing building previously approved for use as a homeless veterans shelter under Application C-11-01. The use is proposed for the westernmost building (rear building) on the property which is constructed in a dormitory format. The property is 3.32 acres and is zoned R-8 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property is located on the southwest side of McKee Road, north of the Emerald Pointe subdivision. The owner if record is Healing Wings Christian Center. Address: 1420 McKee Road. Tax Parcel: ED-05-067.00-01-20.00-000. Council District 1. *This application is associated with C-11-01 approved by the Planning Commission on April 18, 2011 with Final Plan approval on October 28, 2011.*

Representatives: Mr. Tolano Anderson, Owner of Because We Care; Mr. John Sigler, Esq. General Counsel for Psychotherapeutic Services Inc; Mr. Sean Keblen, Psychotherapeutic Services Inc

Mr. Cook stated that this Conditional Use review is to establish a residential treatment facility as philanthropic use within an existing building which was previously approved for use as a homeless veterans shelter under application C-11-01. The project area consists of a portion of one parcel of land located at 1420 McKee Road. The building where the activity will take place is in the rear of the property where the existing dormitory facilities are located. The application as submitted proposes no changes to the existing site or structures. The conditional use review is to review the change of use from what was specifically approved in the previous application.

In the DAC Report of February 3, 2016, there were a few things commented upon by Planning Staff as well as some of the other agencies. The existing structure includes fourteen (14) beds. Staff noted in the report that the parking requirement has been met; there are fifty-four (54) spaces provided and fifty-two (52) spaces required. Some of the other physical requirements of the site are in place such as a loading area. Dumpsters are located on the site. There are sidewalks located along the public road frontage but he doesn't believe that there is connecting sidewalk on either adjacent parcel. There are fences existing along property lines and at various places within the site. There is also lighting provided throughout the parking lot on a series of poles.

The two (2) story building has fourteen (14) beds and fourteen (14) rooms. The residential rooms are located on the second floor and the first floor has common areas, offices, a full kitchen and utilities on-site. There is a requirement for tree planting and landscaping. They did not submit a landscape plan with the application so the receipt of a landscape plan and verification of planting is a condition of the Site Plan approval. The tree planting requirements will be verified at the time of a Certificate of Occupancy inspection.

The property is zoned R-8 (One Family Residence Zone) which is one of the reasons why it's coming in for conditional review again. It's also subject to the COZ-1 (Corridor Overlay Zone). The

applicable portions of that Code relate to tree planting. Staff did provide some comments to the applicant regarding some corrections that they will be working to make on the submitted plan before Final Plan approval is granted by Staff. The total tree count required was forty-five (45) trees; they estimate that a good portion of those are already on the site and they just have to verify them on the plan.

In terms of recommendations suggested as conditions of approval, there were questions from the Fire Marshal's Office and the Planning Office regarding the exact nature of the activities and services being provided on the site which they would like a detailed description of that in writing. Also, for the Commission's consideration in terms of their motion, recommended that the Commission consider recommending an overnight resident occupancy maximum. This was done with the previous use and that was for fourteen (14) rooms and fourteen (14) beds. Also in Article 10 Section 1.42, as they have done in the past with some Conditional Use applications, Staff recommended that the Planning Commission approval be conditioned upon the requirement for a review in one (1) year to confirm compliance with the conditions of approval and to see if further review is required.

Mr. Anderson stated that he was here to speak on behalf of this application. They are here to resolve a technicality. The Commission approved this project as a veteran's home years ago and as a result of that it limited the use of the facility to military veterans only. Having served in the U.S. Army for twenty-four (24) years, he can appreciate that consideration; however, it's not really practical. They are here to resolve that issue simply in terms of allowing non-military veterans to also use the facility. There are no planned changes, no changes to the site, and no changes to the building. They simply want to make a change to the people that are being served to be more than U.S. military veterans.

They have had a visit from the Fire Marshal, who has received the letter with the information that Mr. Cook has referenced. They are also expecting sixteen (16) beds. The difference between fourteen (14) and sixteen (16) would not be a change that he is aware of from a previous application but they actually look forward to moving forward with this. They are excited and eliminating that limitation or discriminator from military veterans, really helps them to move forward.

Mr. Tolbert questioned what Mr. Anderson considers non-military veteran? Responding to Mr. Tolbert, Mr. Anderson stated any individual that needs help and support. It could be a veteran or not. Veterans are absolutely appreciated and welcome but those who have not served in the military would also be welcome as well.

Colonel Welsh stated that in 2011 this property was approved as a veteran's shelter, now you are seeking approval as a residential treatment facility. That kind of indicates perhaps a different operation; is it basically a different operation not just a different name? Responding to Colonel Welsh, Mr. Anderson stated that it basically is the same operation, it would allow for people that haven't served in the military to utilize the facility.

Colonel Welsh questioned if they would be using it as a shelter or as some type of drug or alcohol treatment center? Responding to Colonel Welsh, Mr. Anderson stated that it would be residential treatment center. Basically the same services provided to the veterans; they have very many of the

same issues, problems and concerns as those on the civilian side. So it would simply open this location up to those who are non-military.

Mr. Holt questioned if they charge a fee? Responding to Mr. Holt, Mr. Anderson stated that there is no fee charged the individual attending.

Mr. Sigler stated that he is an attorney in the City of Dover and is also General Counsel for the organization that is working with Mr. Anderson's organization to provide these services. Yes, there is a charge. This is an addictions treatment program for adult females who have already been detoxified who are already in recovery and this is there next step. They will be in residence for no more than ninety (90) days. Some will be private pay; they could be our neighbors, friends or family members. Others may be Medicaid, Medicare or other government subsides.

Mr. Tolbert questioned if Mr. Sigler stated that the treatment center would be just for females? Responding to Mr. Tolbert, Mr. Sigler stated this is a female addictions treatment program licensed by the State of Delaware.

Mr. Tolbert stated that this facility was originally a program for veterans, now it would be for anyone. Is there a shortage of veterans? Responding to Mr. Tolbert, Mr. Anderson stated no, they expect the population of veterans to certainly be in attendance or clients at this facility. He doesn't want this issue to be lost. If we specifically say females at this point for this Commission then they will once again be limited in the future to only being able to help females, just like they are limited now to only being able to help veterans. He would like to not have that distinction although this particular program is catering particularly to these women; he doesn't want that to be a limitation so that they can serve men and women in the future.

Mr. Tolbert questioned if Mr. Anderson planned on serving men in the future? Responding to Mr. Tolbert, Mr. Anderson stated that he doesn't want a limitation of not being able to serve males in the future.

Mr. Tolbert questioned what the limit of beds was that can be at this location? Responding to Mr. Tolbert, Mr. Anderson stated sixteen (16).

Mr. Tolbert stated that it shouldn't be too difficult to fill the sixteen (16) beds. Responding to Mr. Tolbert, Mr. Anderson stated no, not with the needs of our community.

Dr. Jones questioned if there was proper notification to the public? Is this one of those situations where the public has to be notified? Responding to Dr. Jones, Mrs. Townshend stated yes, they did meet the public notice requirements.

Dr. Jones stated that she thinks she has received a little bit more information because residential treatment was just a little bit vague for her. She thinks they have some additional information but she sees that one of the conditions of the application was to provide more clarity on the services being provided. Responding to Dr. Jones, Mrs. Townshend stated, yes and to date the Planning Office do not have that in hand.

Dr. Jones stated that she is a little bit uncomfortable with the vacillation. She knows that the applicant stated that they don't want to be pinned in but as a Commissioner she is a little uncomfortable with it. Responding to Dr. Jones, Mr. Anderson stated that that's exactly the point; not wanting to be pinned in. This particular program that they are working with right now is for females but that doesn't mean that from this point forward that it would just be limited to females. That's the distinction that we wanted to make; not just veterans, not just women but human beings in need of the services.

Mr. Sigler stated that the information that is apparently not in the packet was submitted by letter on February 9, 2016 to the Fire Marshal. It is a full description of the service to be rendered as well as the staffing. He provided a copy of the letter to the Commission.

Subsequent to that letter, he had the privilege of speaking with the Fire Marshal and he informed him that he had looked at the submission and it met with all the requirements. The contract that they will have to provide these services is a five (5) year contract and it is female only during that five (5) years.

Mr. Tolbert questioned if they had a contract with the State? Responding to Mr. Tolbert, Mr. Sigler stated that they have a contract with the State and with Mr. Anderson's organization for five years.

Mr. Tolbert stated that the applicant says there will be sixteen (16) beds; do they plan to enlarge that facility? Responding to Mr. Tolbert, Mr. Sigler stated that they have absolutely no plans to enlarge and sixteen (16) is a maximum number not a minimum number. That number cannot go above sixteen (16) at any given time.

Dr. Jones questioned who Mr. Sigler was representing? Responding to Dr. Jones, Mr. Sigler stated that he is General Counsel for a licensed provider by the name of Psychotherapeutic Services Inc. They have been providing these services in the State of Delaware since 1988. This is something that they know how to do and he is also a retired police officer in this town and he can tell you that they need this type of service for these people. This is something that is very important; addiction is a problem that unfortunately they are re-visiting since his days in the 1970's and it's a very ugly thing. Unfortunately, we as a State don't look at a female addicted person the same way as a male addicted person and it's time that we did so and that's what this program is.

Mr. Cregar stated that he needs clarification on exactly what is going on in that building today. Responding to Mr. Cregar, Mr. Sigler stated that the building is empty and has been empty for years.

Mr. Cregar questioned that it has not provided services to homeless veterans? Responding to Mr. Cregar, Mr. Anderson stated no, the programs for Veteran's Administration due to government budgeting constraints has always been an issue because of continuing resolutions or other budget issues and so forth with the Veteran's Administration. They have has several meetings with them and have come close several times but they are not able to complete the transaction because of budget constraints on the Veteran's Administration side. That also was one of the reasons for lifting this restriction or limitation to veterans only because it did not make it a practical program in order to use this facility with just military veterans only; it basically tied their hands.

Mr. Cregar stated to explain to him exactly what this building will be used for now with these female addictions people. Responding to Mr. Cregar, Mr. Sigler stated that he is not the clinical person but he has the person here who is the clinical person, Mr. Sean Keblen.

Mr. Keblen stated that there will be female specific treatment because issues that females come in with are often different than male clientele which was stated earlier. The female population has often been not looked at as having as severe of an issue or needing as severe of treatment. There will be treatment that is gender specific for females like parenting, different adult living skills that will help them be successful, it will be a trauma informed cognitive behavior therapy model which is a national trend and empirically based as to be what is most effective in dealing with addictions at this point in time. It will also be a person centered model which helps deal with an individual rather than the group of people as a whole. They will go through individual counseling, they will have group counseling, they'll have family counseling, vocational services to help them locate jobs, they will have educational opportunities like GED to help them with educational progress that they will need, help finding them placement when they have completed the program and they are ready for discharge to help them be successful in their sobriety and maintain their sobriety in linking them to the appropriate community based resources.

Mr. Cregar questioned if this was a locked facility? Responding to Mr. Cregar, Mr. Keblen stated it was locked from the outside. From the outside you can't enter but you can exit.

Mr. Sigler stated that he thinks Mr. Cregar was asking if this is a secure facility. This is not a secure facility; this is a voluntary treatment program. It will have security but it is not a secure facility.

Mr. Cregar questioned if any of these residents that could participate in this program have criminal charges? Responding to Mr. Cregar, Mr. Keblen stated yes, they possibly could. They could be referred through the court system as having a need for treatment.

Mr. Cregar questioned Staff if when this was advertised, when we say residential treatment does the neighborhood really know what's being proposed? Responding to Mr. Cregar, Mrs. Townshend stated that she believes that the advertisement said residential treatment so it may not have had the specific details. That's part of the reason why Staff requested the details. She believes that it's more than just a technicality that it's not a veteran's home anymore because there was no reference in the previous Conditional Use to providing substance abuse treatment services or any of those things. From her perspective, this is a change in the Conditional Use that had been previously granted so that's why it is back to the Planning Commission.

Mr. Sigler stated that the answer that was just given to Mr. Cregar was partially correct and very misleading. The people who will be referred to this program may or may not be there as a result of a court commitment. It is possible that they could be but that is not one of the requirements. They have the absolute ability and responsibility to reject anyone who does not fit the model. These people have to be socially, physically and emotional capable of being in the community. They have the ability and they will reject anybody with a history of violence, fire setting or any of that. According to their contract with the State, they have the ability to keep these people out if they don't fit their model. The answer that was just received from Mr. Keblen was correct; they may have had criminal justice impact record but it won't be serious because they won't accept them and are not required to accept them.

Mr. Anderson stated that he wanted to clarify whether or not people are going to receive treatment because of addictions. He doesn't view that as something that wasn't shared openly from the very beginning. The term residential treatment facility in itself to some extent indicates that these are people that are receiving treatment for this issue in terms of addictions. In terms of his dialogue with Planning Staff he doesn't remember any time were that wasn't open and apparent. He thinks that the fact of the matter is and he remembers discussing this with the Councilman for that district, Mr. Hosfelt who came to the facility, who toured the facility and who walked through and talked about specifically what they were going to be doing and how much the community needed it. He appreciated the fact of the good paying jobs that are going to be brought into the community and that this particular group of people in our community that really need help were actually going to have an opportunity to be helped in a facility over 6,300 square feet that has been sitting there waiting to be put into service to help the City and to help this community and to help those individuals that is literally languishing there. His appreciation for that and his consideration for it and the discussions with Planning Staff on the specifics of it, made it very apparent to him of what it is that they are trying to do, what they think is of benefit and he just doesn't want there to be any misunderstanding of that particular aspect. They have no opposition from the neighborhood. This particular building as it's referenced in the packet is several hundred feet off of the road. It is almost four hundred (400) feet off the road on a fenced property. This is a dormitory building that's designed almost perfectly for this purpose and it's no secret what needs to be accomplished there and what these people need.

Dr. Jones questioned if she understood that the duration of a stay is ninety (90) days? Responding to Dr. Jones, Mr. Sigler stated yes, no more than ninety (90) days. It's probable that most of these people will have gotten to the point where they can move to the next step in their rehabilitation; return to their families and jobs probably prior to the ninety (90) days but ninety (90) days is the maximum in this program. Remember that the patients will have already been through detox, they will already be stable and they will have been deemed by the Division to be ready for this kind of program. After this program, they will go into other programs that are not residential.

Dr. Jones questioned what division he was referring to? Responding to Dr. Jones, Mr. Sigler stated the Division of Mental Health and Substance Abuse.

Mr. Anderson stated that because the question of possible criminal background or having a record was raised, he wants to make it clear that many of their military veterans do have those interactions with the police departments. They do have records; they do have criminal backgrounds in many cases as a result of their substance abuses. That's why they would fully expect veterans to not only use this facility as well as civilians but that should not necessarily be a discriminator. Part of the problem that these people have brings them in to contact with law enforcement.

Mr. Holden stated that substance abuse treatment is needed; he doesn't doubt that female substance abuse treatment is a much needed service in our community. He has concern over the fact that here in this area we are gaining a better understanding of what is sought by the Conditional Use, but his real concern is that the general public doesn't have benefit of this prior. In a procedural sense, what are the Commissioner's options? He is not comfortable supporting this moving forward without the airing of what they have learned here to allow the public to understand. They are surrounded by residential neighborhoods and an elementary school across the street and he thinks the public needs

the benefit of the knowledge that they have gained here tonight to choose if they want to come to support or to speak in opposition of them. What options do they have? He doesn't want to shut the door but he doesn't feel comfortable supporting it tonight either. Responding to Mr. Holden, Mrs. Townshend stated just to reiterate in response to Mr. Holden's question and Mr. Cregar's earlier question, the public notice states Conditional Use review for a residential treatment facility. The whole idea of substance abuse treatment was not a surprise to Staff, that's been the discussion all along. What they did not know and what this letter handed out tonight helps to clarify is what that means. In terms of substance abuse treatment, there is kind of a continuum of care as Mr. Sigler stated, detox into transitioning back into the residential setting. If the Planning Commission is not comfortable that residential treatment facility is descriptive enough for the adjacent property owners to truly know what is being proposed here, it could be deferred with a hearing set for next month and then re-advertised.

Mr. Holden questioned if it would be deferred by motion of the Commission? Responding to Mr. Holden, Mrs. Townshend stated yes.

Mr. Holden stated that the Site Plan shows that there is partial fencing there, not full fencing. They don't have benefit of the aerial to understand. He wants the applicant to hear that he doesn't know that this is not an appropriate use but he thinks the public needs to see the full record; the packet that's available to the public needs to be complete for the Commission to appropriately address what they are being asked to do tonight. He would be more in favor of deferring it to allow that process to happen and see where we get to. Responding to Mr. Holden, Mr. Anderson stated that the primary issue being dealt with for the veterans occupying that facility is the same problem which is substance abuse. The second thing was that the public notice requirements are very specific and they are very detailed. They have met all of their obligations, the public notice was printed in the newspapers, they posted the property within the time frame necessary, they sent letters to every property owner within two hundred (200) feet and they've met with their obligation. They are not here to do anything that is adverse to the community. The property is fenced, there is an entrance on the roadway and the entire property is fenced. It's several hundred feet to the back of the property. It's almost ideally suited for this particular purpose, as he mentioned Mr. Hosfelt's comments earlier. Having met their obligations, he is not asking the Commission to do something that they are uncomfortable with but he is thinking in terms of what they have done. The applicant met with the Development Advisory Committee and they answered all of their questions and they were very specific. They were specifically asked questions by Staff and by all of the other agencies that were there. They have met with the Fire Marshal and he has been on to the property as well. This is essentially where they stand right now. There is a serious problem for them if the Commission doesn't consider the application; this program could very well be torpedoed altogether if they are not granted a Conditional Use. He just wants to make sure it's clear that they did meet all of the public notice requirements and they did meet every obligation with the DAC, and they have done everything that they were asked to do up to this point in time. To be in this position now is a little precarious.

Colonel Welsh stated that he initially asked for the distinction between what was homeless veteran's shelter and now a residential treatment facility. Quite honestly, it seemed that you tapped danced around it a little. You said that you just wanted to make it open to everybody not just veterans. It wasn't until after there was more questions asked, it came out that it was going to be a treatment facility; a drug and alcohol abuse treatment facility or people with behavioral issues. That

is needed in the community and he doesn't think anyone can deny that. He thinks Mr. Holden was very eloquent in his comments that we need to have that. His concern is the same as Mr. Holden's; did the public know that there are going to be people there receiving treatment for drug and alcohol abuse or perhaps even a criminal record? Responding to Colonel Welsh, Mr. Anderson stated that what they had in their proposal to the Veteran's Administration was very specific. The primary elements were the drug and alcohol abuse counseling, social adjustment counseling, transportation for off-site counseling for various mental and/or drug related and medical appointments and there was in-house counseling and off-site counseling. It's essentially a mirror of what's happening here just with a different population. The original program was also residential, the veterans lived there and they were also cared for there. They had treatment and appointments there but they were also being transported off-site to other appointments for their abuse issues and being brought back to the facility. That was the scope of the contract with the VA.

Colonel Welsh stated that was the contract with the VA and the VA certainly knows it but does the surrounding public know that? In the notification letters that were sent to them, did they spell that out, that there were going to be people there potentially with criminal backgrounds or with drug and alcohol abuse issues that are going to be undergoing counseling? Responding to Colonel Welsh, Mr. Anderson stated that they didn't specify that there would be people there with criminal backgrounds because they actually don't know if there will be anyone there with a criminal background. That's a probability and a possibility but to specify that that's what's going to be the makeup of clientele he thinks would be inappropriate.

Colonel Welsh stated that the possibility exists. Responding to Colonel Welsh, Mr. Anderson stated that the possibility existed with the veterans as well. When the Commission approved the application last time that was apparent, these were veterans and we know what the issues are with our military veterans. If you look at any of the homeless or veterans shelters now, you can see that there is a certain effort to support them in their abuse issues.

Colonel Welsh stated again they have gone from a veteran's shelter, with thirty-five (35) years in the military he understands that there is a desperate need for it. He is sure there is need for counseling and drug and alcohol abuse treatment but again, he goes back to the same concern that Mr. Holden had and that's the reason that he asked this question. Did the notification that went to the neighbors spell that out? Responding to Colonel Welsh, Mr. Sigler stated that as an attorney in this area he can tell you that 42 CFR Part 2 tells them that they cannot tell the public that these people in fact are receiving treatment for addictions because that violates federal law. That identifies them and by identifying them if they had put that in the notice, they would be subject to federal penalties.

Mr. Holden stated that in his view, there's some kind of nebulous shifts here. The original Conditional Use for a veteran's home and code purple shelter, he wasn't here for that application so he doesn't know if that was described as a veteran's treatment facility that could include substance abuse or if that's inherently understood. He did not understand it that way and so that's a bit of a change. Anytime you see a multitude of changes in these discussions it raises some concern. The fact that the information that was provided to the Commission tonight that was not in the public packet and available to the public is his greater concern. He is comfortable with denying the application or deferring the application because of those reasons. He understands that that's a challenge in the business sense that there are issues there that they have been struggling with the

VA and he also thinks that the citizen's rights and the Conditional Use hurdles are onerous for good reason. Responding to Mr. Holden, Mr. Sigler stated that they are in a position and he has shared this with Staff as well, that if they don't have this program open and up and running in that facility or another facility and there is no other facility in Dover or Kent County to hold this, then this will not happen in Kent County this year and it may not happen in Kent County at all. He doesn't make that as a threat; this is the pressure that they have been working under. Mrs. Townshend and Mr. Cook know that this is one of the reasons why they are here tonight because they are trying to get this thing done and they are trying to get this done in such a fashion that these people can get the treatment that they are entitled to, that they deserve and that they need. The fact of the matter is that the State of Delaware is going to cancel their contract if they do not open by April 1, 2016. That's not a threat, it's a fact. It's not just a business fact, it's a fact that they will pull this contract and give it to someone else somewhere else.

Mrs. Townshend stated that one point that she did make with the applicant during the pre-application meeting was the reason for the Conditional Use process. It's because this is a residential zone so that's the purpose of the scrutiny, not to say that uses aren't desirable in Dover or desirable at this location but it's to allow for the input and allow for the Planning Commission to place the appropriate conditions based on the factual information and the knowledge of the ordinance to protect this use as it relates to the zone. She doesn't want to take away from the need but she wants to correct the one thing that was stated previously, that this was a technicality. She never saw it as a technicality; she sees it as a Conditional Use in a residential zone regardless of the fact that it's setup like a dormitory building. There is the possibility when they do the *Comprehensive Plan* updates to look at the zoning and see if there is a more appropriate zoning classification but right now this is what they are left with. From the applicant's perspective, if you believe that the Planning Commissioners are asking a lot of hard questions it's because they are here to maintain a standard and again the R-8 (One Family Residence Zone) is a very common residential zone. If we are saying this is appropriate here then we are saying it's good in many of our neighborhoods. Again, the issue is about consistency, fairness and transparency. She thinks those are the issues that Commissioners have raised. That's part of the reason that they did want more information on the record about the types of services being provided so that they had the information for them to have in your deliberation. Responding to Mrs. Townshend, Mr. Sigler stated that if you go look at this property you will see that it's isolated. There is nowhere else in the City that he is aware of, where it would be appropriate for this type of facility. If you don't have this kind of facility there then that building is absolutely useless; it has no other use except as a residential facility of some sort. That's why it was built to begin with he would assume. To be very frank, behind it is woods. This is about as isolated as it can get and although it's not a secure facility, it might as well be because you can't get to it from anywhere. This is about as good as it gets in the City of Dover for this kind of facility. He thinks everyone would be a lot more comfortable if they went to this property to see it. You would see that this is absolutely ideal and there is no one around it to be impacted.

Colonel Welsh questioned how many notices went out? Responding to Colonel Welsh, Mr. Anderson stated that there were six (6) notices sent out.

Colonel Welsh stated that there are six (6) neighbors that are within two-hundred (200) feet that could be impacted. Responding to Colonel Welsh, Mr. Anderson stated that they made it a point through their individuals who are associated with the church to get a sense of whether or not the neighbors would have any issues and the reason that you don't see them here tonight is for that

specific reason. There is a fourteen (14) acre parcel that completely surrounds this parcel except for the street. To the rear, because of the wetlands located behind it and on both sides the land can never be utilized of developed. That individual as they understand it has no issues with their use. The adjacent property to it is another church and between the two (2) properties is over twenty-five (25) acres of property. Yes, this is a residential zone but the reason that the notice was only sent to six (6) people is because there aren't very many homes there. This is so isolated and so remote in terms of unless you drive several hundred feet down the drive, you can't even tell that the building is there necessarily. He knows the Planning Staff relatively well; they have been through a lot of projects with the City. He has worked with Downtown Dover Development Corporation. They have done their part; they have invested and tried to help the community and they are in process of doing it right now on several fronts. They have been designated as a brownfield developer. They are looking at blighted areas. They have done several projects in the Downtown area and other parts of the City. They are not here to make a problem for the City or for their neighbors. It's all about working together and improving the community and improving our environment. They would never do something that would be negative or adversely impact on them or their property values or their ability to enjoy their properties. For this particular project, they have gone through great lengths to make sure that it would have an adverse impact. He just wanted to let the Commission know that he appreciates all of their questions and concerns. They have the same concerns as well. He understands that they have got to make a decision but the fact of the matter is, they are in this together to make this a better community and to make Dover a better place. This is not just business, this is actually making a difference because we care.

Mr. Tolbert asked if the residents would only be able to stay there for ninety (90) days? Responding to Mr. Tolbert, Mr. Anderson stated yes, ninety (90) days and he doesn't know if that can be reinstated but there's a ninety (90) day time frame. This is the best part of the program, before they get into the part of the program that actually re-introduces them to help them with placement, with jobs and with things that are going to help them become productive members of the community again.

Mr. Tolbert questioned what about the females that have children? How will that be handled? Responding to Mr. Tolbert, Mr. Anderson stated that there are other programs that deal with women with children but as of right now these are single women without children at this particular facility.

Mr. Sigler stated that is not correct. There is the possibility that there will be women with children. That's one of the reasons why this property was chosen, one of the reasons why the State has decided to license this facility. Up to four (4) women can have children there but at no time will there be more than four (4) children on the property. The minimum age for the children is three (3) years old.

Colonel Welsh questioned if that was a State requirement? Responding to Colonel Welsh, Mr. Sigler stated yes, that is a State requirement in the contract and it's no more than four (4) children at any given time and no more than four (4) women with children. The children will be housed with the mothers and the mothers will be taking care of the children. In response to the question before of is this a secure facility, it's a staff secure facility. A minimum of two (2) trained individuals will be there 24/7 plus the treatment staff during the day makes it even more than that.

Mr. Cregar questioned how long this contract has been negotiated? Responding to Mr. Cregar, Mr. Sigler stated that they bid this contract last year.

Mr. Cregar further questioned if that contract was made available to City staff, which spelled out all of the parameters of this program? Responding to Mr. Cregar, Mr. Sigler stated that City staff did not ask for it, they asked for a synopsis and that's what we gave them. It can be provided if it needs to be.

Mrs. Townshend stated just going back to the public notice, as Mr. Anderson stated there were six (6) addresses on the mailing list. Three (3) of those properties are churches and three (3) of them are residences so it is half church and half residences.

Dr. Jones stated the churches are there but are the residences occupied? She believes that one residence is not occupied. Responding to Dr. Jones, Mrs. Townshend stated that she believes that Dr. Jones is correct just given her knowledge of the area. It looks like at least one may be but she can't tell for sure.

Mr. Tolbert stated that because of the ninety (90) day restriction and the limitation of females and the restrictions on children, do they anticipate having to turn many women away because of that requirement? Responding to Mr. Tolbert, Mr. Sigler stated that the State makes the referrals to them and then they review those referrals to see which ones are appropriate and which ones are not appropriate.

Mr. Tolbert questioned if the women couldn't come straight to the facility to apply for the program? Responding to Mr. Tolbert, Mr. Sigler stated they cannot, even private pay insurance has to go through the process.

Colonel Welsh stated that it was a coordinated process through the State. Responding to Colonel Welsh, Mr. Sigler stated yes, it's a coordinated process through the State and overseen by the State. He can guarantee based on his experience with the Division, they are going to be in there more than he is, looking at them and they should be. They welcome them and will be prepared for them.

Colonel Welsh stated that it's a much needed service and he thinks he would feel that perhaps he hasn't been responsible if they turned the applicant away. He was concerned about whether it was a drug and alcohol treatment facility versus a veteran's home. But it is a Conditional Use; it's something that the Commission can allow to happen, they can get their licensing, they can establish their contract with the State of Delaware and during the course of that year if they have issues and problems with the neighbors they can deal with it. Would the Commission have to wait one year before dealing with it? Responding to Colonel Welsh, Mrs. Townshend stated if the Commission sets conditions and they do not comply with the conditions then Staff can bring it back to the Planning Commission.

Colonel Welsh stated that is kind of his thought process. He doesn't want to deny people who need the service. He is not an attorney but he kind of disagrees with the HIPPA law. Responding to Colonel Welsh, Mr. Sigler stated that it is not HIPPA; this is the federal statute and the federal regulations dealing with specifically with drug and alcohol. If you identify to the public what the

facility is doing or identifying the people there as addicts then therefore you are in violation of 42 CFR Part 2.

Colonel Welsh questioned if you would be in violation if you say "they may be undergoing treatment for drug and alcohol abuse?" Responding to Colonel Welsh, Mr. Sigler stated that is correct because you have identified them.

Colonel Welsh stated that he finds that kind of hard to believe because he thinks a neighbor has a right to know what's going on there. How do you serve notice to that neighbor without violating this Code that he is addressing? Responding to Colonel Welsh, Mr. Sigler stated that until he started this particular path down his practice of law he would have agreed with Colonel Welsh 100%. Having said that, he has appeared in court at every county of the State at every trial level on 42 CFR Part 2 to protect the identity of and/or the fact they that were in treatment and the records of drug and alcohol clients.

Colonel Welsh questioned even if you are not addressing specific individuals, just anybody that comes and goes from there may be coming and going for drug and alcohol treatment? Responding to Colonel Welsh, Mr. Sigler stated if they identify it as substance abuse treatment center which is what it is then they have identified the occupants as people in need of substance abuse treatment and we are in violation of 42 CFR Part 2.

Mr. Anderson stated that he is not an attorney; he is a practical person. He loves people, he is a Christian that's where his heart is and he appreciates Colonel Welsh's consideration. This has been a long year going through this process and it's been very difficult. If the Commission would in fact consider something to that effect they will meet whatever obligations are necessary in order to provide this service to the community with whatever restrictions necessary. He thinks everyone will see the benefit of it in the future and then whatever restrictions, limitations or conditions are set they will be able to certainly see that is met. This is not your typical neighborhood. Within the twenty-five (25) or twenty-eight (28) acre area there's the three (3) churches and a couple houses. This is not something that you are going into a neighborhood and splashing down this center.

Mr. Holt questioned how often can the City go out and inspect a facility like this? Can we go every so many week or so many months? Responding to Mr. Holt, Mrs. Townshend stated that she doesn't know exactly what they would be inspecting it for. In terms of the care that they deliver, she knows that City Staff is not qualified to inspect it for the quality of care. The only things that she can think of that Staff would do routine inspections for are fire or building code issues. That's typically a once a year inspection.

Colonel Welsh stated that he was referring to the Conditional Use. The State is going to do the inspection to make everything in the program is okay. His concern with the Conditional Use is if they have neighbors who are complaining about activities that are going on there that otherwise shouldn't be going on there then they have the opportunity to review and revoke the Conditional Use and they shutter their doors. Responding to Colonel Welsh, Mr. Sigler stated that one of the things that they do when they have a program such as this is they try to put together a group of neighbors although neighbors are a little scarce in this area. The neighbors know that they are providing treatment; they don't tell them what kind of treatment because they can't. They may guess, we may say too much and they may conclude but we don't tell them. What we do tell them is

that we want to be good neighbors and if they have problems this is who to call. Mr. Mark Hester is his risk manager and he is also for a lack of better terms he is a complaint internal affairs investigator. Every single complaint that they get becomes something that he has to investigate and that they have to report. It's reported to the State and also internally. Part of what they do is try to be good neighbors. They understand that the general public doesn't understand what they are doing and has fears. All of us have trepidations about things that we don't understand. They will have an advisory group that will be there. It's part of what they are required to do under contract but it also makes business sense; that you go in and introduce yourself and give them a point of contact. One of the reasons why they took Councilman Hosfelt out to see the property is so that he could see what was going on with the property and what they were doing. He thinks that he can represent to the Commission that Councilman Hosfelt was comfortable with what they were doing.

Mr. Anderson stated that all of the Commissioners are welcome to come to the site any time; it will be a Class A operation and it will be effective. They won't just be doing something they will be making a difference.

Mr. Baldwin stated that he appreciates the fact that this is a much needed service. At the end of this five (5) year contract, what are our options? Responding to Mr. Baldwin, Mrs. Townshend stated that she would say that it relates specifically to the conditions that the Commission places on the approval. If the Commission approves the Conditional Use permit subject to the statements made in the letter sent by Psychotherapeutic Services Inc dated February 9, 2016, that has very specific criteria and it does specify women as the clients that they are serving and specifying the number of beds in the motion. That way at the end of the five (5) years, if the nature of the services changes beyond what ever conditions the Commission set it would come back. So if the Commission set a condition that it be for substance abuse services for women then in order to expand the services to men, it would need to come back. If you don't specify that in the motion as a condition then it would not need to come back. That's really at the purview of the Commission to determine what specific conditions they want to put to make sure that they are comfortable with the approval.

Mr. Tolbert stated that they can't state in the literature to the public that you are serving people who are suffering from drug abuse. Aren't there other terms that can be used without stating that they are addicted to drugs like social problems, societal problems or some other terminology without saying drug addictions but it would compass drug addiction? Responding to Mr. Tolbert, Mr. Sigler stated that places them in a rather precarious position in that these people are not psychiatric so they can't say that they are. Which takes us out of 42 CFR Part 2 and puts us into HIPPA and there is no violation there. These people are not psychotic, they are addicted. Saying that it is a residential treatment center facility is about as far as they can go and still be honest with the people that they are trying to tell. They are between a rock and a hard place. If he thought it would solve it, they would do it but he knows he can't allow his people to do it. He is not Mr. Anderson's attorney but he is not going to allow his people to do it.

Mr. Cregar stated that Mr. Sigler is now on the public record as saying that this is a drug and alcohol treatment facility. Responding to Mr. Cregar, Mr. Sigler stated that is correct.

Mr. Cregar questioned if they have just violated 42 CFR Part 2? Responding to Mr. Cregar, Mr. Sigler stated maybe; they will find out if somebody sues.

Mr. Cregar stated that this is a little nebulosus. Responding to Mr. Cregar, Mr. Sigler stated that this is the real world that Colonel Welsh referred to earlier; they are between a rock and a hard place.

Mr. Cregar stated that it has just been identified in a public forum as a drug and alcohol rehabilitation facility. It is out there and the paper wanted to write an article about it tomorrow they could. Responding to Mr. Cregar, Mr. Sigler stated that is correct but they would hope that the paper would not because they would be getting a violation from him stating that they are in violation of CFR 42 Part 2.

Mr. Cregar questioned how the paper could be in violation if it was addressed in a public forum? Responding to Mr. Cregar, Mr. Sigler stated that it doesn't matter how you get the information, if you disseminate the information you are in violation of 42 CFR Part 2.

Mr. Cregar stated that they have a land use decision that they have to make. Responding to Mr. Cregar, Mr. Sigler stated that he understands and he is trying desperately to be helpful.

Mr. Cregar stated that need is not necessarily the issue that they have to address. They have to address whether this facility in this area is in harmony with the character or what is there and whether those churches and those other residents understand what is getting ready to take place. That is the decision that he feels he has to make.

Mr. Sigler thanked the Commissioners and apologized for muddying the waters.

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

Mr. Baldwin questioned if they needed to specify that it is a treatment facility for females? Responding to Mr. Baldwin, Colonel Welsh stated that he didn't but they probably should specify that.

Mrs. Townshend stated that Colonel Welsh made it subject to the correspondence of February 9, 2016 to Tim Mullaney Jr which specifies women. It also specifies that the number of beds can be up to sixteen (16) but it does not specify a one year review.

Mrs. Townshend questioned if the DAC comments were also going to be accepted as conditions? Responding to Mrs. Townshend, Colonel Welsh stated yes, he assume that the applicant is accepting all of the DAC comments.

Colonel Welsh moved to approve C-16-02 Residential Treatment Facility on property of Healing Wings Christian Center at 1420 McKee Road for a Conditional Use application to establish a residential treatment facility emphasizing that it is conditional and that they comply with all of the conditions that were set forth in the letter from Psychotherapeutic Services Inc to Timothy P. Mullaney Jr. and now the Planning Commission is in receipt of and to include a review by the Planning Commission of the Conditional Use in one year and the DAC comments, seconded by Mr. Holt. The motion was carried 5-3 by roll call vote. Mr. Holden voting no, he is uncomfortable with a number of factors. He thinks it's a bit disingenuous to introduce a signed letter into the public record and state at the same time that the information can't be shared with public. He is

uncomfortable that it's been stated that it's been used as a treatment facility when it's Conditional Use doesn't support it and he is uncomfortable with what the public has had available to them so that they knew whether to come in opposition or support of this application. Mr. Cregar voting no, with all the reasons stated by Mr. Holden. Colonel Welsh voting yes, for the reasons that he stated earlier. The community is in desperate need of a facility like this and the only question that the Commission seems to have is perhaps one of public notification. We can't answer one way or the other if they do or do not know but he thinks fact that it is a Conditional Use allows the Commission to at any time, terminate that Conditional Use. Mr. Holt voting yes, since it is a Conditional Use and he feels that it is much needed in the community. Mr. Baldwin voting yes, it is a much needed service and also because it's a Conditional Use where the Commission can address any problems that may come up in the future. Dr. Jones voting no, for several reasons. She has been on a rollercoaster experience with the presentation. She was just not totally clear that all of the presenters were on the same page in terms of what this project is about. She is a little bit concerned about the inconsistent comments about the population being served. She is very uncomfortable with it. Ms. Still voting yes, in reviewing everything stated in the February 9, 2016 letter she feels that it's a needed project and the fact that the Conditional Use can be terminated at any time in conjunction with a one year review. Mr. Tolbert voting yes, because of the need for the services. This Commission serves the right to oversee this application again so that gives them some control over what happens and he is comfortable to a great extent with that.

The Commissioners recessed at 9:10PM for five (5) minutes.

The Commissioners returned at 9:15PM.

6. S-16-01 Lighthouse Construction Inc. Enterprise Office Building at 285 Beiser Boulevard – Public Hearing and Review of a Site Plan application to permit the construction of a two story 43,700 S.F. office building and associated site improvements. The project includes a Minor Lot Line Adjustment Plan to increase Lot 2 from 1.578 acres to 3.294 acres with the adjoining Lot 1 to be 21.744 acres. The submission includes the Performance Standards Review Application. The property is zoned IPM (Industrial Park Manufacturing Zone) and is part of the Enterprise Business Park. The property is located on the north side of Beiser Boulevard east of Enterprise Place. The owners of record are Eric and Maria Tamesis and the Del-Homes Catalog Group LLC; an equitable owner is Lighthouse Construction Inc. Address: 285 Beiser Boulevard. Tax Parcels: ED-05-076.15-01-03.01-000 and a portion of ED-05-076.15-01-03.00-000. Council District 1. *Waiver Requested: Increase Impervious Surface Coverage of Lot 1.*

Representatives: Mr. Gregory Moore, Becker Morgan Group; Mr. Bob MacLeish, Lighthouse Construction, Inc.

Mr. Holden recused himself from this application due to his employer being the engineer/architect of record.

Mr. Diaz stated that this Site Plan is for a two story 43,700 square foot medical office building at 285 Beiser Boulevard in the Enterprise Business Park. The lot is in the IPM (Industrial Park Manufacturing Zone). This application also includes a Minor Lot Line Adjustment Plan to increase the size of the lot to 1.5 acres to 3.2 acres with the additional land coming from the neighboring lot

at 1 Commerce Way to the north. The Lot Line Adjustment expands the lot so that it takes up the full block that is bound by Beiser Boulevard, Enterprise Place and Commerce Way to the north. Previously, it was about half the size of this block. The expansion also brings into the lot an existing parking lot and a stormwater management pond that previously belonged to 1 Commerce Way. Use of his existing parking lot ensures that the medical office building exactly meets its parking requirements. They have a need for one hundred forty-six (146) parking spaces and have that number provided in both the existing lot and the amount they are proposing to add.

One small issue that they had was that the Minor Lot Line Adjustment Plan slightly increased the percent impervious surface coverage on 1 Commerce Way. The applicant has requested a waiver for this increase in impervious surface coverage. Staff is recommending approval of the waiver because while the percentage is increasing because of the Lot Line Adjustment, there isn't any actual construction of impervious surface on 1 Commerce Way.

The applicants are planning a varied façade on all four (4) sides of the building so there is visual interest from all of the right-of-ways. All four facades are within the packet. Because the development is in the IPM (Industrial Park Manufacturing Zone) it required a Performance Standards Review Application. Staff is recommending that the Commission affirm that the site's proposed use meets the City's performance standards because as an office building it will not generate the hazards or the other objectionable elements that are expected of industrial uses. You can also find that application in the packet.

The more detailed comments can be found in the DAC Report. There are comments from Public Works, the Fire Marshal's Office, DelDOT and Kent Conservation District. The two main things that Staff would like the Commission to act on are the waiver request for additional lot coverage on 1 Commerce Way as part of the Lot Line Adjustment Plan and to review the Performance Standards Review Application which is asking for affirmation that the office building will meet the City's performance standards.

Mr. Moore stated they are fine with everything that was stated by Mr. Diaz.

Mr. Welsh stated that this was a very attractive design.

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

Mr. Moore stated that they are fine with the DAC comments as presented with exception of DelDOT. DelDOT actually indicated that they may consider a Traffic Impact Study for this property and they don't believe that a Traffic Impact Study will be beneficial because of the construction of the new West Dover Connector. Mr. MacLeish and he had actually worked on a larger project on the other side of Dover, directly adjacent to the same West Dover Connector and DelDOT did not require a Traffic Impact Study for that project. They had done a study of the entire region that covered the property and he believes that this property falls in the same category. The improvements that will be made by that roadway will greatly benefit the intersections that affect this property and they believe that a study being done before that road is finished, which is about twelve (12) months out, would be a complete waste of money.

Mr. Tolbert questioned if the applicant had spoken to DelDOT about their concerns? Responding to Mr. Tolbert, Mr. Moore stated that DelDOT did not appear at the DAC meeting so they were unable to speak about this there. They would ask that Mrs. Townshend join them in making their voice known to DelDOT in terms of their belief in lack of use of a study.

Mrs. Townshend stated that she and Mr. Jason Lyon have discussed it and he has had some follow up with DelDOT. The other issue is that they property is located on a City street. They want to work with DelDOT but they understand the applicant's position so they will work through it.

Colonel Welsh stated that under Recommendations, Suggestions and Conditions of Approval to meet the Code, Staff recommended that the outside HVAC equipment be designed to minimize impact. Where is the HVAC equipment going to be placed? Responding to Colonel Welsh, Mr. MacLeish stated that it will all be mounted on the roof.

Colonel Welsh stated that's what he was hoping to hear and asked if it would not be visible. Responding to Colonel Welsh, Mr. MacLeish stated that you try hiding these units the best as you can. When you get to some of the ERV units and depending on what exactly that final system looks like, they are centered in the building. The building is pretty wide but you may see a portion of it but they do their best to hide it.

Colonel Welsh further questioned that it wouldn't take over the architecture of the building? Responding to Colonel Welsh, Mr. MacLeish stated no.

Mr. Cregar questioned if there were any green technologies being incorporated into the construction of this project? Responding to Mr. Cregar, Mr. MacLeish stated yes, there are a number of green technologies that they are working into it. This building will be very similar to the building that they just created on New Burton Road.

Mr. Moore stated that in addition they use a parking lot that's already there for another building that actually is no longer there. It was a 70,000 square foot building that failed in a snow storm and never got rebuilt. They are also reusing the stormwater facilities that were implemented for that building and that property.

Ms. Still moved to approve S-16-01 Lighthouse Construction Inc. Enterprise Office Building at 285 Beiser Boulevard and to affirm that the proposed use as a medical office conforms to the Performance Standards of the Zoning Ordinance and is not expected to generate excessive or dangerous objectionable emissions and also to include the waiver for impervious surface coverage.

Colonel Welsh questioned if that waiver was required? He noticed in the comments that it states that it's going to be below the amount granted to Lot 1. Responding to Colonel Welsh, Mrs. Melson-Williams stated that it's actually an increase to what was previously approved. It's over the Code and it's over the previous waiver that was granted.

Ms. Still moved to approve S-16-01 Lighthouse Construction Inc. Enterprise Office Building at 285 Beiser Boulevard and to affirm that the proposed use as a medical office conforms to the Performance Standards of the Zoning Ordinance and is not expected to generate excessive or dangerous objectionable emissions and also to include the waiver for impervious surface coverage,

seconded by Mr. Cregar and the motion carried 7-0 by roll call vote with Mr. Holden recused and Mr. Ambruso absent.

Mr. Cregar questioned if the applicant was okay working with Mrs. Townshend to work out anything with DelDOT? Responding to Mr. Cregar, Mr. Moore stated yes.

Mr. Cregar further questioned if Mrs. Townshend feels comfortable in being able to help facilitate that? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Cregar voting yes, in accordance with the DAC comments and the review process that this Site Plan is undergoing. Colonel Welsh voting yes, for reasons previously stated. Mr. Holt voting yes, for all of the previous reasons stated. Mr. Baldwin voting yes, for the reasons previously stated. Dr. Jones voting yes, for the aforementioned comments. Ms. Still voting yes, in accordance with her comments in the motion. Mr. Tolbert voting yes; he is very well satisfied that the applicant will work cooperatively with Staff.

7. S-16-02 Capital Commons at 505 & 515 North DuPont Highway – Public Hearing and Review of a Site Plan application to permit the retrofitting of an existing vacant commercial building (previous Kmart location) into two tenant spaces of 55,020 S.F. and 29,456 S.F. and to permit the future use of two future restaurant/retail pad sites with buildings of 6,400 S.F. and 6,083 S.F. The overall building area totals 96,000 S.F. ± for the location to be known as Capital Commons. Consisting of two parcels, the total property area is 9.079 acres. It is zoned C-4 (Highway Commercial Zone) with a portion of the property is located on the northeast side of North DuPont Highway north of Townsend Boulevard. The owner of record is Dover, DE Retail LLC. Addresses: 505 & 515 North DuPont Highway. Tax Parcels: ED-05-068.09-01-35.00-000 & ED05-068.09-01-34.00-000. Council District 3. *Waivers Requested: Reduction in Arterial Street Buffer, Partial Elimination of Curbing, Opaque Barrier Alternative Format*

Representatives: Mr. Steve Hutchison, The DDR Corp; Mr. David Kuklish, Bohler Engineering

Mrs. Melson-Williams stated that this was a Site Plan application for the re-development for the former Kmart site at 515 North DuPont Highway. The project actually involves two (2) parcels of land which includes the corner property at 505 North DuPont Highway which was previously a bank location. The property is zoned C-4 (Highway Commercial Zone) and there is a portion of it, the northern part of the property, that is subject to the SWPOZ (Source Water Protection Overlay Zone). The project today is primarily focusing on what is the re-development of the existing vacant commercial building that exists on the site along with some associated site improvements for that project. Because of the level of the site improvements and its adjacency to portions of the Towne Pointe residential neighborhood, it is before the Planning Commission. The site improvements include improvements to the parking lot itself, most specifically and probably most noticeably the re-alignment and re-configuration of the entrance off of Townsend Boulevard which currently is an angle. With this project, it will re-align that drive aisle entrance to the T typed intersection and make some adjustments to the adjacent property in the parking lot areas.

First, she wants to focus on the SWPOZ (Source Water Protection Overlay Zone). With re-development, there is a need to reduce impervious cover that exists within the SWPOZ (Source

Water Protection Overlay Zone). The Code establishes some thresholds for that. Currently, the project is still working to achieve compliance with that aspect of the reduction of impervious surface coverage in that area. There are a number of options that can be utilized to address that and Staff's fairly comfortable that as moving through the finalization of a Site Plan that they can get to compliance with that through a number of ways. This project while focusing on the re-development of the existing commercial building, could have utilized what they call the Site Development Master Plan process to actually tell them all of the details about the two (2) pad site locations which are at this point really serving as placeholders. The current bank building is proposed for demolition and then a future building will be built at that location and then a second pad site location in the northern corner of the site along Route 13. The applicant gave Staff some preliminary numbers for sizing of those buildings and Staff has utilized some of that to test the parking that's being proposed on the site. But ultimately because they are not using that Site Development Master Plan process, each of those pad site buildings will have to come back through a Site Development Plan review with the Planning Commission and subject to a hearing when they actually have a tenant and a formal design for each of those buildings.

Specifically, for this project because they are utilizing the existing building, there is no architecture that's required to be presented. The plan indicates at this point that they are seeking to divide that large commercial building into multiple tenant spaces. At this point, it's looking like two (2) tenant spaces. Specifically with the parking, they do see somewhat of a reduction than what is currently on the site available for parking with this project and the redesign. They go from an angled parking scenario to the more standard format for parking. With this project, based just on the floor area calculations for the buildings on the site, the minimum number of parking spaces required for the project is three hundred twenty-four (324) parking spaces giving the maximum allowable by Code to be four hundred five (405) parking spaces. The plan is currently showing three hundred eighty-two (382) parking spaces so they are within the realm of parking. Should the pad site buildings develop differently, different sizing, different uses with different parking calculations then the parking in the future may need to be re-evaluated at that time.

The property is providing a series of loading areas to the rear of the main commercial building and has indicated that bicycle parking will also be made available with the strategy of placing racks at each of the building locations with more details to follow. With this project, they are seeing a significant change in the sidewalk network that serves this property. For the sidewalk along Townsend Boulevard, there is some improvement in that area. Specifically, along the Route 13 frontage this project will be constructing a ten (10) foot wide shared use path across that frontage that is currently not there today. They are also starting to show the beginnings of connections from these street frontage sidewalks into the site. There's some clarity that needs to happen with that but they are certainly making some progress in that realm as well.

Regarding waivers for this project, the first one is related to curbing and it's a request for the partial elimination of curbing. There are areas of the existing parking lot that do not contain upright curbing and they would like to recognize that existing condition as improvements to those areas of the parking lot are not anticipated. There's a portion of what they call the north pad site area that is currently a paved area that will turn into a green space in the intervening time which will also not have curbing until ultimately its final design. There are kind of two (2) aspects for the partial elimination of curbing. They are showing dumpster information. The other significant items with the project are related to landscaping. There is a tree planting requirement and since they are

focused on the main building, Staff is suggesting utilizing a project site area that focuses just on that building and its parking lot areas. Basically by pulling out the two (2) pad site areas, those areas will be addressed in the future for those tree planting requirements. With that said, the project still for what's presented today requires one hundred ten (110) trees. Their initial plan that was submitted showed significantly less than that but the applicant has indicated their willingness to continue to work on finding homes for trees on their site. One of those potential homes of course would be along the arterial street buffer that is required along the Route 13 Corridor. This is where the second waiver is found. That arterial street buffer is required to be thirty (30) feet in width. It is proposed at thirty (30) feet for the most part; however, there are areas in the parking lot that reduce down to twenty (20) feet so the applicant is seeking a reduction in the width of the arterial street buffer. The third waiver is related to an alternative format of the opaque component of the opaque barrier. The opaque barrier is required along the east property line where this non-residential project is adjacent to the residential area. There is an existing chain link fence with slats in that area which if accepted, can count towards meeting the opaque barrier aspect and then they will also have to address a landscape planting component along that property line.

There will be some opportunities for green space and recognizing that the two (2) pad sites are kind of placeholders at this point in time. The Planning Office has identified a series of comments with the project. Specifically, they provided recommendations on all three (3) of the waiver requests and they are in support of them. They are noting that they are continuing to evaluate pedestrian circulation and how that system of sidewalks throughout the site from the street frontage sidewalks can occur. As always with the Development Advisory Committee Report, there are comments from other agencies including the Department of Public Works and Electric for the City and the City's Fire Marshal's Office. They have already been working with DelDOT since Route 13 is State maintained road and actually did perform a Traffic Operational Analysis which has helped push the concept of changing the entrance configuration along Townsend Boulevard even though it is a City street. They have also been working with the Kent Conservation District.

Mr. Kuklish stated that they did have two (2) comments. They do agree with everything that was mentioned by Mrs. Melson-Williams. Secondly, on February 9, 2016 he, Mr. Steve Hutchinson and they DDR Corp met with the White Oak Farm/Towne Pointe Association behind them at the elementary school. They reviewed the project, spoke through questions and comments and they (the community) were very much in support of the project, very happy to hear about the entrance getting realigned and the pedestrian connections getting extended on both Route 13 and Townsend Boulevard.

Mr. Cregar questioned if they could share who might be going in the building? Responding to Mr. Cregar, Mr. Kuklish stated that they could not discuss tenants at this time. They can safely state that they are in final negotiations with two (2) national retail tenants. Once those leases are final they will be able to state who there are.

Mr. Cregar further questioned that it is two (2) tenants? Responding to Mr. Cregar, Mr. Kuklish stated yes.

Colonel Welsh thanked the applicant for taking over an eyesore for the City from the past several years since Kmart has shut their doors. Even before they closed it wasn't a particularly attractive building. Are there any plans for architecture modifications to at least the external portion of the

building? He knows there will be modifications on the inside. Responding to Colonel Welsh, Mr. Kuklish stated yes, plans for the two (2) proposed tenants will be to put new facades or faces on the building with new entrance features for both tenants.

Colonel Welsh stated that a really nice model is the old Walmart location. He was by that location today and they have done such a great job with that project. The way they have staggered the roof line and the way they have staggered the frontage of the buildings. He knows they the applicant probably won't be able to do that but if they could do something with the façade to dress that up so that they don't have a flat roof, long building with no windows. He is a little disappointed that they don't have elevations and he would ask Staff why there are no architectural requirements for the Commission to review when this application comes forward. Responding to Colonel Welsh, Mrs. Melson-Williams stated that in this case it's really the site improvements that are generating the need to be here in front of the Commission. If they were making no changes to the parking lot at all it could be reviewed through a zoning review of the Building Permit. It's the impacts to the site that they are doing in changing the entrance and the site disturbance activities that brings it in front of the Planning Commission because of it being adjacent to residential.

Colonel Welsh stated that perhaps they need to look at changes that can be made because one of the charges that they have is to ensure that it is architecturally pleasing and in compliance with the rest of the neighborhood. They have a chance to make a big difference here and take what he has always thought to be an eyesore in the City of Dover, especially on the main corridor through Dover and dressing it up a little bit making a significant improvement. He thinks that's part of their responsibility to ensure that happens. Responding to Colonel Welsh, Mrs. Townshend stated that they were going to be talking about architectural review tomorrow at the Planning Commission Workshop.

Colonel Welsh stated that it wasn't required of the applicant tonight but he would appeal to their community responsibilities and good citizenship to do what they can to make it an attractive building. He's sure the new buildings are going to be attractive buildings but that old Kmart building needs a lot of work.

Mr. Tolbert questioned if the applicant had an architectural rendering of some sort from an architect on what the final building is going to look like? Responding to Mr. Tolbert, Mr. Kuklish stated that they have conceptual renderings at this time; they do not have anything that's final.

Mr. Cregar questioned if this came up at the public meeting? Did the public ask what the building was going to look like? Responding to Mr. Cregar, Mr. Kuklish stated yes; they had concerns about what the building was going to look like.

Mr. Cregar further questioned if they were able to share at least conceptually with them what the building will look like? Responding to Mr. Cregar, Mr. Kuklish stated yes; they do have conceptual elevations that he can share.

Mr. Cregar stated that he was sitting in the parking lot of Safeway and he is looking at the trees planted in the parking lot and looking at the trees that are no longer in the tree plantings in the parking lot. He knows how frequently they re-plant, they take down or they get bent. What are the options for these developers to try to come up with one hundred ten (110) trees? Responding to Mr.

Cregar, Mrs. Melson-Williams stated that they have some opportunities along the perimeters of the site. There is also a portion of the site that's in the SWPOZ (Source Water Protection Overlay Zone) which can't be impervious so there are certainly opportunities there. Often times with the parking lot re-developments they see the creation of islands, not the diamond shaped islands that tend to mean the tree gets hit like in the Safeway lot. These are larger type islands that would give the tree more protection and it potentially helps the circulation patterns of the parking lot in general as well.

Mr. Holt stated that looking at the chain-link fence that's up in the back of the site; those things get pretty ratty looking. He feels like a landscape of some kind, whether it is a hedge or trees, it would like a lot more attractive. They are proposing to add evergreens along the fence.

Mr. Holt stated that he thinks that would help improve a lot. Those chain-link fences after a few years get really ratty and nobody seems to be able to correct and it looks bad for a long period of time.

Colonel Welsh asked to look at the conceptual renderings.
The applicant handed out copies of the conceptual elevation for the main building to the Planning Commissioners.

Mrs. Melson-Williams stated that it appears that there is certainly an entrance element added for each of the tenant spaces.

Colonel Welsh stated that it's certainly an improvement. If they could do something with the ends of the buildings to maybe raise the roof line a little bit and maybe break that up a little bit. Responding to Colonel Welsh, Mr. Kuklish stated that those are conceptual; they are still working on things.

Mr. Holden questioned if the applicant planned to re-surface the parking lot? Responding to Mr. Holden, Mr. Kuklish stated that their plan right now is to re-seal and re-stripe.

Mr. Hutchison stated that its one way circulation now and they are going to re-stripe the parking to increase efficiency.

Mr. Holden further questioned if they have come to a proposed path to address source water protection and maybe how that rolls into stormwater? Responding to Mr. Holden, Mr. Kuklish stated that looking at a number of things, there's currently existing parking spaces in the northeast corner of the site furthest from the front door; not many customers will park their and use the store entrance. Those parking spaces are in the SWPOZ (Source Water Protection Overlay Zone). They are looking at making that a green area, not only for adding pervious but also for tree opportunities. There may also be some opportunity to skinny up the drive aisle of the truck circulation to again add pervious area.

Mr. Tolbert opened a public hearing.

Mr. William Heinz – GPM Investments, LLC 410 Monmouth Place Newark DE 19702

Mr. Heinz stated that he represents the landlord of the Valero gas station across the street. He wants to know more about the pad sites; it's listed as retail or restaurant. Responding to Mr. Heinz, Mr. Kuklish stated that they are only place holders at this point.

Mr. Heinz stated that's what he thought and then some point in the future when they do have something more definite then it will be re-opened so it can be looked at again? Responding to Mr. Heinz, Mr. Kuklish stated yes.

Mr. Tolbert closed the public hearing.

Mr. Tolbert questioned when they approve or disapprove the application, what are they voting on? Responding to Mr. Tolbert, Mrs. Townshend stated that the pad sites are not before the Commission, it's the larger site. The pad sites will come back to the Commission.

Mr. Holt moved to approve S-16-02 Capital Commons at 505 & 515 North DuPont Highway to include the waivers for reduction in arterial street buffer, partial elimination of curbing and opaque barrier alternative format, seconded by Ms. Still and the motion was unanimously carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes; it's great to see some redevelopment at this site and it looks like a good plan. He also appreciates the applicant bringing back the pad sites in the future without knowing what they are going to be now. Mr. Cregar voting yes; it meets the DAC requirements and they have done an excellent job of trying to re-develop this property because it's needed and it will benefit the community. Colonel Welsh voting yes; he thinks that it's a welcomed improvement to the City of Dover and he trusts that the developer is going to do to everything that he can to make it a beautiful store. Mr. Holt voting yes; the re-development is much needed and will be a big asset to the City of Dover. Mr. Baldwin voting yes; it's good to see some movement on the old Kmart building. Dr. Jones voting yes; it's a much welcomed addition to that area. Ms. Still voting yes; she thinks it will be a great improvement. She has lived in White Oak since 1965 and Kmart hasn't changed since it was built so she will be looking forward to a really exciting new look there. Mr. Tolbert voting yes; the old Kmart is an eye sore on the main roadway in Dover and what they are looking at is going to be an asset to the area and it's going to be a welcomed site.

Meeting adjourned at 9:56 PM.
Sincerely,

Kristen Mullaney
Secretary