CITY OF DOVER PLANNING COMMISSION
December 16, 2015

The Regular Meeting of the City of Dover Planning Commission was held on Wednesday, December 16, 2015 at 7:00 PM with Chairman Mr. Tolbert presiding. Members present were Mr. Cregar, Colonel Welsh, Mr. Holt, Mr. Baldwin, Ms. Still and Mr. Tolbert. Mr. Holden, Dr. Jones and Mr. Ambruso were absent.

Staff members present were Mrs. Townshend, Mr. Jason Lyon, Mrs. Dawn Melson-Williams, Mr. Bill Cook and Mrs. Mullaney. Also present were Ms. Monika Sloan, Mr. Mark Prata, Mrs. Kathleen McDaniel, Mr. Mike Cotten, Mr. Jim Lutz and Mr. Stephen Rosenfeld. Speaking from the public was Ms. Carolyn Fredrick.

APPROVAL OF AGENDA

Colonel Welsh moved to approve the agenda as submitted, seconded by Ms. Cregar and the motion was unanimously carried 6-0 with Mr. Holden, Dr. Jones and Mr. Ambruso absent.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF NOVEMBER 16, 2015

Colonel Welsh moved to approve the Planning Commission Meeting minutes of November 16, 2015, seconded by Ms. Still and the motion was unanimously carried 6-0 with Mr. Holden, Dr. Jones and Mr. Ambruso absent.

COMMUNICATIONS & REPORTS

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

Mrs. Townshend introduced Mr. Eddie Diaz to the Planning Commission. He just graduated with his Master's Degree in Urban Planning from the University of Pennsylvania. His undergraduate degree is from UVA. He has already hit the ground running and is helping with a number of research projects that they are trying to get underway to get some Code updates going.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on November 23, 2015 and December 14, 2015.

Mrs. Townshend stated that the schedule of meeting dates and deadlines for 2016.

Mrs. Townshend stated that starting in January 2016 there will be the Institute for Public Administration Planning Classes. The Planning Staff will make sure they get the information out about the classes; if the Commissioners are interested in attending they can let Staff know. A lot of the Commissioners have been to the classes and she doesn't believe that there are any major changes coming for this spring.

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) C-15-04 The Grande, Building 4: Planned Neighborhood Design – Senior Citizen Housing Option – Public hearing and Review of a Conditional Use Site Plan to establish a Planned Neighborhood Design development of Senior Citizen Housing. The plan proposes construction of a four story 62,240 SF apartment building of 48 units (Building 4) and other associated site improvements at the existing apartment complex which consists of three apartment buildings known as The Grande. With this project, the complex will consist of a total of 192 apartment units of Senior Housing. The property is 6.7326 acres ± and is zoned RG-5 (General Residence Zone for Mid-Rise Apartments) and subject to COZ-1 (Corridor Overlay Zone). The property is located on the north side of Forrest Avenue (Route 8) just west of the Saulsbury Road intersection. The owner of record is Doveview Investors, LLC. Property Addresses: 101-405 Doveview Drive. Tax Parcel ED-05-076.07-01-30.00-000. Council District 1. *Waiver Requests: Alternative Design Standards for Alternative Design Standards for Average and Minimum Lot Area, Building Spacing, Building Height & Number of Stories, Lot Coverage, Number Dwelling Units Per Building and Off-Street Parking; and the Elimination of Rear Emergency Access Requirements. Project includes review of an Active Recreation Plan.*

Representatives: Ms. Monika Sloan, Northpoint Engineering; Mr. Mark Prata, Doveview Investors

Mrs. Melson-Williams stated that this is a Conditional Use Site Plan application that is for the project known as The Grande, Building 4. It's seeking approval under the Planned Neighborhood Design Senior Citizen Housing option. The location map places this property on the north side of Route 8 just west of the intersection with Saulsbury Road. The property is currently zoned RG-5 (General Residence Zone for Mid-Rise Apartments) and is also subject to the COZ-1 (Corridor Overlay Zone). The project tonight proposes what is a fourth building. Currently, there are three (3) apartment buildings on the property. These were constructed with previous applications; most specifically and recently a Site Plan in 2011 for the construction of these three (3) buildings as apartments under the RG-5 (General Residence Zone for Mid-Rise Apartments) provisions. Looking at the site, this would be the building that is closest to the Route 8 Corridor. Currently, the area is a parking lot at the site as it stands today.

The review process for a Planned Neighborhood Design is somewhat special. This is the presentation of the Conditional Use to the Planning Commission. With a Senior PND, there's an opportunity for a variety of different housing types. They are choosing the apartment style of construction. What makes it a Senior Citizen Housing project is that the City's Code requires that the head of household for each housing unit be at least 55 (fifty-five) years of age. That has to be proven to the City. The plan itself is a quad of buildings. Central to the project is the existing stormwater management pond; it's ringed by the four apartment buildings all of which are four story. This is the submission for the fourth building which consists of forty-eight (48) units. The total number of units on the site would be one hundred ninety-two (192) apartment units which gives the project a density of 28.5 dwelling units per acre. That is something that the Planning Commission needs to determine that it is compatible with the development pattern in the

surrounding area. It's one of the provisions to be met with the use of the Planned Neighborhood Design option. With the Planned Neighborhood Design, there is the opportunity to consider Alternative Design Standards and this project is making that request in a number of areas. The report on page 4 provides a chart that actually outlines all of those requests. They are specifically asking for alternative standards in the following areas: the average lot area, the minimum lot area (those are calculations of lot area per dwelling unit), the off-street parking provisions, the building spacing (spacing between buildings), building height and the number of stories, overall lot coverage and then the average number of dwelling units per building. Those are detailed in the chart.

This project as mentioned also falls within the Corridor Overlay Zone. There are a number of provisions related to design of the site and the building that are required in the Corridor Overlay Zone.

The applicant is proposing to replicate the same architecture that exists on the property today which has kind of a detailed watertable that is done in a stone veneer and that stone veneer is carried vertically in several locations to mark main entrances to the building. The remaining wall surfaces are vinyl siding and it does have a pitched roof and other details are brought forth with the balconies and the other trim-work on this property.

Some considerations related to the site to be aware of are the *Delaware Route 8 Concept and Operation Study* that they reference for any projects within this corridor. That was a study that identified circulation improvements along the Route 8 Corridor and presented a variety of alternatives to address traffic conditions in that corridor. The Study identifies a potential improvement related to this property specifically in the form of an interconnection between this property and the adjacent Modern Maturity Center to the west.

With the parking, she wants to highlight that specifically as one of the design standards that they are considering an alternative for this evening. Based on the regular parking requirement for apartment units, this project with a total of one hundred ninety-two (192) dwelling units would be required to have four hundred thirty-two (432) parking spaces. The applicant is seeking a reduction to that and would like to utilize a parking rate of 1.25 parking spaces per dwelling unit and that brings down their proposed requirement to two hundred fifty (250) parking spaces to serve the facility. There are handicap spaces that are identified on the site as well as bicycle parking spaces that would serve each of the buildings. The plan also provides information on sidewalk networks, dumpsters and lighting. The other specific waiver request for this project is related to elimination of the rear emergency access requirement for apartment buildings. In this case, the Planning Commission will make a recommendation that then has to be forwarded on to a City Council Committee and ultimately to City Council for final action. The emergency rear access requirement for a four story apartment building is that the rear fire lane be provided that is twenty-four (24) feet in width across the rear of the building. As you can see, the plan design does not account for that. The applicant is seeking the relief noting that the building does have fire protection requirements in the form of that it's sprinklered. There are fire alarms in the building and there is fire lane coverage on the front and the side of the buildings. As mentioned before, this project also has an Active Recreation Plan. That plan was reviewed by the Parks Recreation and Community Enhancement Committee earlier this week. There was a specific report on the Active Recreation Plan that was provided to the Commissioners and that Committee. The Committee actually considered the project and then recommended that the Active Recreation Area Plan be approved subject to the Staff

recommendations as provided in that report. With the Active Recreation Area Plan, they are looking to utilize three areas that currently exist on the property. One is a shuffleboard area that's in the northeast corner, the horseshoe area in the southwest corner and then the walking path network that exists around the stormwater management pond. With all of this, they are still actually deficit in the amount of active recreation area that is to be provided due to the increase in number of residential units; the area is based on the number of units that you have. They have identified that in order to solve that deficient that they would be looking to consider utilization of the cash in lieu payment process to satisfy that.

The plan does identify the series of tree plantings that would be required and there are also some other landscape plantings related to compliance with the Corridor Overlay Zone provisions. Their recommendation report does include the plan item elements that need to be clarified. There are a number of Staff recommendations beginning on page 10 of the DAC Report. Staff has provided recommendations in regard to the waiver requests in regards to the alternative design standards that they are requesting and the reduction in parking. While they find that those requests fit the character and the conditions for parking that appear to be occurring at the project site, they also are recommending approval of the elimination of the rear emergency access requirement. Recommendation 3 outlines the notes regarding the Route 8 Study that deals with interconnections and actually the provisions with the *Zoning Ordinance* that recommend for cross access provisions as well. They do note that there is an existing pedestrian and a golf cart pathway at this linkage between this Doveview property and the Modern Maturity Center property. It is actually located within an existing cross access easement that has been recorded but they do have to note that the Study recommended a design of something much greater than that to accommodate vehicular access as well to address traffic circulation in the whole Route 8 Corridor. They do note in the Report that both the applicants and the Modern Maturity Center do oppose the provisions to upgrade that interconnection to vehicular access. There's actually some letters that have been received in that regard. Of note on previous action that the Planning Commission has taken in regards to this matter, in 2011 as part of the consideration of the rezoning of this property when it was being rezoned to RG-5 (General Residence Zone for Mid-Rise Apartments) the Planning Commission voted to remove the requirement for vehicular access but retain the requirement that there should be pedestrian and golf cart access between these two properties. Staff's fourth recommendation deals with the placement of mechanical equipment. The balance of the DAC Report includes comments that are provided by the City's Public Works Office, the Electric Department, the Fire Marshal's Office, DelDOT regarding to road access, the Kent Conservation District and the Dover Kent County MPO.

Mr. Tolbert questioned if the applicant agreed with the overview and if they had any comments or statements to make at this time regarding the application? Responding to Mr. Tolbert, Ms. Monika Sloan stated that they were pretty much in agreement with everything. They did send a letter earlier this week to the Parks Recreation and Community Enhancement Committee requesting for the fee in lieu of (Active Recreation Area) because as you can see on the colored plans, there is a little bit of green area left that they might be able to squeeze in some active space but it's always nice to have open grass areas on the site. The other thing she wants to address is traffic; she is in the process of setting up a meeting with DelDOT. When this plan came in originally there were four (4) buildings and the site was designed for four (4) buildings. Two (2) of the buildings were constructed, the economy tanked and the bank ended up buying the site. It was then purchased by Doveview Investors and when they went to go finish construction on the site, the bank said that they

did not think it was feasible to have an over fifty-five (55) community. The site was redesigned at that time to just do three (3) buildings and that's why that extra parking lot is there; that was to provide all of the parking spaces required for three (3) buildings. Now they are coming back with the fourth building because it is an over fifty-five (55) community, the site is fully leased and there is a waiting list on the apartments. The reason they have requested the waivers to reduce the parking and things like that are to add that fourth building. They have done parking counts on the site. There are one hundred thirty-one (131) cars registered to the apartments. There are one hundred forty-four (144) apartments and at the busiest time, the most cars in the parking lot at one time were one hundred thirty-three (133) cars. They are proposing to provide two hundred fifty (250) parking spaces. The only other thing that has come up and continues to come up is the cross-over. What she has heard from what Mrs. Melson-Williams just said that has been addressed; everybody does not want vehicular traffic going through there. There are people here from the Modern Maturity Center; there are petitions that were signed by the residents and they are all in opposition to that because of the safety. They are afraid that it will become a cut through.

Mrs. Townshend stated that they would want the Planning Commission to specifically address that issue in the motion just to make that clear because we have the Corridor Overlay Zone and the Route 8 Study that specifically recommend it but you also have obviously both property owners with serious concerns about it and the pedestrian safety that would be associated with that. They have been doing site visits and parking counts and people are walking all over the place. Not everybody walks on the sidewalk. A lot of people have dogs and you will find them walking down the street through the parking areas or on the sidewalks crossing the lot. They are just really afraid that if that vehicular access was constructed that it would be a safety hazard to everyone. Density was brought up; Mrs. Melson-Williams gave her some information on a couple other developments in the area. They are proposing 28.5; Luther Towers has 32.5 and Luther Village has 15.6 so they are right in that ball park.

Mr. Holt questioned the customer owned secondary conductors and transformers; some kind of house mirror socket that would be lever-operated by pass?

Mrs. Townshend questioned which page this comment was on? Responding to Mrs. Townshend, Mr. Holt stated that it was in the Electric Department comments, page 4 of 5.

Mrs. Townshend stated that it's a technical comment related to the construction. Responding to Mrs. Townshend, Mr. Holt stated that it's some kind of all house meter sockets that would be operated by by-pass. He didn't know if the residents would do that.

Mrs. Townshend stated that Mr. Mark Prata could address that on behalf of the applicant.

Mr. Prata stated that related to the three (3) buildings that were already built, the City of Dover sets a transformer. It is the contractor's responsibility to pick the electric up at the transformer and run it to where the electric meters are located on the building. Each electric meter has to have its own disconnect switch that can be locked out for whatever reason.

Mr. Cregar stated regarding the vehicular cross access, what Staff is really asking for the Commission to do if they are in agreement with no cross access to re-affirm the Planning Commission's actions from 2011? Responding to Mr. Cregar, Mrs. Townshend stated yes.

Mr. Tolbert opened a public hearing.

Ms. Carolyn Fredericks – Modern Maturity Center 1121 Forrest Avenue Dover, DE 19901
Ms. Fredericks stated that she is the Executive Director for the Modern Maturity Center. She did receive notice of this meeting tonight. She is here to speak on behalf of The Grande apartments. She favors the additional construction because it is the fastest growing segment of our population and they have a waiting list and they are all waiting to come over to the Modern Maturity Center. However, she is here to speak against a vehicular access. Have you have been in the Modern Maturity Center's parking lot? Can you imagine people driving through our parking lot now? If they connected the access there and the people would come right across, they would be going the wrong way, and they would be meeting on-coming traffic because the traffic behind the building goes the opposite direction. If they diverted to the left and went in front of the building that is where the buses drop off all of their clients and it is also the bus route for DART so there is a lot of heavy traffic already there. It is a major safety concern; people do walk their dogs from next door in their parking lot but there is a lot of pedestrian traffic and it would be unsafe. She is asking that the Commission re-affirm their previous decision to not connect for any vehicle traffic. They have a walking path there which is wide enough for a golf cart to get through to bring people back and forth.

Mrs. Melson-Williams stated that they did receive a letter dated December 10, 2015 from the Modern Maturity Center signed by Ms. Fredericks and it reflects what she just shared with the Commission and it was provided to the Commission members on their desks this evening. Also on their desks is a copy of a petition that was received titled *The Grande Apartments Pedestrian Walkway to Modern Maturity Center* and it states: "We the below listed residents of The Grande Apartments in Dover do hear by register our opposition to the proposed conversion of the existing pedestrian walkway between The Grande and the Modern Maturity Center to a roadway for vehicles. We strongly believe that the vehicle traffic created by this roadway will be a tremendous threat to our safety." There are four pages of signatures. Staff did not do any kind of double checking for proof of residency but the listing includes a printed name, a signature and then an apartment number. There are a total of one hundred twenty-seven (127) signatures on that document.

Mr. Tolbert closed the public hearing.

Mr. Cregar moved to approve C-15-04 The Grande, Building 4: Planned Neighborhood Design – Senior Citizen Housing Option and to include the waivers for the minimum lot area, building spacing, building height and stories count and lot coverage; these Alternative Design Standards as the Planning Staff has already indicated in their report allows for the expansion of an existing apartment complex in this urban setting and also a needed housing type within this area. Also, to include a waiver for parking to allow a minimum of 1.25 parking spaces (per dwelling unit); they did a parking study which supports this reduction. Also, recommending to City Council for the elimination of the emergency rear access because the building will be sprinklered and will meet the Fire Protection Code. Also, supporting the Recreation Plan and fee in lieu of Active Recreation Area. And to re-affirm that the Planning Commission does not want vehicular access between the Modern Maturity Center and The Grande, that they will leave it pedestrian and gold cart access, seconded by Colonel Welsh and the motion was unanimously carried 6-0 by roll call vote with Mr.

Holden, Dr. Jones and Mr. Ambruso absent. Mr. Cregar voting yes, for all the reasons stated. Colonel Welsh voting yes, for all of the reasons previously stated and the fact that it's a common sense continuation of the project. It's been a godsend, he appreciates all of the hard work put into it and it's a great addition to the community. Mr. Holt voting yes, for all of the reasons stated by Mr. Cregar and it's definitely needed in the area. Mr. Baldwin voting yes, based on the comments stated in the motion. Ms. Still voting yes, in concurrence with all of the reasons stated in the motion. Mr. Tolbert voting yes, for all of the reasons stated in the motion and during the public hearing. We certainly have a need for senior citizen housing.

2) S-15-15 Fordham & Dominion Brewery Addition (Phase 2) at 1285 McD Drive – Public Hearing and Review of a Site Plan application to permit the construction of a 13,370 S.F. addition to the existing Fordham & Dominion Brewery and the associated site improvements. The property is zoned IPM (Industrial Park Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone): Noise Zones A and B and Accident Potential Zone II. The subject area is located on the south side of McD Drive near the intersection with Horsepond Road. The owner of record is William H. McDaniel, Inc. Property Address: 1284 McD Drive. Tax Parcel: ED-05-077.12-01-13.00-000 (portion). Council District 2. *Waiver Requests: Elimination of Curbing, Reduction in Parking Requirement, and Partial Elimination of Sidewalk. Application V-09-02 Fordham Brewery approved a variance to construct the building additions in the floodplain.*

Representatives: Mrs. Kathy McDaniel, William H McDaniel, Inc; Mr. Mike Cotten, Cotten Engineering; Mr. Jim Lutz, Fordham & Dominion Brewery

Mr. Cook stated the project that was for a building addition, Phase 2 at 1284 McD Drive. This is a Site Plan application to promote construction of a 13,370 S.F. addition to the existing Fordham & Dominion Brewery and associated site improvements. The property is zoned IPM (Industrial Park Manufacturing Zone) and is subject to the AEOZ (Airport Environs Overlay Zone): Noise Zones A and B and Accident Potential Zone II. The site is located on the south side of McD Drive which is a private drive near the intersection with Horsepond Road. Owner of record is William H. McDaniel, Inc. Tax Parcel: ED-05-077.12-01-13.00-000.

This is a 13,370 S.F. building addition to the existing structure which will bring the total building area to 32,456 S.F. The project area is a portion of the total site. The total site is an industrial park zoned area and we are dealing with just a 5.61 acre lease area within that parcel. Site Development Plan S-09-10 was approved back in June 2009 to permit an addition to the building that existed at the time in two phases. There were various extensions applied for which subsequently expired; this plan is back to the Commission for approval of one of the phases of the addition which was proposed in the original application. Also of note, there is a Variance associated with the property in regards to the ability to build in the Flood Plain. That Variance was V-09-02 which was granted in March 2009. The building in the Flood Plain issue really comes into play in the Building Permit process; it's not so much a matter for this body at this point. The operation is considers a manufacturing operation which is permitted in the IPM (Industrial Park Manufacturing Zone). It is additionally a permitted operation within the Accident Potential Zone II sub-area of the AEOZ (Airport Environs Overlay Zone).

The building is an industrial structure, it does have some brickwork on the front, yellow awnings near the entrance and you can see their tanks on the side of the building. In terms of what the

addition will look like, it's just an addition on the back of the structure that's going to extend it.

The parking requirements are for one space per 800 S.F. of floor area for manufacturing uses in the IPM (Industrial Park Manufacturing Zone). Based on that, there is an adjusted square footage and they continued that adjustment from the previous application. In the previous application, there was a portion of the building which housed mechanical equipment and that was taken out of the floor area for purposes of calculating the parking. A table was provided in the Staff Report. The parking requirement would be for thirty-six (36) spaces total; at present there are twenty-four (24) spaces on the site and there is a waiver request with regards to parking that will be referenced later. There is sidewalk on the frontage with Horsepond Road. It is required in the *Zoning Ordinance* that there be connecting sidewalk from what is considered the neighborhood sidewalk network to the building entrance and parking area. There is a waiver request associated with that as well. Dumpsters are existing on the site. There are other minor comments about lighting and bike parking that Staff put in the Report. Currently, there is no curbing of the existing parking areas or the access drive and there is a waiver request associated with that. Also in the packet there was a submitted tree planting and landscape plan, this is pretty much a continuation of the existing plan as it was adopted in the previous application. They have some minor adjustments to do but nothing significant.

In the motion to approve, there are three waiver requests which will the Commission will need to take action on. One is the request for the elimination of the curbing requirement. Staff does recommend approval of that request as the elimination of curbing exists with the draining of the area for stormwater purposes. Staff does recommend as a condition of approval, the installation of parking bumpers at the head of the parking spaces just to provide for vehicle control safety, to preclude parking on the adjacent grass areas and also just to better identify the parking spaces. The other waiver request was for partial elimination of a sidewalk requirement. The applicant did include letters which were in the packet. Staff recommends denial of the waiver request. Although there is the frontage sidewalk installed along Horsepond Road, as a matter of practice they have not recommended waivers for sidewalk elimination in the past. There are other properties along Horsepond Road that do have sidewalk. There is somewhat of a lack of connectivity between them at this point but the intention of the Ordinance is that over time as properties are improved, the sidewalk network develops and it eventually does connect and become whole. Staff also had a recommendation of denial for the parking reduction waiver. The applicant submitted a request for waiver of twelve (12) spaces from the required thirty-six (36). If the waiver were approved that would mean that they are basically retaining the existing parking that they have on the site. The reasons for the Staff recommendation to deny have to do with the fact that since the site was originally approved for construction, there has been additional activity with regards to events such as tastings and other events that the brewery has on the site. They have had some evidence provided by the Fire Marshal's Office as well as Code Enforcement that there has been some parking on the grass and that the existing parking was somewhat deficient on the site. Therefore, they believe that the twelve (12) spaces which on the previous Site Plan were shown as reserved which would be in practice when you approve a parking waiver. In the last application the parking waiver was approved; however, Staff believes that the time has come for those twelve (12) spaces should be utilized.

Colonel Welsh stated that he had a question regarding the parking waiver. There is a sizable increase to the building, is that going to result with an increase in employees? Responding to Colonel Welsh, Mrs. McDaniel stated no, not to start with; employment will stay pretty level. It's

strictly at this point to move the bottling line over and increase the warehouse in space and then in the future, possibly adding more tastings.

Colonel Welsh stated that would bring an increase in employees. Responding to Colonel Welsh, Mrs. McDaniel stated currently that a possibility.

Colonel Welsh questioned how many employees they have working there at any point in time? Responding to Colonel Welsh, Mrs. McDaniel stated that the maximum number of employees there at one time is seventeen (17). There are a total of twenty-one (21) employees and they are split-shifted over the day so the peak period is from 12:00pm-3:00pm and that's when there are seventeen (17) people.

Colonel Welsh stated that they have an excess of seven (7) parking spots. Responding to Colonel Welsh, Mrs. McDaniel stated yes, actually there's been a skip over the Phase 1B drawing where they actually took some of those parking spaces that were in reserve from the original plan in May 2013. They flipped the parking; it was originally supposed to go down alongside the front of the building and they flipped that to the front and used the same amount of square footage that was going to be in Phase 2 for parking and put that in the front with the driveway and the additional eight (8) spaces. Their original plan was for sixteen (16) parking spaces for Phase 1 and then for Phase 2 it was supposed to go to twenty-one (21) parking spaces on the original Site Plan that was approved in 2009. When they originally had the Site Plan, they had parking that was going to be in Phase 2 that was going to go down the side of the building that faces Horsepond Road. In 2013, they were having some problems with truck traffic so they took a portion of impervious area and flipped it to the front and had a Phase 1B plan and in that plan they put a total of eight (8) more parking spaces in. They are up to twenty-four (24) spaces when their original plan from 2009 only required twenty-one (21) parking spaces.

Colonel Welsh stated that now their square footage will require thirty-six (36) parking spaces. Responding to Colonel Welsh, Mrs. McDaniel stated that their square footage then would have required thirty-six (36) spaces but they had a parking waiver then to have twenty-one (21) parking spaces.

Colonel Welsh questioned if they owned additional areas? Responding to Colonel Welsh, Mrs. McDaniel stated that they own the additional area across McD Drive. They own three (3) buildings there.

Colonel Welsh further questioned how many parking spots were on this property? Responding to Colonel Welsh, Mrs. McDaniel stated that there were sixty-five (65) parking spots there in the front. Based on square footage, their tenants would have a requirement of thirty-five (35) parking spaces and the brewery is actually one of their tenants there to so she believes that they have thirty-eight (38) spaces available for their use and they do have that agreement with them. They have additional parking in the back but that parking isn't lined into spaces so she couldn't give an accurate count there.

Colonel Welsh questioned if in their opinion they have adequate parking to support events that they have? Responding to Colonel Welsh, Mrs. McDaniel stated that they only have two (2) large events per year. Those two (2) large events per year do use that parking. They provide the manpower to

control the pedestrian traffic in that parking. When people are parked there, they also park in that field behind those two (2) buildings and they provide all of the safety requirements. There are other events there where they probably need more than the twenty-one (21) spaces that they have now and they have probably been casual about allowing people to park on the grass as was mentioned. At the DAC meeting, the brewery made the commitment to stop that and if they add the parking blocks, she thinks that will further control the parking. They would reserve the twelve (12) spaces for future use.

Colonel Welsh questioned what she meant by reserving the twelve (12) spaces for future use? Responding to Colonel Welsh, Mrs. McDaniel stated that as part of the waiver request, they have to show on the drawing where the additional twelve (12) spaces would be if they needed them.

Colonel Welsh further questioned how that determination would be made? Responding to Colonel Welsh, Mrs. Townshend stated that they have shown it on the plan. If Staff is seeing continual parking on the grass then they would need to re-evaluate.

Colonel Welsh questioned if there was a future control there? Responding to Colonel Welsh, Mrs. Townshend stated yes.

Mr. Tolbert questioned if they anticipated an increase in events? Responding to Mr. Tolbert, Mrs. McDaniel stated no, they have two (2) large events; one event in April and one in October. There are other small events like for the Chamber of Commerce.

Mr. Jim Lutz stated that he was with the Fordham and Dominion Brewery. There are two (2) large events; one in April and one in October. Parking is an issue during these events but Mrs. McDaniel is kind enough to make sure that field behind the north side of McD Drive is cut and then they have parking brigade that directs traffic there which is usually not an issue. He went back to the brewery after last week's DAC meeting and raised cane with his guys trying to get to the bottom of this about the Fire Marshal saying that people are parking on the grass during working hours. He never saw the people parking in the grass but as he has been thinking about it and his ops people are talking to him. They went through some major issues at the brewery this past year due to a slight explosion of one of their tanks. For that reason, there were a lot of construction trucks in their parking lot during 2015; sometime four or five trucks taking up multiple spots. Due to that, he did see people parking on the grass. Seventeen (17) employees is the maximum and that is if everybody shows up for work. He is sure that he has a few people every day that don't show up for work. They have two (2) guys who don't even have a driver's license which might be why the City is making them put in a bike rack or a sidewalk that leads to nowhere. Big events are an issue but at the end of the day, twelve (12) more spots aren't going to fix Cheesetober Fest or R2Hop2.

Mr. Tolbert questioned if the events that they have are major issues for their operation? Responding to Mr. Tolbert, Mr. Lutz stated that they are actually great marketing tool for them. They draw people in from about a seven (7) state area and it helped them promote and get them to where there are today. One of the reasons why this application kept getting a continuance in 2009 is because they put in a wonderful plan to make things happen in 2009 and for some reason this brewery was the only brewery that was declining in sales. He got involved in 2011; they have certainly stopped that decline. A lot of people know what they are doing and they are making some great beer. They sell all of their beer within one hundred fifty (150) miles from where they are standing and London

and it's becoming that hometown brewery. A lot of this is because of these events that they do and certainly with the Habitat for Humanity and Chamber of Commerce events held each year as well as the weekend tours. He knows that Saturdays are a pain for the Fire Marshal's and other people as well but he believes that they have that under control; more so than they did before. It certainly is a huge marketing tool for them and it allows people to come in and see what they are doing and touch their tanks.

Mr. Tolbert questioned if it's reasonable to assume at this point that because of their success with events as a marketing tool that they will continue to have these events and that they will become larger and attract more people. Responding to Mr. Tolbert, Mr. Lutz stated that their marketing guys want to make it huge and bring in 10,000 people. He has actually drawn the line at eighteen hundred (1,800) people because we can handle that number. At one point, they were well over that during an event and he said that eighteen hundred (1,800) was the limit. They can handle the flow of people until they build this building and then that count will go down to one thousand (1,000) people for the event. They are maxed; they know there is a limitation. He believes in supply and demand and they know that if they are only going to let one thousand (1,000) people in, the price to get in is going to cost a little more. He doesn't want the next Firefly event.

Mr. Tolbert further questioned if they felt re-assured that they could control the number of people that come in? Responding to Mr. Tolbert, Mr. Lutz stated yes, they limit the ticket sales.

Mr. Cregar questioned if any of the expansion is increasing the size of the tasting area? Responding to Mr. Cregar, Mr. Lutz stated that it does not; this next step for them is huge. There's a huge investment on behalf of the McDaniels which eventually they will be paying for in rent. This next move for them is about another $2 million dollars out of their pocket as far as a bottling line. They are going to move the bottling line, warehouse space and then where the current bottling line is will end up being filled with tanks. They don't need a lot more people to do what they are doing now. It's going to be a warehouse and eventually a bigger tank farm but the brewing of the beer and the bottling of the beer, the numbers are pretty limited.

Mrs. McDaniel stated that she had a few more comments about parking. They are also concerned about the impervious area that the parking would add. Right now, they are at the limit of their current plan of impervious area and any additional parking could force them to have a new stormwater management plan. That would involve costs associated with that as actually developing the plan, implementing the plan and all of the approval fees which would be a significant cost. They feel that the adjacent parking that's available is enough to handle the current situation and the future there and it's the most economical and environmental friendly solution at this point. As Mr. Lutz said, the brewery is on a tight budget for this expansion. Any additional costs flow through to them because they start with us and they are going to have to pay that and they are really trying to bring it in on a tight schedule and a tight budget.

The other waiver requested was the curb waiver and she agrees with the recommendation. She thinks that the parking blocks would help manage the parking and make it clearer where each space is. On the sidewalk use, she doesn't really agree with the recommendation.

Mrs. McDaniel handed out a diagram of where the sidewalks are currently at on Horsepond Road. She understands the intent of the Code is to provide a network of sidewalks for pedestrians with the

goal for making Dover a walking city but she doesn't think that comes into play here very effectively because they are on the border of the City boundaries. Dover Behavioral Health is 2/10 of a mile away and they have a site sidewalk and approximately one hundred fifty (150) feet of sidewalk along Horsepond Road. Maggies Way has just site specific sidewalk within the Bryan Park; there is no sidewalk on Horsepond that it connects to it. She believes that both projects are in Kent County. *(Staff notes both project are within City limits.)* You can see from the diagram provided that the only sidewalks are in front of their property and the small section in front of Dover Behavioral Health. There are no sidewalks on South Little Creek Road until approximately 1 mile away in the 1100 block. There are no sidewalks on Lafferty Lane and on Horsepond Road, the only sidewalks are the three hundred twenty (320) feet in front of the brewery and one hundred fifty (150) feet in front of Dover Behavioral Health; Horsepond Road is approximately 2 miles long. There is no existing network of sidewalks in this neighborhood. The closest bus stop is west of 1100 South Little Creek Road at Tudor Industrial Park. Horsepond Road doesn't have a shoulder for people to park on so they don't want people to park there and use the street sidewalk to get to their building because that wouldn't be safe. There is no safe way or in the foreseeable future for safe pedestrian access to the brewery from the neighboring area. In actuality, if we encourage the use of the sidewalks we are endangering them because they would have to walk on Horsepond Road where several sections have limited shoulders to walk on. The proposed expansion of the warehouse space and re-locating the bottling line will not generate or attract pedestrian traffic. It adds this sidewalk unnecessity. Inside their property that could go either straight to the street which doesn't make a whole lot of sense or it would have to go down the driveway and down along McD Drive. That is an approximate expense of $20,000 to construct and there will be additional costs to maintain that sidewalk. The brewery has access to their adjacent parking at the other building. This area is typically rarely used by the brewery except for the couple events a year that Mr. Lutz discussed and the brewery manpower manages the safety of the people crossing McD Drive there so she doesn't feel that they have the need for the sidewalk to connect those two areas. They do have sidewalk in front of those two buildings. The sidewalk would also add additional impervious surface to their plan which could put before them, a revision to the stormwater design or a reduction of building size if they had to make an option choice. They are trying to build this expansion as economically as possible so the brewery can afford it and if they keep adding costs to the project for sidewalks, the addition maintenance and engineering that would go with that could make the project financially infeasible. They are close to that now with the other requirements.

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

Mr. Cregar stated that part of him understands the complexity and the cost involved with sidewalks but another part of him is saying "how do we ever deal with the issue of connection and pedestrian access as the City grows and things change in that area if we don't require these projects to support pedestrian access and to cover the safety issues around that?" He's looking for the Commission to look at this in a fair and equitable way but at the same time, think about what the future looks like as they continue to develop this area.

Colonel Welsh stated that he has the same reservation. Today it may not be reasonable or common sense to require a sidewalk but five (5) years from now it may be. He is of a mind that says in some instances, they need to apply common sense and require them to build it. In other instances, they need to apply common sense and say let's hold off on that requirement for now. Do we have a

mechanism where we could come back five (5) years from now and if there is development that occurs across the street or next to them, to then require the sidewalk? Responding to Colonel Welsh, Mrs. Townshend stated if you the Commission does not require it with an application then they are not going to be able to get it. Listening to the both of them speak there is one point that she would add, this is a property located within the APZ II. The properties within the APZ I and the APZ II tend to be low intensity uses as they relate to people because the Ordinance specifically does not allow uses that are going to bring a lot of people. They have had these issues come up at other properties in this area. They are not going to have a school, a dance studio, a day care or residential uses in this area so while she cringes at the idea of not requiring sidewalks for that same reason she thinks that the location in the APZ does limit the number of people that are going to use the sidewalk just by virtue of not having uses that are going to bring a lot of people.

Mr. Cregar stated that there had to be an argument going on during the development of Dover Behavioral Health. Responding to Mr. Cregar, Mrs. Townshend stated that the frontage sidewalk on Horsepond Road is a DelDOT requirement which is a lot harder to get out of. In this case, the Planning Commission has the ability to waive. She can't remember but she doesn't think that Dover Behavioral Health requested the waiver. Again, they are probably the only use that has a lot of people in this area that they are going to see and that's because they pre-date the AEOZ (Airport Environs Overlay Zone) and they received a Variance to be able to expand. When they updated the AEOZ (Airport Environs Overlay Zone), they will be able to expand now without a Variance but other similar uses are not going to happen in this area.

Mr. Cregar questioned what kind of heartburn the Planning Office would get if they waived the sidewalk requirement? Responding to Mr. Cregar, Mrs. Townshend stated that her concern with sidewalk waivers is that their sidewalk network is built piece by piece starting as a sidewalk to nowhere and as things develop and re-develop, that's when you fill in those pieces. Her concern with the waivers is always in addition to making something less accessible for pedestrians, it's also the precedence it sets. She thinks that there are circumstances here because of the restriction on the uses and because of the APZ that maybe it sets a precedent for other places on Horsepond Road and Lafferty Lane but again those are not the places where you are going to see churches, day cares, schools or houses.

Colonel Welsh stated that he agrees 100% with that. If you apply the common senses approach, is it really required or needed there? Responding to Colonel Welsh, Mrs. Townshend stated that if the Commission chooses to waive the sidewalk requirement, just make it clear in the motion of why so that there's not an issue in the future with other applicants saying "you gave the waiver to them, why are you going to make me put a sidewalk in on Route 13?"

Colonel Welsh moved to approve S-15-15 Fordham & Dominion Brewery Building Addition (Phase 2) at 1284 McD Drive, to include approval of the sidewalk waiver and approval of the parking waiver.

Colonel Welsh stated that he doesn't see that parking is readily needed and he for one has always been from a mind that in certain areas they have way too much non-pervious area. It bothers him every time he drives by the old Walmart location and sees about a twentieth of that large asphalt area and an excellent recharge area that is impervious. He realizes that it's another community but if you look at Fifer Farms and the festivities that they have every quarter and the massive number of

cars that are parked in the grass along the road; it doesn't seem to have an adverse effect on anything. If the City monitors this project and they don't see an increase, then he doesn't see a need in requiring them at this time to build the parking. Responding to Colonel Welsh, Mrs. Townshend stated that they have the same thing with temporary parking with things like Firefly, Big Barrel, the race or the Wine & Beer Festival at the Delaware Ag Museum. On a limited basis, the Code doesn't permanent parking on grass but special events are a different issue.

Colonel Welsh moved to approve S-15-15 Fordham & Dominion Brewery Building Addition (Phase 2) at 1284 McD Drive, to include approval of the sidewalk waiver and approval of the parking waiver and the elimination of curbing, seconded by Mr. Holt and the motion was unanimously carried by roll call vote 6-0 with Mr. Holden, Dr. Jones and Mr. Ambruso absent. Mr. Cregar voting yes, adding that as part of the waiver of the sidewalks because of this low density area and the lack of pedestrian area, this isn't needed. Colonel Welsh voting yes, the AEOZ (Airport Environs Overlay Zone) means that this is going to continue to be a low density area. Mr. Holt voting yes, for the same reasons stated and agrees with the sidewalk waiver. Mr. Baldwin voting yes, for the reasons previously stated. Ms. Still voting yes, for the reasons previously stated. Mr. Tolbert voting yes, for all of the obvious reasons that have been stated but as he listened to the discussion, he is of the opinion that these special events are going to get increasingly larger.

3) Z-15-04 Lands of Whatcoat Community Development Inc. at 904-992 Whatcoat Drive: Rezoning from RG-1 with COZ-1 to RG-2 with COZ-1 – Public Hearing and Review for Recommendation to City Council on a rezoning application for a 4.282 acre ± parcel. The property is zoned RG-1 (General Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The proposed zoning is RG-2 (General Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). The property is located on the east side of Saulsbury Road and south of Whatcoat Drive. The owner of record is Whatcoat Community Development Inc. and the equitable owner is Whatcoat Village Associates Inc. Addresses: 904, 910, 930, 950, 970, 986 and 992 Whatcoat Drive. Tax Parcel: ED-05-067.19-02-11.00-000. Council District 4. Ordinance #2015-23. *A Public Hearing and Final Reading are scheduled for action before the City Council on January 11, 2016.*

Representatives: Mr. Stephen Rosenfeld, VanDemark & Lynch Inc

Mrs. Townshend stated that this is a rezoning request for 4.282 acre piece of property which is the Whatcoat Apartments. The current zoning classification is RG-1 (General Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). Under the rezoning request they would change the zoning to RG-2 (General Residence Zone), again, still subject to the COZ-1 (Corridor Overlay Zone). The current property is the home of Whatcoat Apartments. The applicant is looking to improve the apartment complex and as part of that improvement they will be adding a community center that would be available to the residents. The apartment use is a non-conforming use in the RG-1 (General Residence Zone) but it would be permitted in the RG-2 (General Residence Zone). With the RG-1 (General Residence Zone) under the non-conforming use provisions of Article 7 you cannot expand a non-conforming use so renovating the apartments is not a problem but adding the community center to improve the livability of the apartment community would be an expansion of that non-conforming use. Therefore, the applicant has requested a rezoning from RG-1 (General Residence Zone) to RG-2 (General Residence Zone) so that the apartments would be a permitted use and they could improve the apartments and included with that, add the amenity of a community center. They did determine that the community center if the rezoning is successful can be done

through an Administrative Site Plan so that application won't come back to the Planning Commission but the rezoning is necessary for that to happen. It is consistent with the *Comprehensive Plan.* The *Comprehensive Plan* designation for this area is actually residential high density so the RG-2 (General Residence Zone) is more consistent with the *Comprehensive Plan* than the current zoning classification.

Mr. Rosenfeld stated that when the apartments were built in the 1970's it was zoned RG-1 (General Residence Zone) and somewhere along the line the Zoning Code has changed to not allow apartments in this zone. Mostly what they are doing is updating the zoning of this parcel so that they are conforming rather than non-conforming.

Mr. Tolbert questioned if Mr. Rosenfeld agreed with the DAC Comments. Responding to Mr. Tolbert, Mr. Rosenfeld stated yes, he does agree with the comments.

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

Mr. Holt moved to recommend approval to City Council for Z-15-04 Lands of Whatcoat Community Development Inc. at 904-922 Whatcoat Drive: Rezoning from RG-1 with COZ-1 to RG-2 with COZ-1, seconded by Colonel Welsh and the motion as unanimously carried 6-0 by roll call vote with Mr. Holden, Dr. Jones and Mr. Ambruso absent. Mr. Cregar voting yes, he supports this because it is also in their Comprehensive Plan to include this area as a high density area which apartments will be a part of that. Colonel Welsh voting yes, for the same reasons. Mr. Holt voting yes, it is keeping with the Comprehensive Plan. Mr. Baldwin voting yes, it's keeping with the improvement of the area. Ms. Still voting yes, it's keeping with the plan and she thinks it's a great idea. Mr. Tolbert voting yes, concurring with all the comments made and it's consistent with the plan.

4) MI-15-13 Text Amendment: Definitions of One-Family Dwelling and Manufactured Home- Public Hearing and Review for Recommendation to City Council of Text Amendments to *Zoning Ordinance*, Article 12 – Definitions to amend the definition of "one family dwelling" and to add a definition for "manufactured home." Ordinance #2015-20. *A Public Hearing and Final Reading are scheduled for action before the City Council on January 11, 2016.*

Representatives: None

Mrs. Townshend stated that this is a zoning text amendment. This zoning text amendment came about following the issuance of a Building Permit for the construction of a manufactured home on a permanent foundation on a property within a One Family Residence Zone. In evaluating the permit, they determined that there was nothing in the definitions that allows you to look at a "manufactured home" differently than any other single family home. Several residents and members of City Council expressed concerns about the appropriateness of this and Staff subsequently reviewed literature and determined that their *Zoning Ordinance* is woefully out of date as it relates to "manufactured housing." Terms such as "mobile homes" and "trailers" are dated terms that do not apply to manufactured housing built today that meets the HUD standards of the 1976 HUD Code and it really causes confusion and a number of issues as it relates to how the Code should be administered. This is the first ordinance to help resolve the challenges with their lack of current definitions as it relates to this matter. They are also in the process of reviewing the MHP (Mobile

Home Park Zone) but again, mobile homes are the pre-1976 type of housing and what's built today is under a very different standard. They want to resolve confusion and bring their definitions and code requirements up-to-date; and again, this is going to be a multi-phase thing. The first phase is some amendments to the definitions and the first one is an amendment to the definition of "dwelling, one family" and clarifying that a one family dwelling is a permanent dwelling placed on a permanent foundation and designed for use by one family. But then going further to say that a manufactured home is not included as a one family dwelling but modular homes, which they will also need to define as they get into their definitions, which are built in accordance with the locally adopted building codes are considered one family dwellings. They would then go on to define "manufactured home" because at this point it is nowhere in their definitions. In researching this, they have determined that all of the definitions that relate to the things that people are referring to these units as mobile homes or house trailers and the dwelling definitions date back to at least 1968 when things were very different. One of Mr. Eddie Diaz's first projects is to look at what they need to do with the MHP (Mobile Home Park Zone). Even the MHP does not refer to anything based on the 1976 codes; it dates back to a 1969 regulation on mobile homes. There is a lot that needs to be cleaned up but they are starting with one making it clear that a one family dwelling for the purposes of what's permitted in a one family residence zone that it does not include manufactured homes or mobile homes and adding a definition that is consistent with current housing policy for manufactured homes.

Mr. Holt stated that he thinks this is probably developed from a home that was built only 2-3 houses down from where he lives and it is a modular home. Responding to Mr. Holt, Mrs. Townshend stated that it's a manufactured home.

Mr. Holt further stated that the manufactured home was brought in as more than one piece and put together on the site. They have remarkably made it look like it was a stick built home. They have done an excellent job with it. They put a cement block foundation around it. In the neighborhood it looks very good. It's not anything like looking at what a trailer would look like. They have done a good job with it.

Mr. Tolbert stated that it's his understanding that you can't move these homes once they are put on a foundation. Responding to Mr. Tolbert, Mrs. Townshend stated yes.

Mr. Tolbert questioned what a modular home was? Responding to Mr. Tolbert, Mrs. Townshend stated that a modular home is like a Beracah Home where it's built in a factory but brought in in pieces and assembled on-site. It has the same type of building permit and the same inspections that a house that's fully built on-site would have. Manufactured homes are also factory built homes but they are built to a specification that is administered and regulated by HUD not the local building codes. The principal difference is how they are regulated.

Mr. Tolbert stated that they look similar. You can't look at one and tell whether it's a modular home or a manufactured home. Responding to Mr. Tolbert, Mrs. Townshend stated that it depends; she would say that there are times that you could look at three homes and think they are the same construction: one could be a modular home, one could be a manufactured home and one could be a stick built ranch that was entirely built on-site. Unless you get underneath to look at how it's assembled underneath, you are not going to know the difference.

Mr. Tolbert stated that modular homes were delivered in pieces; manufactured homes were brought in two halves. Modular homes aren't brought in two halves? Responding to Mr. Tolbert, Mrs. Townshend stated that it could be; it depends. There are modular homes that are two story homes that are brought in pieces and assembled. It's really just the type of construction; the way it's constructed. A manufactured home is supported by a chasse where a modular is not. She has had the opportunity to answer a lot of questions of whether or not she would want that on her street and when she looks at her street, there are a number of ranches that she assumes to be ranches but she couldn't tell one way or the other.

Colonel Welsh stated that the old Nanticoke Homes are modular homes which is not Beracah Homes. They are nice looking homes. Responding to Colonel Welsh, Mrs. Townshend stated that it is a modular home not a manufactured home.

Colonel Welsh stated that they come in in sections, the foundations are already built.

Mr. Holt stated that a modular home is actually built better because it's built inside under dry conditions but that's just hearsay.

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

Ms. Still moved to recommend approval to City Council for MI-15-13 Text Amendment: Definitions of One-Family Dwelling and Manufactured Home, seconded by Mr. Cregar and the motion as unanimously carried 6-0 by roll call vote with Mr. Holden, Dr. Jones and Mr. Ambruso absent. Mr. Cregar voting yes, in support of upgrading City Ordinances. Colonel Welsh voting yes, it more clearly defines the Ordinance. Mr. Holt voting yes, it upgrades the Ordinance. Mr. Baldwin voting yes, it upgrades the Code. Ms. Still voting yes, for all the reasons stated. Mr. Tolbert voting yes, it's something that needs to be done to bring the Code up-to-date.

Meeting adjourned at 8:39 PM.
Sincerely,

Kristen Mullaney
Secretary