CITY OF DOVER PLANNING COMMISSION
September 21, 2015

The Regular Meeting of the City of Dover Planning Commission was held on Monday, September 21, 2015 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. Townshend, Mr. Cook, Mr. Jason Lyon, Mrs. Dawn Melson-Williams and Mrs. Mullaney. Also present were Mr. Connie Malmberg and Mr. Doug Liberman. Speaking from the public was Mr. Stephen Fuller.

APPROVAL OF AGENDA

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

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF AUGUST 17, 2015

Ms. Still moved to approve the Planning Commission minutes of August 17, 2015, seconded by Dr. Jones and the motion was unanimously carried 8-0 with Mr. Ambruso absent.

APPROVAL OF THE PLANNING COMMISSION QUARTERLY WORKSHOP MEETING MINUTES OF AUGUST 19, 2015

Mrs. Townshend stated that minutes from the Planning Commission Quarterly Workshop Meeting held on August 19, 2015 were not ready at this time.

COMMUNICATIONS & REPORTS

Mrs. Townshend stated that the next Planning Commission meeting is scheduled for Monday, October 19, 2015 at 7:00pm in the City Council Chambers.

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on August 24, 2015 and September 14, 2015.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

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

OLD BUSINESS

1) Requests for Extensions of Planning Commission Approval: None

2) Revised Plan Information:

A. S-13-18 Redevelopment of Walker Woods: The Village of McKee Branch – Information on Revisions to building architecture associated with the Site Plan to redevelop the property with twelve (12) two story and three story apartment buildings (a total of 77 units in Buildings A-L) and a 3,400 SF Community Building. The properties are zoned RG-2 (General Residence Zone). The properties known as Walker Woods Phases 1 and 2 are situated on the north side of Walker Road adjoining Harmony Lane; the new development will be named the Village at

McKee Branch. The owners of record are Walker Woods Properties, LLC and Milford Housing Development Corporation. Addresses: 1357-1383 Walker Road and multiple addresses on Harmony Lane. Tax Parcels: multiple parcels on map ED-05-067.18-01 Council District 4. *The Planning Commission granted conditional approval of the Site Plan on October 21, 2013 with Final Plan approval pending.*

Representatives: None

Mrs. Townshend stated that the Commissioners have a memo in their packets along with some architectural renderings. In October 2013, Planning Commission issued the approval for S-13-18 which was the re-development of Walker Woods. It's now been subsequently renamed the Village at McKee Branch. The architecture that is on the screen is the architecture that was seen at that time. They have proceeded through the Check Print process and at the time that the packet went out Staff was in the process of completing the Final Plan process. So the Final Plan approval has been issued but in the review of the Building Permits Staff noticed that the architecture changed. What was proposed before was a varying roof line with sections of two story and sections of three story that was certainly very attractive. What they have now, if the Commission had seen it at the time, it would not have been concerning, but it's not what the applicant showed to the Commission. Staff has been working through the Building Permits. At this point there have been two (2) Building Permits issued. The rest are pretty much down to the paperwork; 90% of the review is done but because the architecture is different from what was seen before she thought that she needed to bring it back so that the Commission would be aware of it and so that any questions could be answered. At the time that they submitted the Building Permits, at that point they had done all of the architectural work. Staff knew that they had made some changes but they didn't realize that the changes to the architecture; they knew that they reduced the unit count and things like that. Had they known earlier about the changes in elevation, they would have brought them forward but they did at least think it was important for the Commission to at least be aware.

Colonel Welsh questioned the reason for the change? It looks like they are going from a staggered height, staggered roof line, upscale design to kind of a plain Jane prefabricated dormitory. Responding to Colonel Welsh, Mrs. Townshend stated that she would say it's "value engineering". She thinks it was not financially feasible to build what they had designed originally. They reduced the unit count as well from seventy-seven (77) to sixty-six (66). There were a number of changes that they made. Reduction in the unit count was not a big deal but it was the cost of the project.

Colonel Welsh further questioned in bringing it back to the Commission, do they have any legal status or standing? Responding to Colonel Welsh, Mrs. Townshend stated she doesn't believe so; it's more here for the Commission's information. Her thought was that if there are some things that the Commission would like to have incorporated, for instance this shows entire vinyl if the Commission would want to see a brick veneer water-table or something just to break it up, they could certainly take that back to the applicant.

Colonel Welsh stated that he definitely thinks that something needs to be done to break it up. They have gone away from a very attractive design which the Commission approved. It kind of troubles him that they go from something like that to something like this without any involvement. Would the Commission have approved it like this when they first presented it? He isn't sure; he would have liked to have seen something to break up the design on it. It troubles him that there is no way to

hold their hand to the fire. He would suggest that they use different material or break up the roof line if they can do that. Responding to Colonel Welsh, Mrs. Townshend stated that she doesn't believe that they would be in a position to break up the roof line but she does think that they can press the applicant to alternate colors. Kind of like some of the things that have been done with Eden Hill where they add some accents to it dress it up significantly.

Colonel Welsh questioned if the applicant was here? Responding to Colonel Welsh, Mrs. Townshend stated no, the Commission doesn't need to actually vote on it; it's here for information.

Colonel Welsh stated that he understands it's mostly for comments but it would have been nice to have the applicant here to answer any questions that the Commission may have had.

Mr. Holden stated that whether it's value engineering or bait and switch, he would press Staff to hold them to what was submitted or as close to what was designed as Staff is able to. If there are wholesale changes in the look and character of something, it's more appropriate that it comes back in front of the Commission with some ability to have some impact. It's unfortunate that they do not. Responding to Mr. Holden, Mrs. Townshend stated that she apologizes for that. She did not realize the degree of changes until the plans were pulled out and compared with the Site Plan. She called the applicant; she did tell them it was coming back but at this point Staff did begin the issuance of permits.

Mr. Holden questioned in retrospect, how would they avoid this or what changes to process or other actions would need to happen for this to be prevented in the future? He understands value engineering efforts. This is a very different sense, feel, and look; there's not just a little bit of massaging that's going on. Responding to Mr. Holden, Mrs. Townshend stated that this is an engineering firm and a developer that the City's not worked with before. One, the City needs to make it very clear to them that if they are going to be doing things here again that they need better communication. Staff would have preferred to have brought this forward to the Commission before they even started applying for Building Permits. Staff didn't have that level of detail until they got to that point.

Colonel Welsh stated at that point in time when they were applying for the Building Permits that were being issued, they were being issued based on the assumption that this had not changed. Responding to Colonel Welsh, Mrs. Townshend stated no; the two (2) Building Permits that were issued. It was in review of the permits when this was noticed. When the Building Permits come back to the Planning Office, Staff pulls out the information that came to the Planning Commission and they look at the elevations that are provided in the building plans. She doesn't ever recall this happening.

Mrs. Melson-Williams stated not to this extreme; they've had some more minor changes where they showed stone and they switched to brick, color switches and things like that. Nothing that is "form" related changes. Typically, Staff is alerted to those ahead of time because they may have changed the building footprint as well so they are seeing it on the Site Plan Check Print process earlier.

Colonel Welsh stated that he thinks back to years ago when they started the requirement for the developer to come forward with an elevation and then material identification. He thinks Mr. Holden's characterization of" bait and switch" is probably pretty good. What do we do to keep this

from happening in the future? Somebody can come forward with something that they know they need to do to get by the Planning Commission and then when it comes to the end they come up with something like this. Responding to Colonel Welsh, Mrs. Townshend stated that she has been trying to think back through the process to determine if there was a point where Staff could have caught it sooner and she can't think of anything. She is concerned and she doesn't think it's fair to the City to just simply not worry about it but on the other hand at this point they are so far in the process and they are a tax credit development. The problem was that so much came down to the very final moments that literally their financing is in jeopardy. Instead of an area re-developed as quality affordable housing, if we don't issue the permits we could end up with a neighborhood that has had issues that need re-development, just sitting neglected.

Colonel Welsh stated that the original plan represented an upgrade to that area and that was one of the selling points. It's not the old Walker Woods; it's something that's nice, it's something that's attractive and it's something that's going to upgrade the area. This represents the same thing. He thinks they got hoodwinked to tell the truth. What's done is done; he doesn't know what legal standing the Commission has to do anything about it. Responding to Colonel Welsh, Mrs. Townshend stated at this point only two (2) permits have been issued. There are a total of eleven (11) buildings. The Community Building is the same as what the Commission originally saw but for the buildings that Staff hasn't issued permits for, the Commission can have them add some of the accents that would dress it up over what they have now.

Mr. Cregar stated that he has a recommendation and he doesn't know if the Commission can do this or not. He recommends that Staff issue no further permits; that we invite the applicant back here with a revised plan to show the Commission a little bit better design then what they just got. He doesn't know if the Commission can do that but he thinks it's that important.

Colonel Welsh stated that he agrees.

Mr. Cregar questioned Mrs. Townshend if that put them in a precarious situation? Responding to Mr. Cregar, Mrs. Townshend stated that her concern is that it could potentially risk their financing but again that's not the direct concern of the Commission.

Mr. Cregar stated that he feels the applicant should have been here. Responding to Mr. Cregar, Mrs. Townshend stated that Staff told them about the meeting but she wasn't sure that Staff sent the applicant anything telling them that they had to be here.

Mr. Cregar stated that it doesn't matter; they should have been here. It should have been that important to them.

Mr. Holden stated that it would be is recommendation to push Staff to do whatever is in their power to not allow the current to move forward. Whether it comes back to the Commission or not and he would also push for a path to mitigate the potential for this to happen. Value engineering needs to be allowed in any project; wholesale changes of character shouldn't be allowed. Whether there was a miss or a procedural thing that needs to be changed, that needs to be re-visited and corrected so that they can have some assurance of the general character, look and feel and density that gets approved.

Mr. Tolbert stated that he agrees with the comments being made completely because it puts them in a position of having approved something that they aren't getting.

Dr. Jones would concur with the recommendation from Mr. Holden but this is a matter of integrity of our process. Perhaps jeopardizing the integrity of the process and that does concern her.

Mr. Cregar stated beyond that, he knows they have a responsibility to the developers but they have a responsibility to community which was a part of this review. He doesn't feel bad at all in saying to the applicant that he feels they hoodwinked the Commission. He doesn't feel comfortable with it. Responding to Mr. Cregar, Mrs. Townshend stated that she thinks that's fair.

Colonel Welsh questioned if there was a motion required? Responding to Colonel Welsh, Mrs. Townshend stated since we are suggesting not issuing additional permits she thinks a motion would be helpful so that it's very clear. Just to be clear, the Community Building has not changed so she would think it would be okay to issue that permit but not to issue any additional building permits. She will make sure the applicant is aware of that and then bring them back to the next meeting.

Dr. Jones stated that the elevation has changed considerably and the units reduced in number. What about square footage of individual units? Responding to Dr. Jones, Mrs. Townshend stated that the initial plan didn't really get to the square footage of the individual units; it's more about the unit count. She can look back and see if it was in there but usually they don't get to the area of the individual units until they get to the building plans.

Mr. Tolbert stated that he thinks if they bring the applicant back, they can ask all of the questions and get a better understanding of what they're doing.

Mrs. Townshend stated that Bill just reminded her of something. The way that this was always portrayed was they were going to take the existing buildings down to the foundations and rebuild up. The reduction in units was not a reduction in size of units; it was a reduction in a building.

Dr. Jones questioned per the original plan? Responding to Dr. Jones, Mrs. Townshend stated yes, they had to remove a building to be able to accommodate their stormwater management.

Colonel Welsh stated in terms of the applicant coming up on a deadline for financing, he stands ready to re-convene if that's an issue. He thinks the whole body would be willing to have a special meeting to hear what they have to say and to talk with them about what the Commission expects to see. This is such a radical change; it's not even close.

Mr. Cregar moved to recommend that there be no further Building Permits issued on the project, that the Commission wants the developers to meet with the Planning Commission to discuss their buildings and design, seconded by Mr. Holt.

Mr. Holden stated that in the point of discussion and he doesn't know that it's appropriate to add into this motion because he supports the motion as stated. The second piece of his comment was if there is a procedural miss in our process currently that allows us to go from what was presented to us to what they have now without due oversight and a catch to bring it back to the Planning Commission. He thinks that the procedure needs to be amended. They need to figure out where the

miss is and try to avoid such a drastic change in the future. That's separate so he doesn't know that it needs to be included in the motion on this specific action. So maybe he seeks Staff's thought on that and is that a separate motion or is that a workshop driven discussion? Responding to Mr. Holden, Mrs. Townshend stated that she would say that they should have that on a workshop. Like Dawn said, 99% of the time if there's a change to something it's very unusual and that you would have such a vast change that you don't pick up by looking at the Site Plan and the building footprint. Her suggestion would be at the Staff level they talk internally. She doesn't do a whole lot of plan review and as luck would have it, this application is hers. That's why she has been trying to rack her brain to see if there's something that she missed along the way and she honestly can't think of anything.

Mr. Holden stated that things get missed and he doesn't mean to throw stones and that happens. In a Site Plan and a footprint, you can have the exact same footprint but a wholesale different aesthetic, and building construction level of floors for a couple buildings. He doesn't know that it quite belongs in the same motion so he is comfortable addressing that at a Planning Workshop. Responding to Mr. Holden, Mrs. Townshend stated that they can do that at a workshop and that would give Staff some time to chat among the Staff to see what could be changed.

Mr. Holden stated with the intent that you'd catch wholesale design changes.

Colonel Welsh questioned if it would be an obligation of the developer as they are looking at cost reduction and what they want to do to bring up to Staff? They can see that this represents a significant change. Responding to Colonel Welsh, Mrs. Townshend stated that there were a number of meetings that primarily involved the Chief Building Inspector and the Fire Marshal. Part of her thinks that some of this relates to having a developer and design professionals who have not done things in Dover and don't realize how important the architectural elevation component is in the plan approval. It's not just something that they turn in so they can get a sense of what it is. It is something that if the Planning Commission doesn't like what they see, will very actively tell you. It could be an issue of as Staff works with design professionals, making sure that they communicate the importance of the architectural elevations not being just a procedural thing. It's not just a pretty picture for the Commission to look at; it's part of the approval. There are so many factors that could be a part of it. The firms that they work with regularly would have known so she doesn't know if it's a 'breaking in the new guy' kind of thing.

Colonel Welsh stated that it may be and they need to give the applicants the benefit of the doubt. Responding to Colonel Welsh, Mrs. Townshend stated that they are not bad people.

Colonel Welsh stated that he appreciates what they are doing but this is not what the Commission approved and he thinks everybody feels that same way. He thinks we need to go back to the drawing board.

Mr. Tolbert stated that they have a motion on the floor.

Mr. Cregar moved to recommend that there be no further Building Permits issued on the project, that the Commission wants the developers to meet with the Planning Commission to discuss their buildings and design, seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes; the elevations that have been brought

forth are wholesale different from what was presented originally and the plan should be submitted for pre-approval. Mr. Cregar voting yes; he believes that the Commission has a responsibility to the community for what they approve the first time around and that they need to try and maintain the integrity of what they approved. Colonel Welsh voting yes, for the reasons previously stated. He thinks design integrity is very important for this community. They have tried to work that way for years and years and this represents a radical change. They have had other builders who have given the Commission everything that they needed and he is very appreciative of that. Mr. Holt voting yes, because of the radical change and he thinks they do need the applicant here to explain a little bit more about what's going on in this project. Mr. Baldwin voting yes, based on the reasons previously stated. Dr. Jones voting yes, she would like to hear from the developers about the radical change. Ms. Still voting yes, for all of the reasons previously stated and she believes there is significant opportunity for them to bring it more in line with what they have seen before on the previous plan. Mr. Tolbert voting yes, it allows the Commission to do the job that they are organized to do. It also enhances the integrity and responsibility that they have to carry out as Commissioners.

Mrs. Townshend stated that one of the Commissioners had mentioned potentially convening a special meeting. In looking at the calendar, would Wednesday, September 30, 2015 work and if so would an earlier time work? We could do 7:00 PM or 6:00 PM. Her preference would be to not have it wait a month because she does know how difficult the timing is.

Dr. Jones stated that an earlier meeting time would work better for her. Responding to Dr. Jones, Mrs. Townshend stated that they would confirm the time tomorrow but at this point the meeting will be held on Wednesday, September 30, 2015 at 6:00 PM. She obviously has to make sure that a room is ready and she has to let the applicant know.

NEW DEVELOPMENT APPLICATIONS

1) AX-15-01 Lands of Paul C. Phillips and Theresa HoShue at 121 Acorn Lane and a property on Nixon Lane – Public Hearing and Review for Recommendations to City Council on an Annexation Request and Rezoning Request for two parcels of land in the vicinity of Acorn Lane and Nixon Lane.
   A. Property located at 121 Acorn Lane consisting of 0.46 acres ±. The property is currently zoned RS-1 (Single Family Residential) in Kent County. The proposed zoning for the property is R-8 (One Family Residential Zone). The property is located on the west side of Acorn Lane and northwest of Shadybrook Drive. The annexation category according to Dover's *2008 Comprehensive Plan* is Category 1: High Priority Annexation Area and the land use designation is Residential Medium Density. The owner of record is Paul C. Phillips and Theresa HoShue. Address: 121 Acorn Lane. Tax Parcel: ED-00-068.19-01-25.01-000.
   B. Property located on Nixon Lane consisting of 0/51 acres ±. The property is currently zoned RS-1 (Single Family Residential) in Kent County. The proposed zoning for the property is R-8 (One Family Residential Zone). The property is located on the east side of Nixon Lane and north of North Little Creek Road. The annexation category according to Dover's *2008 Comprehensive Plan* is Category 1: High Priority Annexation Area and the land use designation is Residential Medium Density. The owner of record is Paul C. Phillips and Theresa HoShue. Address: 55 Nixon Lane. Tax Parcel: ED-00-068.17-01-25.00-000.

Representatives: Ms. Theresa HoShue

Mrs. Townshend stated that this is an annexation and rezoning request for two (2) properties. One located at 55 Nixon Lane and the other located at 121 Acorn Lane. The property on Nixon Lane is just over a half acre and the property that fronts Acorn Lane is just under a half acre. The current zoning in Kent County is RS-1 (Single Family Residential). The proposed is R-8 (One Family Residential Zone) in the City of Dover. This is designated in the *Comprehensive Plan* as a Category 1: High Priority Annexation Area with the land use designation as Residential ~~Low~~ Medium Density.

The two (2) properties adjoin each other. The properties (shown on the display map) in darker outline are in the City and those in the lighter outline are in Kent County. This area is an enclave area within the City. The City installed sewer on Nixon Lane and Acorn Lane a number of years ago and at that time they did not require annexation in order to connect to the City's water and sewer utilities. The property at 121 Acorn Lane is developed as a single family residence and has City water and sewer. The property on Nixon Lane, the County just recently issued a Building Permit for the construction of a new home. But again, because the City no longer connects people to water and sewer that are in our High Priority Annexation Area. The City talked to the property owners about annexation. Because the property at 55 Nixon Lane is not directly contiguous; it does not share a boundary with any properties in the City, the annexation of 121 Acorn Lane which is owned by the same owner, is required to get the contiguity so that is the reason for the annexation of both parcels. When Staff looked at other similar annexations in the past several years on Acorn Lane, the zoning that had been applied was R-8 (One Family Residence Zone). If you look in the area, most of the City zoning is R-8 (One Family Residence Zone), there may be some properties zoned as R-20 (One Family Residence Zone) as well. R-8 (One Family Residence Zone) is the suitable zoning given the lot size and the zoning in the surrounding area.

Mr. Cregar questioned when an annexation comes in, do we go back to see if there's anyone else at the same time wishing to be annexed at this time? Responding to Mr. Cregar, Mrs. Townshend stated that they used to do that and they were frequently met with overwhelming "No thank you." They stopped doing that because what it does is delays the process and adds more to it. When they annexed the property where the Dover High School is located now, they contacted all of those properties along Route 8 and most of them had initially agreed to annex and then somewhere in the process decided they didn't want to so it created more of a mess. It used to be the standard practice but it wasn't getting them anywhere.

Mr. Tolbert opened a public hearing.

Mr. Stephen Fuller – 7 Nixon Lane Dover DE 19901

Mr. Fuller stated that he did not receive a letter. He doesn't know why because his property abuts where they are doing the construction. He called City Hall and was kind of confused by the answer that he was given regarding the R-8 (One Family Residence Zone). He was told that it was usually a one family zone but it could be a small commercial. Responding to Mr. Fuller, Mrs. Townshend stated no, that was not correct. There are customary home occupations but that would be somebody who might work out of a home office and they can't have any external signs.

Mr. Fuller stated that he was worried about having "Joe's Hotdog Stand." Responding to Mr. Fuller, Mrs. Townshend stated it is a one family residence zone.

Mr. Fuller stated that they didn't receive the letter so they read someone else's letter and when he called the office, there was a little confusion.

Mrs. Melson-Williams questioned if he said he owned 7 Nixon Lane? Responding to Mrs. Melson-Williams, Mr. Fuller stated that he owns 7 Nixon Lane and the next two lots over that abut 55 Nixon Lane. (*A mailing was sent to 7 Nixon Lane but in different owner's name.*)

Mrs. Townshend stated that part of the challenge that the City has on their public notice is, they have very easy access to all of the City records and then they go the Kent County PRIDE system for what they don't have in the City records. What they will do is ask the City's GIS Staff to ask the County how often their system is being updated.

Mr. Tolbert closed the public hearing.

Mr. Holt moved to recommend approval to City Council for AX-15-01 Lands of Paul C. Phillips and Theresa HoShue at 121 Acorn Lane and a property on Nixon Lane with a zoning classification of R-8 (One Family Residence Zone), seconded by Colonel Welsh and the motion was unanimously carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes; it's keeping with the nature of the community and it's in the High Priority Annexation Area. Mr. Cregar voting yes, for the exact same reasons. Colonel Welsh voting yes, for the same reasons. Mr. Holt voting yes, because it's in the Comprehensive Plan and it works well with the City. Mr. Baldwin voting yes, for the reasons stated. Dr. Jones voting yes, for the same reasons mentioned. Ms. Still voting yes, for the reasons already stated and it's a proper use of the annexation. Mr. Tolbert voting yes, concurring with the comments made by the Commissioners regarding this application and he sees no reason why it shouldn't be approved.

2) S-15-13 Dover Town Center: Revised Phase 2 – Public Hearing and Review of Revised Site Development Plan for areas of the Dover Town Center project. This plan proposes revision of the multi-tenant retail building from 7,665 SF to 11,600 SF and the revision of the restaurant building from 5,740 SF to 5,793 SF. As a result the total building area on the site will be 115, 491 SF. The property consists of 12.42 acres (following right-of-way dedication) and is zoned C-4 (Highway Commercial Zone). The property is located on the west side of North DuPont Highway between KW Boulevard and Cedar Chase Drive. The owner of record is Onix Dover, LLC. Property Address: 1574 North DuPont Highway. Tax Parcel: ED-05-057.00-01-05.01-000. Council District 4. *The Dover Town Center project previously reviewed as Site Development Plan S-15-04 was approved by the Planning Commission on May 18, 2015 and granted Final Site Plan approval on July 6, 2015.*

Representatives: Mr. Connie Malmberg, Malmberg & Young P.A.; Mr. Doug Liberman, Larson Engineering; Mr. Ric Rouf, GG&A

Mrs. Melson-Williams stated that this is a Site Plan. It should look fairly familiar in that they saw a plan called the Dover Town Center as S-15-04 a couple of months ago. This submission tonight is a submission for what they are calling Revised Phase 2. It deals in particular with the two (2) pad site

buildings; one that is purposed as a restaurant and the other one as multi-tenant space. The overall Site Plan for S-15-04 has Final Plan approval and if you've been on the north side of town you will see that they are in very active construction with what was the old Walmart building. The City has issued multiple permits associated with that plan activity. Tonight, the Commission is focusing on the changes to the two (2) buildings out in the parking lot area.

First, with the revision to the restaurant building; it's a change in size from 5,740 SF to 5,793 SF. A slight tweak to their square footage and also a revision to remove what is an outdoor dining patio area for that building. The other building is the multiple tenant retail building that's located at the corner of KW Boulevard and Crawford Carroll Avenue that is proposed is to be enlarged with this proposal, going from 7,665 SF to 11,600 SF. The earlier version of the plan included a slightly smaller building that had an opportunity for a drive through. They have chosen to eliminate that and in doing so have increased the overall square footage for the multi-tenant building. With this proposal, there are some changes to what would be the architecture for the project. The packet included the restaurant elevations. Basically, the only change that is happening there is some of what was a larger canopy area to cover that outdoor seating has been eliminated. The overall basic building space remains the same with a mixture of stucco finishes, multiple wall projections, the use of awnings and still kind of a corner entrance to that building. For the architecture for the multi-tenant retail building, this is the first time the Commission is seeing that. Previously, there was no architecture submitted and in approving the original plan Staff had noted that before they could even get permits for this building they would have to bring that architecture back to the Planning Commission. They have done that with this submission. It basically follows the same type of architecture that's setup for the main retail building. It has a detail of a water-table that wraps around all four (4) sides of the building because all four (4) sides of this building are going to be very visible given its corner location and placement on the site. What is truly the front of the building which faces east into the parking lot area is where you see the main entrances and the larger storefront type display windows. There are windows that wrap onto the corners for the end units of the building and then on the rear the only openings are the various service doors. In order to keep the detailing on all sides of the building, they do use the engaged plasters that make it look like it's divided by columns. It's a change in materials and overall the building has a very heavy cornice line. It is a flat roof which is basically what is seen for commercial entities.

Related to the site, there aren't really any significant changes to the overall layout. With the restaurant building, there's been some tweaks to add some additional handicap parking spaces. The retail building changes on the north end to then locate what are the dumpsters for that facility. With parking overall for this site, the minimum number of parking spaces required based on the overall square footage and then the use of the one building as a restaurant requires four hundred twenty-six (426) parking spaces. The maximum that Code would allow is five hundred thirty-two (532) parking spaces. The plan itself shows a total of five hundred fifty-two (552) so that means they're over parked by twenty (20) parking spaces. However, we consider that a legal non-conforming situation that can actually continue to be there because before they started all of this activity the site had seven hundred four (704) parking spaces which well exceed the Code requirements of today. They are getting much closer to what the Code would allow for today.

With the size of the retail multi-tenant space building it does require a loading space. They are showing that on the south end that wraps around to allow for those rear service access situations. For bicycle parking, they continue to have racks provided at each of the buildings. A much larger

one with the main building but each of these pad site buildings have their own bicycle parking rack. The sidewalk network continues that was established previously where they will be constructing new sidewalk along KW Boulevard and providing a number of crossing points into the overall shopping center to link to these buildings and then continuing to link to the major building on the site. Previously, this plan was approved for reduction in the Arterial Street Buffer along Route 13. There are no changes with this plan revision to that previous request and also with the opaque barrier previously established along the northern property line. Tree planting remains the same; there needs to be one hundred eighty-five (185) trees on the property. With the re-design of the building footprints in both of these cases there will be some tweaks to the Landscape Plan in the immediate vicinity these buildings but they still need to meet the overall planting requirement. As always, the plan did move through the review process with the other DAC member agencies, including the Departments of Public Works and Electric for the City, the City's Fire Marshal's Office, Kent Conservation District and DelDOT. For the most part, a lot of the infrastructure planning was already setup with the previous Site Plan and there will just be some minor tweaks to deal with the slight changes for these two (2) areas.

Mr. Malmberg stated Mrs. Melson-Williams did a fantastic job reviewing the site. They have read all of the comments and they can comply with all of the comments. This is basically a continuation of an upscale re-design of what was the old Walmart center.

Colonel Welsh stated that he thinks the plan is great and he thinks that everything that they have done is great and he is glad to see construction progressing as rapidly as it is. This is going to be a welcomed addition.

Mr. Cregar questioned if the applicant was okay with the comments about the pedestrian circulation? Responding to Mr. Cregar, Mr. Liberman stated yes, the main comment there was the barrier free access and he thinks there was one curb along the northeast corner of the 11,000 SF building that did not have that. So that had been added throughout and they have those throughout the site. They have three (3) linkages to KW Boulevard and two (2) linkages to Route 13.

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

Colonel Welsh moved to approve S-15-13 Dover Town Center: Revised Phase 2 inclusive of the DAC report, 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 is modest changes to what was previously approved and its appropriate plan for the area. Mr. Cregar voting yes; he agrees with Mr. Holden's comments and would also add that under the current zoning all of this is allowed and it will bring a welcome change to this area. Colonel Welsh voting yes, in concurrence with the previously stated comments. Mr. Holt voting yes, in concurrence with the previously stated comments. Mr. Baldwin voting yes, in concurrence with the previously stated comments. Dr. Jones voting yes; she is comfortable with the minor revisions for this plan and it's a welcome site as she rides by 2-3 times a week to see the progression of the property. Ms. Still voting yes, in conjunction with all of the previous comments and she too feels that it's a welcome improvement for the site. Mr. Tolbert voting yes, he would have liked to see something other than a flat roof but the site is well planned for with the project.

3) US-15-02 Dover Town Center – Public Hearing and Review of a Unified Comprehensive Sign Plan application for the Dover Town Center complex to permit the construction and implementation of signage for the 12.42 acre parcel to include tow (2) illuminated freestanding pylon signs totaling 576 SF and 28 wall signs of various types totaling 1,872 SF. The property is zoned C-4 (Highway Commercial Zone). The property is located on the west side of North DuPont Highway between KW Boulevard and Cedar Chase Drive. The owner of record is Onix Dover, LLC. Property Address: 1574 N DuPont Highway. Tax Parcel: ED-05-057.00-01-05.01-000. Council District 4.

Representatives: Mr. Connie Malmberg, Malmberg & Young, P.A.; Mr. Doug Liberman, Larson Engineering, Mr. Ric Rouf, GG&A; Mr. Ben King, Arium Architects

Mr. Cook stated that this a Unified Comprehensive Signage Plan for the same property as the previous case. The plan includes the construction implementation of signage for the Dover Town Center which will include two (2) illuminated free standing pylon signs totaling five hundred seventy-six (576) SF and twenty-eight (28) wall signs of various types totaling one thousand eight hundred seventy-two (1,872) SF. The plan that the Commission received was what they call the Plan Book that has the entire signage package. It's quite comprehensive and complete and he will try to summarize some of the high points and talk a little bit about the Code and the Comprehensive Sign Plan process and then talk a little bit about some of the selected signage on the site.

One thing to bring out in advance is that this particular Signage Plan only applies to the main large structure on the site at this time. So the two (2) buildings that were just approved in the previous case are not part of this plan. This plan is going to apply to the main large building where the former Walmart was. The two (2) additional smaller buildings would qualify for signage under the standard Code. If they would like to apply for more then they would come back for an amendment to any approved Comprehensive Signage Plan which is otherwise made for the property. Also as part of this plan, there are two (2) pylon signs; one is referred to as the north pylon sign. It is visible from both sides of the highway, nearest southbound Route 13. The other one is called the south pylon which is located close to the corner of KW Boulevard. There is an existing pylon sign at KW Boulevard and that one is coming down so the proposed pylon will replace it. The south pylon sign is being shared with the Sam's Club located farther west on KW Boulevard. He did put the information in the Staff Report in terms of what's permitted for the highway type which is Urban Principal Arterial throughout Route 13. KW Boulevard is called an Urban Local Collector. From having approved Comprehensive Signage Plans before, the Planning Commission does have the ability to waive the height, size, number and area regulations over and above the standard Code if they wish. The Staff Report also includes some information about the guidelines and objectives for Unified Comprehensive Signage Plans. Overall, some of those guidelines and objectives were to ensure that the size of the property warrants a Unified Comprehensive Signage Plan. This does qualify because this has more than three (3) principal structures. It also qualifies due to its significant highway frontage on Route 13. Also, the Commission would review the plan for the placement of signage with respect to the number of entrances on the property and whether that was appropriate and whether that offered visibility to ensure safe navigation of the driving public. Other criteria would be to consider that the number of signs is adequate in number based on the traffic situation as well as the uses and whether or not the proposed signs would have an adverse impact on the visibility of adjacent properties or signs. Also for the Commission's consideration would be whether the proposed signs compliment the architecture of the building and the site in general. On

Page 5 of the Staff Report, he gave a detailed table of every sign that's in the package and they are split out by free standing signs and building signs.

The main façade of the whole center is presented at the bottom image. The five (5) tenants on the left, at this point they do not know those tenants but there was provision within the Sign Plan made for sign space for those tenants. Within the Sign Plan itself, for each tenant there was a few pages for each tenant with details of their signage. There was also a plan of their façade as well as where that tenant space was located on the Site Plan map. One thing to note about the property is that there is signage on the building side facing DuPont Highway. That will be a Five Below sign. The Ross tenant wanted an additional sign so this will be setback kind of off the loading area so that wall is actually setback from this other side façade by about one hundred (100) feet or so.

The north pylon sign is going to be two hundred fifty-two (252) SF. It has space for ten (10) different tenants and the height of twenty-four (24) feet. He did a rundown on Page 7 comparing the pylon signs as presented and then also as compared to Code. Also on the south pylon sign, because it is a shared sign with an off premise adjacent property, they are entitled to an area bonus due to the sharing situation. That sign currently proposed to have the five (5) primary tenants with individual panels on that pylon sign as well. One thing noted in the plan, for the north pylon sign they did request a slight reduction of the base if possible and that's due to a crosswalk that's adjacent coming from the sidewalk from North DuPont Highway. We didn't put that as a condition of approval in the report for the Planning Commission to approve but it was just a topic of discussion at the DAC meeting. They said that they would be able to reduce that by a slight amount to bring that down to a little bit below chest level. They had some concerns about people possibly running out or children.

One recommendation that they did make as a recommendation of approval pertains to the south pylon sign and that was for a reduction of height by one (1) foot. The sign as proposed is thirty-one (31) feet. The standard Code is the maximum of thirty (30) feet so they requested that one foot reduction just to bring it into the standard height requirements for Code.

Another slide in the display shows the façade in three sections with the standard entry signage that is seen in most shopping centers. One thing to note on this is for each one of these tenant spaces at some point, there is a sign that is perpendicular to the building façade so that if you are walking along the front of this building you will be able to see where each tenant space is. It's either handing from the awning or in the case of the tenant Ulta, they are projecting out from the side of the building.

On the wall signs on Page 8, they gave a rundown of what the sign area to wall ratio is for each of those tenant spaces. For this type of property located where it is, typically they would be allowed to have 15% of the wall frontage in signage. For these, they all came in well under the 15% based on the current Code. Staff did recommend approval of the Unified Comprehensive Sign Plan as proposed with a one (1) foot reduction of the south pylon sign.

There were no comments from the other DAC agencies. There was a Unified Comprehensive Sign Plan for this property in a previous iteration and that plan subsequently expired much like the previous Site Plans did just because development did not occur.

Mr. Malmberg stated that Arium Architects put together the sign package for the most part. The way it works in reality is you get clip art more or less or packages from the nationals and you plug it in and make it all one Comprehensive Plan. He would suggest that they are proportional and nice looking. It's not their standards that are set forth in the Staff Report and he thinks they meet all of those standards as far as not being a nuisance to neighboring signs. The concept behind a Unified Sign Plan package is when you have multiple tenants on the site like this, signs are informational and it's important from a practical matter of getting to point A to point B. When you want to get to point B and you are at point A, it's important to have the latitude that you have in that kind of plan. If you are Walmart, you don't need a bunch of signs all over the place but you do if you are trying to get to a particular store on a site. He thought that the pedestrian signs were brilliant. They make it a lot easier when you are walking along at a pedestrian level. For the two (2) recommendations with regard to lowering the base on the north pylon and the height by a one foot on the south pylon, they have already made those revisions. They can comply with all of the recommendations that Staff has made.

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

Colonel Welsh moved to approve US-15-02 Dover Town Center for the Unified Comprehensive Sign Plan as submitted, seconded by Mr. Holt.

Dr. Jones questioned if that motion was consideration of Staff recommendations? Responding to Dr. Jones, Colonel Welsh stated yes, the applicant said they had already implemented those recommendations.

Colonel Welsh moved to approve US-15-02 Dover Town Center for the Unified Comprehensive Sign Plan as submitted, seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes; it's a well put together plan in compliance with the Zoning Regulations. Mr. Cregar voting yes; it presents a coordinated concept, it provides signage that provides identity to the center and its tenants and it provides way of finding for the general public. Colonel Welsh voting yes; it is attractive and it complies with the guidelines of Code. Mr. Holt voting yes; it meets all of the specifications and requirement for the City and it makes it easy to find any of the stores at that location. Mr. Baldwin voting yes; it complies with established guidelines for signage. Dr. Jones voting yes, for the reasons previously stated. Ms. Still voting yes, for all previously stated reasons and she thinks it's very well done. Mr. Tolbert voting yes; the signage is very appropriate and he likes the overview given by Mr. Cook because as usual he gave a very thorough understanding of signage.

4) MI-15-11 Text Amendment: RG-1 and RG-2 Uses and Bulk Standards and Establish Infill Standards for Residence Zones – Public Hearing and Review for Recommendation to City Council regarding Text Amendment to *Zoning Ordinance* Article 3 – District Regulations, Section 2 – General Residence Zone (RG-1 and RG-2); Article 4 – Zoning Bulk and Parking Regulations, Section 1 – Supplementary Regulations Applying to Residence Zones. The proposed Ordinance revisions would permit townhouse and duplex housing types in the RG-1 and RG-2 zones subject to Conditional Use Site Development Plan approval by the Planning Commission, limit multiple dwellings to the RG-2 zone, establish administrative waivers, and revise RG-1 bulk standards. The proposed Ordinance also established infill standards for the development of vacant lots within

developed areas of residence zones. Ordinance #2015-13. *The Legislative, Finance and Administration Committee reviewed the proposed Text Amendment on August 10, 2015 and First Reading before City Council was completed on August 24, 2015. Public Hearing before the Planning Commission is scheduled for September 21, 2015. Public Hearing and Final Reading before City Council is set for October 12, 2015.*

Representatives: None

Mrs. Townshend stated that this is a proposed amendment to the zoning text of Article 3 and Article 5. In Article 3 Section 2, the primary changes are that the amendment would allow as a conditional use townhouses and duplexes subject to certain restrictions. It would limit the allowance of multiple dwellings or apartments to the RG-2 District and not allow them in the RG-1 District. It would expand the administrative waivers to allow for waivers in the bulk standards for Minor Lot Line Adjustment Plans where no additional lots are being created. An example would be if you have a minimum lot width of fifty (50) feet and you have three (3) lots that total one hundred twenty-five (125) feet that you could distribute the lot lines to have uniform sized parcels rather than have to go to the Board of Adjustment to do that. It would allow that to be done administratively. It would also allow them to authorize alternative parking surfaces which would be things like stone driveways or gravel driveways where such parking is located in the rear yard. Again the City does have a lot of stone driveways Downtown and if they're off the alley they frequently have people saying "why are you making me put in concrete or asphalt when they have stone and they have stone?" So when it's off the alley, she thinks it's more manageable from a visual standpoint so they wanted the flexibility to do that. They have proposed amendments to the bulk standards to reduce some of the setbacks and lot dimensions.

The final thing is that they would add to Article 5 Supplementary Regulations is some infill standards. To specify for infill development: the sidewalk that meets City standard is required along the frontage, that residential lots shall include landscaping to include plants and shrubs along the portion of the house that fronts a public street and that a primary façade face the frontage of the property. They had looked at infill standards of other places and they could get very complicated and specific in infill standards but what they didn't want to do was create a monster that would discourage development in the Downtown. What they are looking to do is make sure that they have a standard that makes sense and then can also encourage re-development in the Downtown. There is the Downtown Development District designation; there is a lot of interest turning to re-developing in Downtown. The Restoring Central Dover Plan specifically states flexibility in housing styles as something that we should amend the *Zoning Ordinance* to incorporate so this is the step to doing that. The City did a pretty comprehensive review of the commercial zones and they do believe that they need to do a similar review of the residential zones. But they didn't want to hold up this change until that's done because no matter how quickly they would like to work on things, sometimes it takes much longer than they would like. They didn't want to halt some of the development interest that they have been seeing.

There is one thing in reviewing it after it went out in the packet. Right now in the General Residence zone off-street parking is permitted and it says as an accessory use to C-2 (Central Commercial Zone) that's a permitted use. They had stricken the language that pairs it to C-2 (Central Commercial Zone); there are areas for instance along Division Street that are zoned C-1 (Neighborhood Commercial Zone) or C-1A (Limited Commercial Zone) or C-2A (Limited Central

Commercial Zone) where it might be appropriate to allow parking on a residential lot behind it. But the more that she has thought about it, the more she thinks that if a residential lot is going to be used for specifically for off-street parking then it should be a conditional use and not just a permitted use. That is one change that she would recommend that is not reflected in what is before the Commission tonight. It would be an amendment to strike 2.13 on line 17 and move that language to create a new letter H after line 144 so that if there is a parking lot as a principle use on a property. The Planning Commission has the proper tools to be able to impose conditions on it.

Mr. Holden stated that he is curious for a little more background from Staff on the other conditional uses in terms of townhouses or multi-family within the zones. He understands the graph and other administrative things. In terms of the basis for them and he didn't know if "petition for" meant this was a petition from an outside entity or if this was something Staff generated. Responding to Mr. Holden, Mrs. Townshend stated that it's been brought forward by Staff and it's largely a recommendation out of the Restoring Central Dover Plan. It was actually also in the *Comprehensive Plan* as a recommendation to allow for varying housing styles in the residential zones Downtown. So it's in line with all of the plans that they have done. At this point, they do have some property owners, both for profit and non-profit that are looking at building new homes in the Downtown and are waiting for this. The way that under Restoring Central Dover, the Downtown Development District, the *Comprehensive Plan* all of these things kind of tie together, homeownership is a high priority in the Downtown. In their Downtown Development District they have a rental rate of 84% as of the last census. In the Restoring Central Dover area which is a little bit larger of an area but it's pretty much all RG-1 (General Residence Zone) properties. Those that are not commercial anyway. They have a rental rate of 75%. They have a real driving interest on the part of all of their plan documents and the stake holder input they have gotten to increase homeownership opportunities. So allowing a variety of housing styles provides for a variety of homeownership opportunities, a variety of affordability levels and just furthers that plan.

Mr. Holden questioned if she could easily define the footprint or the general footprints that you find in RG-1 (General Residence Zone) and RG-2 (General Residence Zone)? Responding to Mr. Holden, Mrs. Townshend stated that they really didn't tinker is RG-2 (General Residence Zone). They did in that the townhouses and duplexes would be conditional use. RG-2 (General Residence Zone) is very much a zoning associated with apartment complexes, for example Blue Hen Apartments. Most of the larger apartment complexes are zoned RG-2 (General Residence Zone). A couple of them are RG-1 (General Residence Zone) that they believe they need to probably be re-zoned to RG-2 (General Residence Zone) over the long term. Walker Woods was rezoned to RG-2 (General Residence Zone) so they could build apartments. She believes that Cedar Chase Apartments is also zoned RG-2 *(*General Residence Zone*).* A lot of the condominiums such as Brandywine Court Condos are zoned RG-2 *(*General Residence Zone*).* RG-2 (General Residence Zone) tends to be more of an apartment zone so it's kind of scattered. The RG-1 (General Residence Zone) is principally the central Dover residential zone so much of the area along State Street, Governors Avenue, Mary Street, West Street, Kirkwood Street and Lincoln Park are zoned RG-1 (General Residence Zone). There are a number of things going on. That's where they have a lot of vacant lots, a lot of interest in re-developing and they also have a lot of under-sized lots since lots were platted long before zoning was even a glimmer in their eyes. That's the purpose of administrative waivers, for the lots that you could barely fit a house on. If you meet the setbacks you can't put a house on it. It really is kind of more of a Downtown residential area.

Mr. Holden stated that looking at zoning and amending zoning to benefit the development of empty lots or re-development of old homes in the Downtown Dover Development District footprint is a task that they have to find out a path. He is concerned over the impacts to pieces outside of that footprint, whether it's in an area or a footprint that has much larger lots and larger homes and has a different character but someone see's value in splitting the lot up and building three (3) houses amongst much bigger lots. He doesn't know that he is convinced that this is the appropriate way to do the one good without avoiding the other potential harm. Responding to Mr. Holden, Mrs. Townshend stated that the areas that are RG-1 (General Residence Zone) that are outside of the Downtown Development District are if you get over to the area as you get closer to Central Middle School. That area is kind of a combination of zones but a lot of it is RG-1 (General Residence Zone); some of it is R-8 (One Family Residence Zone). If you look in that neighborhood there are a lot of duplexes there so a duplex wouldn't be out of character. The areas that are more suburban in nature are not zoned RG-1 (General Residence Zone). It really is kind of contained to that Downtown area. She thinks if there are properties that are zoned RG-1 (General Residence Zone) that are outside of that, they shouldn't be zoned RG-1 (General Residence Zone). They should be looked at to be R-8 (One Family Residence Zone) or something more appropriate for the more suburban style neighborhoods.

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

Mrs. Townshend stated to just recall that there was one amendment that she had suggested they put in as a Planning Commission amendment to move off-street parking from the permitted uses to conditional uses.

Ms. Still moved to recommend approval to City Council for MI-15-11 Text Amendment: RG-1 and RG-2 Uses and Bulk Standards and Establish Infill Standards for Residence Zones, inclusive of moving the off-street parking from permitted uses to conditional uses, seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote with Mr. Ambruso absent. Mr. Holden voting yes, due to Staff comments. Mr. Cregar voting yes; he believes that this amendment helps to move forward the desire to get additional homeownership in the Downtown area and that it supports the district that has been created for the Downtown. Colonel Welsh voting yes; the amendment will promote growth in the Downtown Development District. Mr. Holt voting yes; it will improve the Downtown Dover District and it's according to Staff comments. Mr. Baldwin voting yes based on Staff comments. Dr. Jones voting yes, in concurrence with all of the comments and reasons given. Ms. Still voting yes, for all of the previous comments. Mr. Tolbert voting yes, because in addition to other things that it does it also will revise the bulk standards for the RG-1 to be more consistent with Downtown development patterns.

Meeting adjourned at 8:38 PM.
Sincerely,

Kristen Mullaney
Secretary