CITY OF DOVER PLANNING COMMISSION
May 18, 2015

The Regular Meeting of the City of Dover Planning Commission was held on Monday, May 18, 2015 at 7:00 PM with Chairman Colonel Welsh presiding. Members present were Mr. Holden, Mr. Tolbert, Mr. Holt, Mr. Baldwin, Dr. Jones, Ms. Still, Mr. Ambruso and Colonel Welsh. Mr. Cregar was absent.

Staff members present were Mrs. Townshend, Mr. Cook, Mr. Jason Lyon, Mrs. Dawn Melson-Williams and Mrs. Mullaney. Also present were Mr. John Paradee, Mr. Greg Scott, Mr. Camisky, Mr. Connie Malmberg, Mr. Garth Jones and Ms. Andrea Finerosky. Speaking from the public were Mr. James Murray, Mr. Steven Cabbero, Mr. Rocco Malago, Mrs. Lorren Chandler, Ms. Jessica Raymond, Ms. Annette Mathis and Mr. Chris Schaffner.

APPROVAL OF AGENDA

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

Mr. Tolbert moved to approve the Planning Commission minutes of March 16, 2015, seconded by Ms. Still and the motion was unanimously carried 8-0 with Mr. Cregar absent.

COMMUNICATIONS & REPORTS

Mrs. Townshend provided an update on the regular City Council and Utility Committee meetings held on April 13, 2015, April 27, 2015 and May 11, 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:
   A. S-13-06 US Gas at 461 North DuPont Highway – Request for a one year extension of the Planning Commission approval granted on April 15, 2013 for Site Development Plan to allow for the addition of a fenced paved area consisting of 6,861 SF of impervious surface located at 461 North DuPont Highway. The property is the location of an existing automobile service station with fuel sales. The property is zoned C-4 (Highway Commercial Zone). The property is located on the southeast corner of North DuPont Highway and Townsend Boulevard. The owner of record is US Gas, LLC. Address: 461 North DuPont Highway. Tax Parcel: ED-05-068.13-01-55.00-000. Council District 3. *The project is working through the Check Print Review process to achieve Final Site Plan approval.*

Mrs. Townshend stated that there are no representatives here for this application but they do have their request for extension; it was submitted to Staff and was in the packet from last month. Their Final Plans are ready. They are in her office waiting for signature so she would expect that they will be under construction within the next couple of weeks.

Dr. Jones moved to approve S-13-06 US Gas at 461 North DuPont Highway for a one year extension, seconded by Mr. Baldwin and the motion was unanimously carried 8-0 with Mr. Cregar absent.

2) Pending Application:
   A. Z-15-01 Lands of 801 Gold Coast, LLC at 801 North State Street: Rezoning from RG-3 to C-2A – Public Hearing and Review for Recommendation to City Council on a rezoning application for a 1.943 acre ± parcel. The property is zoned RG-3 (Group Housing Zone). The proposed zoning is C-2A (Limited Central Commercial Zone). The property is located on the east side of North State Street between the Silver Lake bridge and Lepore Road; the property is adjacent to Silver Lake. The owner of record is 801 Gold Coast, LLC c/o Luther D. Shank III. Address: 801 North State Street. Tax Parcel: ED-05-068.09-01-13.00-000. Council District 3. Ordinance #2015-02.
      i. *The Planning Commission on March 16, 2015 deferred consideration of this Rezoning Application Z-15-01 until a future meeting. Application is associated with request (MI-15-01A) for a Comprehensive Plan Amendment consisting of a land use classification revision to Map 12-1: Land Development Plan. The City Council took final action to approve Comprehensive Plan Amendment MI-15-01A at their meeting of April 13, 2015. The Rezoning Application is now eligible for consideration.*

Representatives: Mr. John Paradee, Baird, Mandalas and Brockstedt

Mrs. Townshend stated that this is property located at 801 North State Street. The owner of record is 801 Gold Coast, LLC. The current zoning is RG-3 (Group Housing Zone) which in the *Zoning Ordinance* is really a townhouse zone. The proposed zoning requested by the applicant is C-2A (Limited Central Commercial Zone). This was previously on the Planning Commission agenda connected with the *Comprehensive Plan* Amendment that the Commission took action on in March. The recommendation of the Commission was not in favor of the Comprehensive Plan Amendment. Following a Public Hearing before City Council on April 13, 2015, they approved the *Comprehensive Plan* Amendment requested by the applicant. This rezoning application had been deferred pending the outcome of City Council's action on the Comprehensive Plan Amendment. Again, the current zone is RG-3 (Group Housing Zone). In looking at the surrounding land-uses there is property adjacent to the subject property that is zoned RG-3 (Group Housing Zone). The other properties that are adjacent to the subject property that are located fronting on State Street are zoned C-2A (Limited Central Commercial Zone). There are also some properties zoned C-1A (Limited Commercial Zone) across the street and then it transitions to the Highway Commercial Zone. This is consistent with the *Comprehensive Plan* as amended by City Council on April 13, 2015 and the C-2A (Limited Central Commercial Zone) is consistent with the zoning classifications in the surrounding area.

Mr. Paradee stated as Mrs. Townshend said, City Council did approve the Comprehensive Plan Amendment and that's because they found that the uses permitted in the C-2A (Limited Central Commercial Zone) district for this property would be consistent and compatible with existing uses in the neighborhood. There is property to the north and the west which is also zoned for commercial use and any concerns about the property located to the east which is residential can be addressed by the buffering provided by the Code through the Site Plan process. The criteria under the City of Dover *Zoning Ordinance* have been satisfied. The first is that the use permitted by the proposed

rezoning would be compatible. As he mentioned, City Council during their hearing found that this was in fact the case. Second, adequate public services and infrastructure exist to serve the needs of the property. Third, the proposed rezoning is in accordance with the City's current *Comprehensive Plan* as recently amended by the City Council. Delaware law is very clear that the *Comprehensive Plan* has the force and effect of law and therefore at this point the use that is proposed by the rezoning being consistent with the *Comprehensive Plan* should be accepted as compatible.

Colonel Welsh opened a public hearing and after seeing that there was no one wishing to speak, closed the public hearing.

Mr. Ambruso moved to recommend approval to City Council for Z-15-01 Lands of 801 Gold Coast, LLC at 801 North State Street: Rezoning from RG-3 to C-2A, seconded by Ms. Still and the motion was approved by a roll call vote 8-0 with Mr. Cregar absent. Mr. Holden voting yes, as it is compatible, there are services and Council has endorsed the zoning. Mr. Tolbert voting yes, due to the application being consistent with the Comprehensive Plan. Mr. Holt voting yes, as it is consistent with the Comprehensive Plan. Mr. Baldwin voting yes, because it's consistent with the Comprehensive Plan. Dr. Jones voting yes, for all previously stated reasons. Ms. Still voting yes, due to the compatibility with the zoning. Mr. Ambruso voting yes, predicated on everyone's statements already mentioned. Colonel Welsh voting yes, based on all the opinions already expressed.

NEW DEVELOPMENT APPLICATIONS

1) SB-15-01 Lands of Michael E. Camisky at 5096 Hazlettville Road – Public Hearing and Review of a Minor Subdivision Plan to subdivide an existing 3.21 acre lot into four (4) lots. Lots 1, 2, and 3 consisting of 0.24 acres each fronting on Saxondale Lane and the residual area consists of 2.42 acres. The property is zoned RM-1 (Medium Density Residence Zone). The property is located on the southeast side of Hazlettville Road and between Hazlettville Road and Saxondale Lane. The owner of record is Michael E. Camisky. Property Address: 5096 Hazlettville Road. Tax Parcel: ED-05-076.00-02-04.00-000. Council District 2.

Representatives: Mr. Greg Scott, Scott Engineering; Mr. Michael Camisky, owner

Mr. Cook stated that this Minor Subdivision Plan proposes to create four (4) parcels of land from the existing 3.21 acre parcel of land. The request will subdivide the land into three (3) parcels consisting of approximately 0.24 acres each and one (1) residual parcel consisting of 2.42 acres. The property is zoned RM-1 (Medium Density Residence Zone). The property is located on the southeast side of Hazlettville Road and between Hazlettville Road and Saxondale Lane. The owner of record is Michael Camisky. Property Address is 5096 Hazlettville Road. The Tax Parcel is ED-05-0076.00-02-04.00-000.

The subject property was part of the property originally known as the Brittingham farm which was subdivided in 2004 to create the Nottingham Meadows subdivision. As part of the Nottingham Meadows subdivision, there was a little bit of history which was included the Report regarding rezoning of that. The balance of the subdivision not including this subject property tonight was rezoned from RM-1 (Medium Density Residence Zone) to R-8 (One Family Residence Zone) and

that was in 2010. In the Report, you will find the table highlighting the bulk standards for the RM-1 (Medium Density Residence Zone).

The definition of a Minor Subdivision from the *Zoning Ordinance* comes from Appendix A Article III of the Subdivision Ordinance. A Minor Subdivision is any subdivision fronting on an existing street not involving any new street or road of the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the development plan, official map, *Zoning Ordinance* or this ordinance if so designated as provided in Article IV Paragraph §B6.

Staff did put in the lot dimension requirements for the RM-1 (Medium Density Residence Zone) and these lots do comply with that. The minimum lot size is 8,000 SF and these lots are ranging between 10,300 SF and 10,500 SF. The lots meet the requirements for depth, width, setbacks and off-street parking as well as the requirement for the maximum permitted dwelling units per acre of six (6) dwelling units per acre. There is sidewalk which has been installed along Hazlettville Road and Staff made note of some corrections for the Final Plans which will be submitted for Final Plan Approval.

In terms of the recommendations suggested as conditions of approval, there were no waiver requests so there really are no recommendations as conditions of approval. Staff found the Minor Subdivision Plan to be in compliance with the *Zoning Ordinance* and the *Subdivision Ordinance*.

Mr. Scott stated that they accept all Staff comments. The plan proposed is consistent with the RM-1 (Medium Density Residence Zone) and also the definition of a Minor Subdivision. The infrastructure utilities are all there to serve the property currently. The street exists and they had extended water and sewer to this property for connection by the property owner at their convenience so utilities are there for the use.

Colonel Welsh opened a public hearing.

Mr. James Murray – 440 Beuvale Lane Dover, DE 19904

Mr. Murray stated that he lives about two (2) blocks away from this property but some of the neighbors have asked if he would speak on behalf of them tonight. One thing that Mr. Camisky's attorney made quite clear is that the property sizes that they looking at do meet the requirements of the City but they are smaller than the existing lots in the Nottingham Meadows subdivision. Most of the subdivision properties run from 10,500 SF and up so these properties of 10,300 SF would be smaller than some existing lots. Some of the homes that are very close by have much larger plots than these three (3) proposed lots. They are wondering if this will be a little detrimental to future sales down the road. Another concern is the area behind the first homes as you enter the development on the left hand side; the property behind them has flooded on many occasions. The storm drains there are inadequate for the water that accumulates there. A few years ago when we had those horrendous snow storms in December and January, the first three (3) homes had water in their basements. They pumped out water for weeks. What he is asking at this point in time is where will all the run-off go from these new properties? There are no storm drains out on Saxondale Road in front of these houses; there are no storm drains at all. He doesn't know if the storm pipes are underneath but right now there are no storm drains.

He also noticed that Mr. Camisky wants to extend a roadway out to Hazlettville Road. Is that part of this application? It would be on the right hand side, it's going to be an extended dirt driveway out to Hazlettville Road. There is a driveway there or an egress. Responding to Mr. Murray, Mr. Cook stated that in their discussions with the applicant at the Staff review, this is a former driveway which has been abandoned. It's basically turned to grass. He believes at one time it did have an entrance to Hazlettville Road but that entrance was closed when DelDOT made improvements to the road and the sidewalk was added. That is not an addition of a driveway; it's the remnants of a previous driveway.

Mrs. Townshend stated that the applicant is not adding that access back to Hazlettville Road. They have one (1) permitted access from Hazlettville Road.

Mr. Cook stated there is one (1) access to the residual parcel which is the large parcel where the existing house is.

Mr. Murray stated that on the plot plan that he has, it doesn't show driveways out to Saxondale Lane. Where will the driveways come out to? Responding to Mr. Murray, Mrs. Townshend stated that the driveways will go the Saxondale Lane. This is a plan for recordation so it doesn't show how they would be improved but they would have a driveway access to Saxondale Lane.

Mr. Murray questioned if these homes would be included in a future homeowner's association in that development. Responding to Mr. Murray, Mrs. Townshend stated that this doesn't indicate one way or another but she thinks that it could be a condition of approval that the lots be part of the homeowner's association that exists.

Mr. Murray stated that there is no Homeowner's Association. Responding to Mr. Murray, Mrs. Townshend stated that legally there is one that exists.

Mr. Murray stated that in their development, there are storm drains not only in front of their homes on the street but there's also storm drains behind their homes because of water conditions in this area. He is again getting back to the possible run-off of water from these homes to the existing homes coming in on Brittingham Drive.

Mr. Murray spoke on behalf of six (6) residents.

Mr. Scott stated that they have met with the Kent Conservation District and have received the plans that they have approved for the subdivision so that they can review it as to how they would impact the stormwater management plan for the overall development. They have to do an analysis to satisfy them that they have a negligible increase in the run-off curb number and the amount of run-off from this property. The run-off from this property goes towards Saxondale Lane and drains into the storm drain in Saxondale Lane. There are some catch basins that are just west of Lot 3. There are some catch basins that are also up at the intersection of Brittingham Drive and Saxondale Lane as well as a catch basin that's in the yard between Lot 77 and 78, adjacent to their Lot 1. They have to evaluate what direction the water is going. Primarily, it's anticipated that they will grade these lots out in the direction that the water is going out to the street but they have to show that they are not causing any significant impact on the infrastructure or stormwater management program. If so, they have to make a combination for negating any increase in run-off. That's something that they have to

satisfy Kent Conservation District with. He is not aware of any flooding that's occurred out there or exactly where that occurs so he can't address that at this time.

Colonel Welsh questioned if there was a possibility that they could increase the drainage capacity? Responding to Colonel Welsh, Mr. Scott stated that he doubts that they could increase the drainage capacity. Those are all underground storm drain pipes that run down to the nearest pond which is east of this for some distance. That would be a considerable undertaking to increase those pipes at this time without ripping up a lot of the street. He doesn't know that it would be cost effective for Mr. Camisky to do that for three (3) lots to be able to afford to build them.

Mr. Steven Cabbero – 15 Brittingham Drive Dover, DE 19904

Mr. Cabbero stated that he is standing here to state the conditions that he is living in. Every house on the left side of Brittingham Drive floods. With the new houses that are being built, two of the buyers moved from finalizing their sale because of the flooding. It's going to happen so they have to take care of this situation. The current developer has put up drainage in the back of the properties so that the water flows down to the pond. The water that comes from side where they are going to build these houses has no drainage system that moves the water to the pond so it's definitely going to flood.

Colonel Welsh closed the public hearing.

Mr. Tolbert stated that although the properties being discussed tonight will be smaller, will they be similar in appearance with respect to architecture and lawn areas and what not? Will they be similar to the properties that are already there? Responding to Mr. Tolbert, Mr. Camisky stated yes, they will be compatible with what's there. He has built homes in the City previously and he hasn't had any objections from any inspectors or residents.

Colonel Welsh questioned if these houses would tie in with the rest of the community? Responding to Colonel Welsh, Mr. Camisky stated yes.

Mr. Holt stated that in Texas they don't have storm drains they have cement culverts that run down the back of properties and work pretty efficiently in moving large amounts of water in a hurry. He doesn't know if something like that would work in this case or be allowed but he knows that they do that in almost all of the communities in Texas.

Colonel Welsh stated that he grew up in Oklahoma; it's to handle the flash floods that they get. He doesn't know how practical they would be here. Responding to Colonel Welsh, Mrs. Townshend stated that she doesn't think that the State's regulations would allow them.

Dr. Jones questioned if the new homes have a subdivision name? Responding to Dr. Jones, Mr. Scott stated that there is not an official name for it. It usually goes on record as being the Camisky Minor Subdivision because that's who the owner of the property is.

Dr. Jones stated that there was an answer that the homes would be compatible with existing homes but she is wondering if that also includes the general value of homes on those streets. Responding to Dr. Jones, Mr. Camisky stated that the homes that he proposes to build will exceed the value of the ones that already exist.

Mr. Ambruso stated that he wanted to hear more about the current flooding and he honestly believes that they should hold off on this until they hear more from the water regulators.

Mrs. Townshend stated that she knows that there have been issues with wet basements here; they have had similar issues elsewhere. We have a pretty high watertable here so a lot of times the wet basements have more to do with the watertable than any surface water drainage issues. It doesn't mean that they can't have Kent Conservation District look at the drainage in the area but wet basements tend to be very typical because of the high watertable.

Mr. Scott stated that he doesn't know what the flooding issues are but he is happy to meet with the residents and to find out specifically where they are located and take a look at it. From doing a lot of inspections and dealing with drainage over the years around homes, most of the draining problems of water in basements is attributed to the grading around the houses. It's not adequate enough to get the water away quickly enough and into the sandier type soil so there is vertical drainage along the foundation instead of horizontal drainage which causes water in the basements. They would be happy to take a look at it if the residents could point them in the right direction of where the issues are.

Mr. Tolbert questioned if at this point none of the neighbors have made them aware of any problems that they have been having in their homes with flooding or excess water? Responding to Mr. Tolbert, Mr. Scott stated no, not to him personally prior to tonight.

Mr. Camisky stated that since he has owned the property, he has a basement in the main house and he hasn't had any water. He is not disputing what they say isn't true or false but he walks around that development all the time with the dog and after snowstorms and downpours there is no water in the roads at all so he doesn't know anything about that.

Mr. Tolbert questioned Mrs. Townshend if at this point they were saying that they don't know a whether it's the groundwater level that's causing a problem or whether it's flooding or both Responding to Mr. Tolbert, Mrs. Townshend stated that she doesn't believe that they have the information to determine that so that would be a question that they would have to the Kent Conservation District look at.

Mr. Tolbert stated that he was going to have to agree with Mr. Ambruso's suggestion at this point.

Mr. Holden stated that stormwater is a challenge in these situations and whether it is an inadequate drainage system that drains the road and the roofs or whether it's improperly graded yards which can happen at times; it's hard to say and it's hard to have that answer. If the existing development was not designed properly or there was an issue with storm drainage or the issue was just wet basements. The issue is then to impinge Mr. Camisky's ability to subdivide based upon that. You could make the equal argument that more roof and driveways areas can shed water that will infiltrate into the ground and then into people's crawlspaces. Like Mrs. Townshend stated, it's hard to know how what impact of three (3) new homes in this area is going to impact other basements.

Regarding the older entrance that was brought up, the entrance is noted as an existing entrance. Is it desired to utilize that entrance or is it being noted as an existing but abandoned entrance?

Responding to Mr. Holden, Mr. Scott stated that it is being noted as an existing entrance and DelDOT is requiring that it be closed.

Mr. Holden questioned if there was no issue on the owner's part with closing that entrance. Responding to Mr. Holden, Mr. Scott stated no.

Mr. Holden questioned if the street snow removal was done by the City or no one? Responding to Mr. Holden, Mrs. Townshend stated that these are dedicated City streets now so the City is responsible for snow removal.

Mr. Holden stated that the homeowner's association isn't required to do snow removal. Responding to Mr. Holden, Mrs. Townshend stated no.

Mr. Holden stated that Kent Conservation District submitted a letter regarding this application and it was kind of a standard letter. There were no noted known flooding issues of major concern there. Is Staff aware of other areas in town with issues of a certain magnitude? Responding to Mr. Holden, Mrs. Townshend stated that this is one of the areas that's upstream in the Puncheon Run Basin so there's been over-management. This one was one of the properties that was designed with over-management.

Colonel Welsh stated that the year that we had the really bad snowstorms with over 80 inches of snow, that was not a dedicated City street at the time so they were not doing the plowing.

Mr. Holden moved to approve SB-15-01 Lands of Michael E. Camisky at 5096 Hazlettville Road for a Minor Subdivision Plan, the lots sizes are in compliance with City code, seconded by Mr. Holt

Mr. Tolbert stated that he would like to add to the motion that an effort be made to look at the water situation as described by the attendees present regarding the water problem in this development.

Mr. Holden stated that he thinks it's a fair request for the owner to consider. He thinks the owner's going to be required to consider how their run-off impacts but they can request that Kent Conservation District review how their design might mitigate voiced flooding concerns in the neighborhood.

The motion was amended to add the condition for the owner to make an effort to look at the water situation as described by the neighbors and the motion was approved 8-0 by roll call vote. Mr. Holden voting yes, for the reasons stated in his motion. Mr. Tolbert voting yes, particularly since they have the addition to the motion that they think will satisfy the needs of the residents in that area. Mr. Holt voting yes, to satisfy the needs of the residents on the water problem. Mr. Baldwin voting yes, based on the aforementioned comments. Dr. Jones voting yes, as it addresses the concerns of the residents. Ms. Still voting yes, the plan meets the Minor Subdivision Plan and all of the concerns have been addressed. Mr. Ambruso voting yes, predicated on the addition to the motion. Colonel Welsh voting yes, for all previously stated reasons.

2) S-15-04 Dover Town Center at 1574 North DuPont Highway – Public Hearing and Review of a Site Development Plan to construct the two (2) pad buildings consisting of a 5,740 S.F. restaurant and a 7,685 S.F. commercial building, to reconfigure the existing retail structure to create multiple

tenant spaces (reduction in overall main building size from 118,234 S.F. to 98,098 S.F.). This results in a total of 111,503 S.F. building area on the property. Associated site improvements will also occur on this 12.74 acre site. 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 c/o Dean Pletz. Property Address: 1574 North DuPont Highway. Tax Parcel: ED-05-057.00-01-05.01-000. Council District 4. *Waiver Request: Reduction of Arterial Street Buffer. Site Plan S-12-10 for this property was approved by the Planning Commission at its meeting in June 2012. The plan subsequently expired. Plan C-14-06 was filed in November 2014 and distributed for D.A.C. review but was withdrawn upon request of the applicant.*

Representatives: Mr. Connie Malmberg, Young & Malmberg, P.A.; Mr. Doug Lieberman, Larson Engineering

Mrs. Townshend stated that this is a re-development of the 12.74 acre former Walmart site on North DuPont Highway. The existing building is 118,234 SF. Under this application, a portion of that building would be demolished, there would be some additions to that building and there would be two (2) pad site buildings. One would be a restaurant and one would be retail. The total square footage of the building area at that point would be 111,503 SF. The large building would be 98,098 SF with a 5,740 SF restaurant pad and another pad that would be 7,665 SF. This was actually a Site Plan S-12-10 which expired June 2014 because the Site Plan had not progressed and there was no extension filed. In terms of architecture, the existing main multi-tenant commercial building will result in a new front façade of EIFS with a heavy cornice feature around the top of the building and a cast stone capped split face block watertable feature at its base. The retail building (the 7,665 SF building) they do not have architecture on. The front pad restaurant site is a flat roof building with multiple wall projections, windows with awnings and a covered canopy that wraps the southeast building corner at the entry and a small outdoor seating area.

Currently, based on the restaurant seat count and the retail there is a minimum parking requirement of four hundred thirteen (413) parking spaces; three hundred fifty-three (353) based on the retail use and sixty (60) for the restaurant use. Based on the maximum allowable parking, the Code would allow up to five hundred sixteen (516) parking spaces. The Site Plan shows five hundred eighty-three (583) parking spaces; however, although this exceeds the Code by sixty-seven (67) spaces, this is a reduction from seven hundred four (704) parking spaces that are currently on the site. Staff would look at that as an improvement of a non-conforming situation. Based on the parking count thirty (30) bicycle parking spaces are required; there are thirty-five bicycle spaces provided. In terms of sidewalk, there is an existing frontage sidewalk along Route 13. Under this application there would also be a frontage sidewalk constructed along KW Boulevard. There are sidewalk connections into the site and through site, both from KW Boulevard and from Route 13.

One hundred eight-five (185) trees are required on the site and there are thirty (30) existing trees. You can see on the Landscape Plan that they are planted in a variety of areas. There is a Revised Landscape Plan that was placed on desks this evening. There were twenty-two (22) trees that were to be planted in the arterial street buffer but because all trees must be located a minimum of ten (10) feet from all underground utilities, the twenty-two (22) trees in the arterial street buffer conflicted with this and they have relocated them elsewhere on the site. One of the things that they did was the

sidewalk that comes in around the middle of the site from KW Boulevard. They have moved the sidewalk over to the west a little bit to allow some tree planting in that area.

As mentioned they are over-parked by Code but they are improving a non-conforming situation. The parking requirement for the C-4 (Highway Commercial Zone) changed since they last brought through the Site Plan. It used to be a minimum of 1.5 spaces per three hundred (300) SF and now it has been reduced to one (1) space per three hundred (300) SF. The applicant has asked for a reduction in the arterial street buffer to fourteen (14) feet. They do believe that the applicant has done a number of things on the site to improve the pedestrian circulation and to green it up significantly from what it currently is so Staff has recommended in favor of this waiver. If you look at Staff recommendations that begin on Page 9, they have commented on the pedestrian circulation but this is again another area where the applicant has throughout the process continued to work with Staff. Another recommendation by Staff is that they recommended some revisions to the architecture of the main building on the side elevations that face North DuPont Highway and Crawford Carroll Avenue to further break up the expanses of blank walls.

Mr. Malmberg stated that they agree with all comments and recommendations. As everyone knows, this is the old Walmart site before it moved up and across the highway which is a project that he did too so he feels like he should finish it out by re-developing this site. It's been dolled up quite a bit as Mrs. Townshend has indicated. It's going to be a good looking site, less impervious surface, less parking, a broken up façade and much greener.

When this site was approved by this body in 2012, his clients were trying to amass the critical amount of retail users for the site to make it economically viable. The economy in 2012 wasn't quite as good as it is now and hopefully it will continue to improve. The Site Plan expired even though it had been marketed to several key tenants as his clients looked for potential other uses because they were getting frustrated with the application of a shopping center in this site. But then as the economy improved, they locked in a few key retail users: Outback, Ross and a few others and that's why they are back before the Commission again. The reasons that it's just more than an interesting history story is that one of the things that happened as part of that is that they were marketing the original approved Site Plan that was approved by the Planning Commission and Ross who is the largest tenant here has a fair amount of weight. They froze out certain sections as far as changing the parking and things like that. Most critically what that means is that they need to have the Planning Commission grant again that waiver of the arterial street buffer along the highway. This was something that was approved last time the Site Plan was before the Commission and they shopped it to the tenant before there were some changes to the C-4 (Highway Commercial Zone). They are kind of pleading for that because it is going to be problematic to go back to a lot of these nationals and try to change these deals that they had with them. If it takes too long then they are going to start not performing under some of their leases so the critical mass could fall apart and they don't want that to happen. He is not trying to tie the hands of the Commissioners; he is trying to explain the reality of that waiver request and why it's the way it is. With those constraints, they did do a lot of those things that the City Planning Department requested that they do as far as sidewalk accessibility to accommodate the new use of the Sheraton and the anticipation of residents there becoming pedestrians to this retail site and it's a lot greener as indicated.

With regard to the arterial street buffer, there was a slide that was sent in that showed the photo overhead of the neighboring properties. This property has substantially more buffering than any of the other properties along the highway even with the waiver being granted by this Committee.

Colonel Welsh questioned if the only waiver request was for the arterial street buffer? Responding to Colonel Welsh, Mr. Malmberg stated yes.

Colonel Welsh stated that architecturally even though he is not a big fan of flat roofs, he realizes that they are inheriting a building that already has a flat roof so there's not much that can be done with that. Architecturally it's quite an improvement; he thinks that they have broken it up very nicely. The Outback building looks good.

Mr. Baldwin stated that he is glad to see something happening at the old Walmart building. With the new residents at the Sheraton site, is a revision going to be made for foot traffic because he is knows there will be a lot of it. Responding to Mr. Baldwin, Mrs. Townshend stated that there are two (2) points where sidewalks have been added. The tree lined area is one pedestrian access so that will go straight through to KW Boulevard with crosswalks in the necessary places. On the west side of the restaurant there is a sidewalk and that sidewalk will continue through the site so that pedestrians from the neighboring residential type uses will be able to safely access and travel through the center by foot.

Mr. Tolbert stated that on their rendering, they have five (5) retail businesses that are indicated; have they already gotten commitments from those businesses to situate themselves in this development? Responding to Mr. Tolbert, Mr. Malmberg stated yes, they either have LOI's (letters of intent) or leases signed with all those tenants plus Outback.

Colonel Welsh opened a public hearing and after seeing on one wishing to speak, closed the public hearing.

Mr. Ambruso moved to approve S-15-04 Dover Town Center at 1574 North DuPont Highway along with the waiver request for a reduction in the arterial street buffer, seconded by Dr. Jones and the motion was unanimously carried by roll call vote 8-0. Mr. Holden voting yes, as he thinks it's a good plan and he is pleased to see the applicant working with Staff to remedy some of Staff's concerns and he is pleased to see some forward progress with the site. Mr. Tolbert voting yes, the old Walmart site has been sitting empty for much too long and he is glad to see that something is going to be done that is desirable and pleasing to site. Mr. Holt voting yes, for the same reasons given by Mr. Tolbert that finally something is going to be done with the old Walmart location. Mr. Baldwin voting yes, for the improvement of that area and especially for the steakhouse. Dr. Jones voting yes, she too is delighted to finally see something happen to that site. Ms. Still voting yes, in concurrence with all of the positive comments that they have heard and she as well thinks it's a great looking design for the building. Mr. Ambruso voting yes, he thinks that this project increases the integrity of the west side of Route 13 and he thinks that it can help other businesses in that area as well. Colonel Welsh voting yes, it's a really nice plan and he thinks it will be a definite asset to Dover.

Colonel Welsh thanked Mr. Malmberg for investing in the community the way that he has; he has done a great job for the City of Dover.

3) S-15-05 North Street Mini Storage at 1351 West North Street – Public Hearing and Review of a Site Development Plan to construct a self-storage facility consisting of three (3) buildings totaling 108,940 S.F. to include an office building and two (2) storage buildings with 519 units, and associated site improvements. The property is zoned IPM (Industrial Park Manufacturing Zone). The property is located on the north side of West North Street east of Mifflin Road and west of Commerce Way. The owner of record is RES-Data, LLC and SSS-Data, LLC c/o Dean Pletz. Property Address: 1351 West North Street. Tax Parcel: ED-05-076.14-01-07.00-000. Council District 1. *Waivers Requested: Elimination of Curbing, Elimination of Opaque Barrier Requirement. Site Plan S-12-06 for this property was approved by the Planning Commission at its meeting in April 2012. An extension was granted and the plan expired on April 30, 2015. The plan is being refiled because construction did not commence before plan approval expired.*

Representatives: Mr. Connie Malmberg, Young & Malmberg, P.A.

Mr. Cook stated that this is a Site Plan to permit the construction of a storage facility consisting of three (3) buildings totaling 108,940 SF to include an office building and two (2) storage buildings with 519 units with boat and RV storage parking and associated site improvements. The mini-storage facility is to be known as West North Street Mini-Storage. The project is located on one parcel of land consisting of 5.0104 acres and is zoned IPM (Industrial Park Manufacturing Zone). The project is located on the north side of West North Street and is East of Mifflin Road. The owners of record are RES-Data, LLC and SSS-Data, LLC. The property address is 1351 West North Street. The Tax Parcel is ED-05-076.14-01-07.00-000.

Originally, there was an application on this property in 2008 which was closed for lack of activity and then application S-11-01 came before the Commission and a Site Plan was approved in April 2012 with final Site Plan approval granted in 2014. There was a one year extension granted with an expiration date of April 30, 2015 but the plan is being re-filed because the construction would not commence before that approval expires.

Mr. Malmberg stated that the plan was previously approved; it's the same exact plan that was submitted last time. There are two (2) waiver requests that they are asking for. One is for the curbing waiver which is related to stormwater activities where they sheet-flow stormwater across the edge of the pavement as opposed to channeling it. It becomes a more greener, better water quality associated with the site. The other waiver request is for the elimination of the fence within the opaque barrier along the northern property line. If you take a look at the site, there is a very large tree screen along the northern property line and to place a fence in there really doesn't serve a purpose. You would probably have to take trees out to place an opaque barrier within that area and those trees are significantly taller than any fence that they would put in. He thinks the trees do a sufficient job of creating an opaque barrier as opposed to what a fence would do.

Mr. Tolbert questioned if the boats and RVs would be screened in from view? There will be parking spaces for twenty-six (26) boats. Responding to Mr. Tolbert, Mr. Malmberg stated yes.

Mr. Tolbert further questioned if RVs would just be out in the open or screened in? Responding to Mr. Tolbert, Mr. Malmberg stated that they are placed in the back half of the property and behind the building. They do have trees that are proposed to be planted along that area and there is a large

tree buffer that goes down along the western property line. Your typical RV is around ten (10) feet tall; they can't totally screen those things but considering the angle that the building is on relative to Hazlettville Road he would think that it would be difficult to see the RVs and boats in that area. He doesn't think the impact on the street would be very significant at all.

Mr. Tolbert questioned if according to the regulations, are boats and RVs supposed to be screened in from view altogether? Responding to Mr. Tolbert, Mrs. Townshend stated that's if they are on a residential lot so this would not fall under that section of the Code.

Mr. Tolbert further questioned if they would be incompliance? Responding to Mr. Tolbert, Mrs. Townshend stated yes.

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

Mr. Tolbert moved to approve S-15-04 Dover Town Center at 1574 North DuPont Highway to include the waiver requests for elimination of curbing and the opaque barrier requirement, seconded by Ms. Still and the motion was unanimously carried by roll call vote 8-0. Mr. Holden voting yes, for the reasons stated in the motion and it's nice to see the project move forward. Mr. Tolbert voting yes, based on the application that was submitted to include both waivers and we undoubtedly need more mini-storage in Dover. Mr. Holt voting yes, for the reasons stated by Mr. Tolbert and we do need more mini-storage area in Dover. Mr. Baldwin voting yes, based on the aforementioned comments. Also he is glad to see that area being cleaned up. Dr. Jones voting yes, concurring with previous statements. Ms. Still voting yes, in concurrence with all statements. Mr. Ambruso voting yes, in concurrence with all previously stated comments. Colonel Welsh voting yes, in agreement with all previous comments.

Colonel Welsh questioned if that was location was an old warehouse that burned down? Responding to Colonel Welsh, Mr. Malmberg stated that it was a motor storage facility that had a roof collapse.

4) MI-15-07 Northgate Center Parcel Consolidation and Right of Way Abandonment – Public Hearing and Review for Recommendation to City Council on a Waiver Request associated with the plan for consolidation of seven (7) parcels and abandonment of a portion of the right-of-way for Krisko Circle. The subject area consists of 20.6275 acres. Properties zoned IPM (Industrial Park Manufacturing) and a portion subject to the SWPOZ (Source Water Protection Overlay Zone). The properties are located on the northeast side of Bay Road south of Blue Hen Corporate Center and north of the Puncheon Run Connector from Route 1. The owner of record is 605 South Bay Road LLC. Equitable Owner: Eastern Shore Natural Gas. Tax Parcels: ED-05-077.00-03-06.00-000, ED-05-077.00-03.07.00-000, ED-05-077.00-03-08.00-000, ED-05-077.00-03-09.00-000, ED-05-077.00-03-10.00-000, ED-05-077.00-03-11.00-000, ED-05-077.00-03-12.00-000. Council District 2. *Waiver Request: Waiver from the requirements of Land Subdivision Regulations Article VI §A.15 related to the length of dead-end streets. This property was original subdivided with Application SB-05-05 Stover Professional Campus.*

Representatives: Mr. Garth Jones, Becker Morgan Group; Mr. Mark Parker, Chesapeake Utilities and Eastern Shore Natural Gas

Mr. Holden recused himself because his employer is the engineer of record for this application.

Mrs. Townshend stated that this is an application that for the most part could be done administratively. It is the consolidation of seven (7) parcels of land into one (1) parcel. The equitable owner of the property is Eastern Shore Natural Gas. In addition to the consolidation of the parcels, there would be an abandonment of what was recorded but never dedicated as a portion of Krisko Circle. The larger property of about 38.12 acres was subdivided as the Stover Professional Campus in 2005 as SB-05-05 and that created twelve (12) lots and the public streets to serve those twelve (12) lots. Right now Eastern Shore Natural Gas is bringing forward the consolidation of Lots 6 through 12 and the abandonment of the south portion of Krisko Circle. The reason that this is coming to the Planning Commission is because with the abandonment of the Krisko Circle, they will need City Council to take action on a subdivision street waiver for the length of a dead-end street or a cul-de-sac. The cul-de-sac street would exceed four hundred fifty (450) feet; it would be eight hundred eighty-three (883) feet in length. Therefore, this does need to go forward from the Planning Commission to the City Council with a recommendation on the length of the street waiver and the expungement of the platted but not dedicated portion of Krisko Circle.

Mr. Jones stated that they do agree with all of the comments in the DAC Report and they ask for the approval of the waiver to exceed the maximum length of a dead-end street.

Mr. Tolbert stated that it's anticipated that Chesapeake Utilities will be utilizing the site but has that been finalized yet? Will there be a chance that Chesapeake Utilities will not utilize the site? His point is that the Commission can approve the application to consolidate those lots and then Chesapeake Utilities doesn't do anything with the property. It's then all going to be one lot and the Commission may have to go through this again. Responding to Mr. Tolbert, Colonel Welsh stated that he expects that they would have to start from scratch again. In any case, what they are doing is abandoning the plans that they had for that property at this time.

Mr. Jones stated that there's always a chance but this is the first process in order to move forward with any type of Site Plan application. They need to have the lots consolidated in order to be able to develop for what Chesapeake Utilities/Eastern Shore Natural Gas wants to be able to use them for. Without the consolidation, they would not move forward.

Colonel Welsh opened a public hearing and after seeing that there was no one wishing to speak, closed the public hearing.

Mr. Tolbert moved to recommend approval to City Council for MI-15-07 Northgate Center Parcel Consolidation and Right of Way Abandonment to include the waiver request related to the length of dead-end streets, seconded by Mr. Holt and the motion was approved by a roll call vote 7-0 with Mr. Holden recused and Mr. Cregar absent. Mr. Tolbert voting yes, mainly because without this approval the applicant can't go forward with this site. Mr. Holt voting yes, for the same reasons stated by Mr. Tolbert. Mr. Baldwin voting yes, for all of the aforementioned statements. Dr. Jones voting yes, because she concurs with the applicant's willingness to consider recommendations. Ms. Still voting yes, for all of the aforementioned reasons. Mr. Ambruso voting yes, for all of the aforementioned reasons. Colonel Welsh voting yes, for all of the aforementioned reasons.

5) Z-15-02 Lands of Blue Hen Apt, LLC and Blue Hen CC, LLC and Read Street LLC: Rezoning from RM-2 and SC-3 with SWPOZ to RG-2 and SC-2 with SWPOZ – Public Hearing and Review for Recommendation to City Council on a rezoning application for a series of parcels comprised of the Blue Hen Apartment Complex and the Blue Hen Corporate Center Complex and totaling 80.02 acres. The properties are currently zoned RM-2 (Medium Density Residence Zone) and SC-2 (Community Shopping Center Zone) and remaining subject to the SWPOZ (Source Water Protection Overlay Zone – Tier 1: Secondary Wellhead Protection Area and Tier 3: Excellent Recharge Area). The proposed zoning is RG-2 (General Residence Zone) and SC-2 (Community Shopping Center Zone) and remaining subject to the SWPOZ (Source Water Protection Overlay Zone – Tier 1: Secondary Wellhead Protection Area and Tier 3: Excellent Recharge Area). The properties are located on east side of Bay Road and south of Blue Hen Boulevard between Bay Road and Haslet Street. The owners of record are Blue Hen Apt, LLC and Blue Hen CC, LLC (listed as Blue Hen Mall, LLC) and Read Street LLC. Property Addresses: 605 Bay Road, 625 Bay Road, 635 Bay Road, 645 Bay Road, 655 Bay Road and 400 Haslet Street. Tax Parcels: ED-05-077.00-01-19.00-000, ED-05-077.00-01-19.02-000, ED-05-077.00-01-19.03-000, ED-05-077.00-01-19.04-000, ED-05-077.00-01-19.05-000, ED-05-077.00-01-19.06-000, ED-05-077.00-01-19.07-000, ED-05-077.00-01-19.08-000, ED-05-077.00-01-19.09-000 and ED-05-077.00-01-01.00-000. Council District 2. Ordinance #2015-08.

Representatives: Ms. Andrea Finerosky, Blue Hen Apt, LLC

Mrs. Townshend stated that the Commissioners have Exhibit B located in their packets which goes through each of the parcels, the address associated, the size of the parcel, the owner of record, the existing zoning and the proposed zoning. The existing property is ten (10) parcels of land that comprises 80.02 acres of the east side of Bay Road, south of Blue Hen Boulevard, between Bay Road and Haslet Street. The east portion of the property is zoned RM-2 (Medium Density Residence Zone) and is developed as Blue Hen Apartments. There's also a day care center located along Blue Hen Boulevard north of the apartments. The western portion of the property is zoned SC-3 (Regional Shopping Center Zone) and includes the former Blue Hen Mall which is now occupied by primarily offices with portions of the building vacant as well as several pad sites along Bay Road. The southwest area of the site is within the SWPOZ (Source Water Protection Overlay Zone): the Tier 3 Excellent Recharge Area. There is a very small portion of the northeast corner of the site that is also within the SWPOZ Tier 1 secondary well-head protection area. If you look at the Map Exhibit provided by Staff, it shows those Source Water Protection Overlay Zone areas on the property.

The rezoning request would change the property that is currently zoned RM-2 (Medium Density Residence Zone) to RG-2 (General Residence Zone) and it would change a portion of the property that is currently zoned SC-3 (Regional Shopping Center Zone) to SC-2 (Community Shopping Center Zone). Additionally, the day care center is currently zoned RM-2 (Medium Density Residence Zone) so the zoning line would change to make that part of the shopping center zone. In addition to just rezoning the land that is RM-2 (Medium Density Residence Zone) to RG-2 (General Residence Zone), the rezoning line would shift to the west so that a portion of what is now the parking area at the Blue Hen Mall would become RG-2 (General Residence Zone). The primary differences between the RM-2 (Medium Density Residence Zone) and the RG-2 (General Residence Zone) relate in some ways to the housing styles. The RM-2 (Medium Density Residence Zone) which is the current zoning allows for housing styles such as townhouses that are not

permitted in the RG-2 (General Residence Zone). The RG-2 (General Residence Zone) pretty much allows garden apartments, single family residences and apartments as a conditional use. In addition, the RM-2 (Medium Density Residence Zone) which is the current zoning of the apartments has an eight (8) dwelling unit per acre density cap; the RG-2 (General Residence Zone) does not include a density cap. In terms of the rezoning from the SC-3 (Regional Shopping Center Zone) to the SC-2 (Community Shopping Center Zone) the threshold set in the *Zoning Ordinance* for the SC-3 (Regional Shopping Center Zone) is a minimum acreage of fifty (50) acres. With the rezoning of property to RM-2 (Medium Density Residence Zone) in the past and then the additional land that is being requested here for RG-2 (General Residence Zone), that residual area would be less than fifty (50) acres and therefore the SC-2 (Community Shopping Center Zone) would be more in conformance with the requirements of the *Zoning Ordinance*.

As it relates to the *Comprehensive Plan*, this area is shown with what is currently the day care center and the apartments as Medium Density Residential and everything to the west of that as Commercial. According to the *Comprehensive Plan* there is the ability to do what is considered a Minor Amendment or a Minor Variation which is any application for rezoning or annexation that is inconsistent with the *Comprehensive Plan* but where the non-conformity is of a minor relatively insignificant nature shall be considered a Minor Variation. A rezoning shall be considered a Minor Variation from the *Comprehensive Plan* when the following conditions are met: the rezoning is of a unique circumstance and cannot set precedent for other lands in the vicinity of the rezoning, the relative size of the rezoning or variation from the land-use recommended by the *Comprehensive Plan* is so minor that it would have no impact on the goals and objectives of the *Comprehensive Plan* and the proposed zoning is adjacent to or in the immediate vicinity of the similarly zoned lands and would not alter the pattern of development in the area. Whenever they receive an application for a rezoning that would be considered a Minor Variation to the *Comprehensive Plan*, they consult with the Office of State Planning Coordination. In this case, she did the same thing and there is a letter in the packet from Mrs. Connie Holland, the State Planning Director concurring that this shift on the line between the residential and commercial zone is minor in nature and that it should be considered just through the rezoning process. Page 7 of the Report has the Staff recommendation. The Staff determination is that request is consistent with the housing goal from *2008 Comprehensive Plan* to encourage balanced housing opportunities for all income levels and phases of life as it allows development of housing in a location that is convenient to and within walking distance of employment, education and services as well as shopping. The existing Blue Hen Apartments have maintained nearly full occupancy and the rezoning would allow them to add more units. In terms of the overall land-use, the Blue Hen Mall itself is continuing to have areas within the mall fit-out as offices. The Kent County Levy Court Complex is adjacent to the Blue Hen Mall complex. East Dover Elementary School is also adjacent to the complex and there are a number of shopping areas also within walking distance. In terms of proximity for this style of housing, and proximity to services, Staff believes that this is consistent with the character of the area.

Ms. Finerosky stated that she agreed with the DAC comments and Staff recommendations. They have met with the Planning Department several times prior to making this submission and sorting out what goes where and which zoning classification would be best and how to set it all up. Mrs. Townshend has been very instrumental in helping them out with that process.

Colonel Welsh opened a public hearing and after seeing that there was no one wishing to speak, closed the public hearing.

Mr. Tolbert moved to recommend approval to City Council on Z-15-02 Lands of Blue Hen Apt, LLC and Blue Hen CC, LLC and Read Street LLC: Rezoning from RM-2 and SC-3 with SWPOZ to RG-2 and SC-2 with SWPOZ as submitted, seconded by Mr. Holt and the motion was approved by a roll call vote 8-0 with Mr. Cregar absent. Mr. Ambruso voting yes. Mr. Still voting yes, as it complies with the requirements for the application. Dr. Jones voting yes, in consideration that Staff supports this request. Mr. Baldwin voting yes, based on Staff recommendation and approval. Mr. Holt voting yes, based on Staff recommendation. Mr Tolbert voting yes, he would like something to be done with Blue Hen Mall and it looks like they are going to do it. Mr. Holden voting yes, for the aforementioned comments and due to the fact that it's consistent with housing goal (of the Comprehensive Plan). He appreciates the success of the existing Blue Hen Apartments. Colonel Welsh voting yes, he congratulated Blue Hen Apartments on the great job that they have done in the past and hopefully they will continue that in the future.

6) S-15-07 Eden Hill TND: Residential District – Revised Implementation Plan – Public Hearing and Review of a Revised Implementation Plan for the Residential District component of the Traditional Neighborhood Design project known as Eden Hill Farm TND. The Revised Plan for the Residential District proposes a total of 742 dwelling units (single family, duplexes, townhouses, and multi-family units), the redesign of open space areas, and the street layout. The Residential District consists multiple parcels totaling of 109.034 acres ± of land and is zoned TND (Traditional Neighborhood Design). The project is located south of West North Street and Wemyss Road and southeast of the intersection of West North Street and Saulsbury Road. The owner of record for the area of revision is Eden Hill Residential, LLC. Tax Parcels: Multiple parcels of the Residential District on map ED-05-076.04. Council District 2. *The Implementation Plan was previously reviewed as SB-06-03 Eden Hill Farm TND: Residential District Implementation Plan consisting of 665 dwelling units with the Planning Commission conditional approval granted June 19, 2006 and other subsequent approvals related to lot layout and Pattern Book revisions. Related Applications: SB-07-01, MI-08-03, MI-08-20, MI-09-03, MI-09-13, MI-10-04, MI-10-14, and MI-10-20.*

Representatives: Ms. Andrea Finerosky, Eden Hill Residential

Mrs. Townshend stated that this is a request for changes to the Implementation Plan for the Residential District of Eden Hill TND. The entirety of Eden Hill TND is 272.04 acres and that includes three (3) districts: the Residential District, Commercial District and the Professional Office District. The Residential District comprises 109.2049 ± acres. In the Report there is information on the TND Zone which was developed specifically for Eden Hill. On Pages 4 and 5 there is a very detailed history of the Eden Hill TND development as it relates to the various plan approvals. There is information about the Pattern Book beginning on Page 6 and some information about the construction activity in the Residential District. In Phase 1 of the Residential District, a total of eighty-three (83) Building Permits have been issued and the dwellings have been completed. The predominant housing style constructed has been townhouse units on twenty (20) foot wide lots. The townhouse units that have been built are three (3) stories with attached garage and two (2) stories with a detached garage. They have been constructed in groups: one (1) set of three (3) units, ten (10) sets of six (6) units, and two (2) sets of seven (7) units. Three (3) sets of duplex units have also been constructed within the Eden Hill Residential District.

As a summary of the changes to the Implementation Plan, there are several things to draw your attention to. When Eden Hill Residential District was initially approved in 2004, it was capped at six hundred sixty-five (656) units. The plan before the Commission tonight increases the unit count by seventy-seven (77) dwelling units to a total of seven hundred forty-two (742) units. There is also a change in the mix and type of units along with the distribution of these units and the location. If you recall those of you who have been on the Commission for a while, there were a number of multi-family buildings that were early in the process changed to townhouse blocks and that is in the northwest portion of the development. There were areas that were supposed to be multi-family condos that have turned into townhouses. There are also some areas that were originally planned as duplexes that have turned into townhouses. What is seen now is on the northeast portion of the development, there is an area that was slated to be condos that will continue to be multi-family. The word "condominium" has from the very beginning been used when describing the multi-family units at Eden Hill; however, condominium is a style of ownership. It is not a style of dwelling unit. The applicant at this point is requesting that these be multi-family units that would likely be managed as apartments. She can tell you from experience as it relates to the City's Code Enforcement program, apartments are in a lot of ways easier for us to manage. We do have a lot of condominium complexes in the City that have large rental components to them but instead of dealing with one (1) owner and property manager, you are dealing with sometimes a couple dozen. In addition to taking what was to be built as condominiums and just calling it multi-family, they are also looking to extend the multi-family further south on the property. They are also looking to centralize a larger park area and open space so that you have centralized recreational area and a large open space for the residents of the community. That would be open to residents and owners of all of the units whether they are houses or part of the apartments. The area that is shown as open space did have a road grid going through it so this does result in some change to the street network but it provides a stronger open space component.

As it relates to the mix in the unit types, Staff looked at it both in terms of the number of each unit type and also the percentage of the unit types. They note that the single family detached unit type originally at one hundred five (105) units, by 2012 had decreased to one hundred one (101) units and in this submission accounts for eighty-eight (88) units. One of the things that Staff worked with the applicant on was to make sure that the single family detached portion of the development stayed above 10%. The duplexes again were in the original approved plan. There were one hundred eighty-four (184) units that increased to one hundred ninety-eight (198) units in 2012 and in this version would account for one hundred ten (110) units. There is a change from 27.7% to 14.9%. The townhouses started at one hundred sixty (160) units then went up to two hundred twenty (220) units and in this version would account for two hundred seventeen (217) units. The biggest change is the multi-family; it started with two hundred sixteen (216) units. When the multi-family blocks were eliminated in favor of townhouses it dropped to one hundred thirty-two (132) units and the current proposal would have three hundred twenty-four (324) units.

Since the plan was originally approved in 2007 there have been a number of changes to the Residential Pattern Book and there are all kinds of amendments or addenda to the Pattern Book. One of the things that Staff needs to work with the applicant on is developing a complete final version of the Pattern Book which depending on whether that results in any changes in the appearance of the units, may or may not come back to the Planning Commission. They have not gotten to that point of discussion. At this point they are looking primarily at the lot layout distribution, change in the open space and road network configuration.

Colonel Welsh stated that Mrs. Townshend mentioned the creation of a Pattern Book but the completion of the Pattern Book may or may not come back to the Planning Commission. Responding to Colonel Welsh, Mrs. Townshend stated that if it's simply a matter of taking all of the addenda and amendments that have been done over the years that have come to the Planning Commission and pulling it into one document that would not but if they are proposing to make any changes to the appearance of the housing types or any of the improvements then that would come back to the Planning Commission.

Colonel Welsh questioned if architectural changes would come back to the Planning Commission? Responding to Colonel Welsh, Mrs. Townshend stated yes.

Mrs. Townshend stated that Staff, really to the minute that this report went out, was working with the applicant to kind of address some of the issues of the distribution and type of housing within the development. With the approval of the Planning Commission, they would still want to continue to work out some of those things to make sure that the townhouses are in a location based on the street network and other things best suited for townhouses and that duplexes are located in the proper location. They will work out the details of which types go where as they continue to unfold but to kind of have that framework of unit types and distributions.

Colonel Welsh questioned if the Commission would approve the concept and Staff would work with the developer. Responding to Colonel Welsh, Mrs. Townshend stated yes and as with anything else, they would bring anything back to the Planning Commission that seemed to be a departure from what was approved. If you recall with the original Eden Hill development, a lot of the unit types change outs were done administratively because of the way that the TND was developed. It allowed that flexibility administratively. Once they started feeling concerned that they were upsetting the balance, they made sure that all changes in housing types came to the Planning Commission. Actually at one point the Planning Commission made a motion that any additional changes to housing types would come back to the Planning Commission for public hearing. They would still keep with that. It would be more a matter of what goes where and what the best layout of things are as they get into the details.

Ms. Finerosky stated that as it's been stated, they have worked extensively with the Planning Office and will continue to do so after this meeting, they are in full acceptance of the DAC comments at this time.

Mr. Holt questioned if the change in dwelling units would increase sales? Responding to Mr. Holt, Ms. Finerosky stated a lot of what's driving the changes to the layout are from the time when the concept was brought to the Commission is that the market has changed. The builders are building a different style product, what is marketable is different and they are just trying to keep up with that and make the lots available for the housing units that are selling today and that the builders are interested in building as well.

Colonel Welsh stated as he went through this plan and in talking with Mrs. Townshend over the years concerning Eden Hill, he remembers the excitement when they received the first Pattern Book. They have had a couple different developers who have been a part of this now and they certainly have high hopes and expectations for Pettinaro in completing the development. He is

going to make a personal request for Pettinaro to get the Pattern Book done. The Pattern Book is an item that had comprehensive standards and guidelines. It's unfair to ask the Planning Staff to work with you when you haven't given them what your plans are in terms of the Pattern Book. He is going to ask that they expedite that process and get the Pattern Book completed and to the Planning Staff so that they can work with it.

Colonel Welsh opened a public hearing.

Mr. Rocco Malago – 507 Ridgely Boulevard Dover, DE 19904

Mr. Malago stated that there were a couple of concerns that the residents have had because most of the people in the neighborhood have had a lot of issues and problems with the Homeowner's Association and with the management of the property around and in Eden Hill. Everything from flooding in the streets which has damaged cars to the roads being unpaved for four (4) years to no street lights to grass overgrowth to a point where you can't even access the fire hydrants across the street from where he lives in case of a fire. On top of that, when he originally went to purchase his home and had spoken to Ryan Homes, which at the time was the developer, there were assurances to him that none of the homes that were in that layout were apartments. He had made the purchase at Eden Hill under that assumption that his property was not going to be near any apartment style property. On top of that, the lack of caring in the area and in the neighborhood has kind of left all of them in a negative vibe about how things are handled with the neighborhood to a point where his daughter has gotten bee stings because he has grass in his median which is three (3) feet high. This gives way for hornets and insects to get in his house and sting his daughter. You look at the level of caring that's in the neighborhood now and to allow them to build more homes under that same level of caring, he thinks is just going to go down. On top of that, it's going to lessen his investment in his property that he made.

Mrs. Lorren Chandler – 936 Ruth Way Dover, DE 19904

Mrs. Chandler stated that they occupy the first duplex in the development. She is not from Delaware but what brought her to Delaware was when she was introduced to Eden Hill. It almost had the setting of the name Eden; she was thinking paradise, quiet and serene. For a good portion of their stay it has been that but unfortunately a lot of disappointments have come as well. When they signed their contract to have their home built there, they were promised that they would have parks, not just benches with grass, but they would have beautiful places for their children and grandchildren to go and to enjoy. She moved from the city in New Jersey so that she could just see a different piece of life. Unfortunately, that's a piece of disappointment. She hasn't been able to really enjoy that. They were promised that Eden Hill would be a community all in one that they would not have to leave their residence; their satisfaction would be right there in Eden Hill. They were promised gems. They were promised stores. They were promised the world and all that they got was a great big field overgrown with weeds. Deer can hide in the grass where they reside. Her husband actually takes care of the un-kept back part so that their home doesn't look as marred as it is when it grows.

In regards to the Homeowner's Association, it's really a crime that they should even be considered as having one. The development has not even been 75% built yet they have paid into this so called HOA. That is really a dismay to homeowners to be told that they are going to pay into this account and this is going to be done. Their snow was supposed to be removed from their roadways; they had to remove snow. This year the City now owns the streets in this development and that's the only

time that she has ever seen snow removed from the development. They have done what they could as a neighborhood to make sure streets are safe and travelable so that they can go to work and pay for these places. It's a huge disappointment to hear that she is going to move from the city in New Jersey to come to Delaware to reside in peace and calm and to now hear that apartments are going to be built. Where they agreed to purchase was not where there was going to be people stacked up to of people. It's a lot when they were told at the signing of their contract that there would be about four hundred (400) to five hundred (500) homes which were ample for everyone to enjoy their lot, their space and still have a beautiful community. She is becoming really disturbed hearing that anything else is proposed to be built there when even the initial promises that were given to them have not even been carried out. They don't have any parks or any buildings where they can go as a community. At the beginning, they had family members that were ready to sign contracts so that they too could have a beautiful piece of Eden Hill. They could not follow through with that because the builder went into bankruptcy. She understands financial issues; we all have them. But at this point, they should at least have a comfort level where they can enjoy their homes. They should be able to enjoy the promises that were first given to them before putting more people in the development. With the small pieces of property that they have in Eden Hill now and with the promises un-kept, she certainly does not have the confidence that anything else is going to be carried out because nothing has been done thus far. Everything that they have had to do there was at their own expense. Family members were questioning why the street pavement was so high up. These are questions that the homeowners are left to answer, not these builders. They are a little hesitant about inviting people over to their home. They have a beautiful home because they make it what it is but it's the community that they bought into as well. She personally feels that they have been sort of bamboozled and to even think that they want to do something in addition. They have already been left hanging, holding the bag and taking the responsibility and with the nerve to be asked to pay for serves that they haven't received. She is not sure how many people on the bench would be pleased to do something like that or to enter into another agreement for something in addition to. She is sure that the HOA fees are going to be continued to be asked for with no services being rendered to them.

Mrs. Townshend stated that on behalf of the City she thinks those of us that have been involved in Eden Hill from the beginning of the project, including the members of the Planning Commission, share the disappointment. When Eden Hill came forward as a project, it was looked at throughout the State of Delaware as a model of how development could happen. They have been disappointed at how it's unfolded. When you look at the houses, it wasn't what the original Pattern Book was but certainly the quality of the construction, the appearance of the units is much better than you would have in many communities. She does think that they pushed the envelope as much as they could at the time given the economics of things to make sure of the quality of construction. Unfortunately, a lot of the pieces that were supposed to have been done were not. The streets were base coat only for way too long, street lights were not installed and the City is unfortunately aware of those things. At the time, they did try to get the issues rectified. They stopped issuing Building Permits because it reached a point where they did not think they could put other perspective homeowners in a difficult situation. It was very much a factor of the economy. It was about one year ago that Pettinaro purchased the project. Pettinaro who didn't own the first phase made sure that the streets got paved. Regardless of the issues of whether or not the residents agree with the housing styles, she does want to commit that the City's Code Enforcement staff had gotten complaints about tall grass and the condition of a number of things in Eden Hill for a period of time. They got very little response until Pettinaro took things over. When they (Pettinaro) came in, they did start to see things happen. She

is not trying to sell the residents on it; she is just trying to tell them from where we sit it's moving in the right direction in terms of the maintenance of the property. Unfortunately, she thinks that a lot of ground was lost over the years that things were being built without the infrastructure being kept to where it should have been at that time.

Mrs. Chandler stated with all due respect, she appreciates Mrs. Townshend saying "from where you sit" because she imagines from the administrative piece and from the paperwork end, it looks like it's moving in the right direction. She can tell you where she lives. If Pettinaro is coming in, she is not discrediting anything that they did. In her opinion, it's expected. If you are going to purchase a property that has issues, you bought into those issues so you have to come to base with that. They are professionals; they are business people so they do what they have to do to get their further approvals. In her opinion, winning over the current community is huge. They do appreciate the fact that their streets were finally paved. That's a given; it should have been done. That's what they paid for, they didn't pay to have a half lived in community. The fact that they put a circle in, that should have been done. That's no discredit to Pettinaro; they came to the bat to get those things. There are tons of other things that with the loan that they purchased because they purchased the debt, they purchased the problems. They obviously went into it knowing. The residents are living in that community so from their seat or from where they stand, these are the things that we have to deal with. These are real life experiences; this is not pen and paper or a planning book. This is real life. Her grandson lives in the community. He comes home and wants to ride his bike or go to the park; he has nowhere to go or nothing to do. The parks hardly even have their grass cut, the weeds are overgrown, there's trash all over the place. As a community, again they got together to do what they could to make it stable and livable. With that being the case, they even got together and put a newsletter together. The residents developed an Eden Hill newsletter because they feel that no matter where the ball fell it's their community and if they don't fight for their community then anything could happen. She doesn't have a problem with anything that's going to improve her community. It's just that where she sits, where she lives and what she sees at this point it leaves her with a discomfort and it doesn't leave her with any type of confidence that what they are going to build is going to make it better. Like Mrs. Townshend said, Pettinaro has owned the development for a year; they got streets paved and lights installed in one year. It's very upsetting, you pay your taxes and your mortgage and when you pay, you pay to enjoy what you live. That's what she did; she invested in her community. When she signed that check and gave it over to them three (3) or four (4) years ago, she knows what she purchased. She knows what she was promised and she knows what she was told. It hurts and it's disappointing. They have been failed and with that they are asked here to put blinders on and act like none of that ever happened because there is a new kid on the block and they are going to do different and better things. They lost her vote of confidence; they have not done any of the things that were proposed or promised. A lot of the things fell on the community and again the residents were asked to reach into their pockets.

Mrs. Townshend stated that if their community has meetings, the City's Code Enforcement staff regularly will attend community meetings. What they find in those cases where Code Enforcement staff is there; if there are specific issues that aren't being addressed in your community the City can more effectively address them. She would encourage her and be glad to sit down with the residents of Eden Hill to talk about what the City can do to help you. She does agree that Eden Hill has not to date has not been the dream that it was supposed to have been.

Mrs. Chandler stated that they have had meetings and one of the individuals that still sits on Pettinaro's team is the same individual that collected dues for the previous builder. Their community has hurt so much that they have had doctors, lawyers and officers that have lived in their development and just because it was not finished they are no longer there. She doesn't think that it's fair for them to sit back and say let's just keep seeing the bottom drop out. She is not willing to do that. When she came in, she came in with her all; if you can't already tell. She loves Eden Hill and that's why she is there. She thinks that she speaks for her neighbors as well but they try to talk amongst themselves. They try to do what they can but their power is limited as well. They have come to the City. They have called the City and it still is what it is. There has been no movement and it's just very difficult to envision anything bigger right now. Her request is for Pettinaro to help them with the small things. If you can get an approval to put a four (4) story apartment building and single developed homes, then to add a park, a gym and the things that they promised to help the residents function within the community. She doesn't think that's a large fee if they are looking to going where they are going with this project.

Colonel Welsh stated that he thinks a lot of the things that are being said tonight have not been heard by Mrs. Townshend who is in charge of Code Enforcement. They have a new development company, Pettinaro, who has an excellent reputation. They have done a wonderful job with their other property in Dover; most of their development is in northern Delaware. He thinks they are going to see some changes. He doesn't know if Pettinaro isn't aware of the issues that the existing residents have at Eden Hill.

Ms. Finkerosky stated that she had been taking notes and would speak after everyone from the community was finished speaking to let everyone know what she knows and what she thinks they can do to resolve it. A lot of this is new information.

Colonel Welsh stated that this is not the function of the Commission; their function is to ensure compliance with the Code, ensure that the application meets those Codes and approve or deny. He doesn't think that they want to see a development dry up. There is a company now that has the project. The community has gone through several different management companies but he thinks they've got the right people there now. He thinks they will see some changes and he thinks they will be positive changes. When he drove through to look at the area as the entire Commission does, he noticed some areas that look pretty rough. The grass is pretty high. In fact, he was watching a women walk a dog and he had no idea that she was walking a dog until she came out of the grass. They hear the concerns and Mrs. Townshend will do what she can do. If they have complaints, she is the person to contact. He would recommend that Pettinaro have a meeting with these residents from time to time. They are walking in cold and they have been living with this for four (4) or five (5) years now.

There were fifteen (15) residents present from Eden Hill.

Ms. Jessica Raymond – 516 S Greenberry Lane Dover, DE 19904

Ms. Raymond has lived here for five (5) years since it's been built. She does agree with some of the concerns about the grass. She understands that some of that might be the City. She noticed that it looks like there is going to be more parks and green area; she likes that idea. Her question is about the apartments. Originally when they were selling the homes they did say condos, maybe they were always the same thing. She just assumed that they would be owner occupied. Will they now be

rented? Since it will be in the plan to have more apartments, three hundred twenty-four (324), what would the expected price range be? Are they key code access? What kind of tenants would be living there? Where would the three hundred twenty-four (324) people park? The only parking is at the Community Center in the middle. Responding to Ms. Raymond, Mrs. Townshend stated that the areas in the dark green on the plan are the area that would be apartments. Those demonstrate blocks not buildings so there would be parking. The idea is that the buildings would front the streets and the parking would be behind the buildings with access from the alleys.

Ms. Raymond stated that the HOA fees are a different topic but she assumes as more homes were built, the fees would go down per unit.

Ms. Ruby McCloud – 423 Ridgely Boulevard Dover, DE 19904

Ms. McCloud agrees with all of her neighbors. When Pettinaro first came on the premises, he sent a letter to the residents stating that he would have a meeting with them which never happened. That just adds to the distress of what their future is going to be. Maybe if they had the meeting, they could have addressed a lot of these issues before they got to this point. She is also concerned about the value of her property. She believes that it was stated that the builders are building with materials and the structures that will be what's popular to the builders today. She is little concerned about that. She is also concerned about the additional apartments. Responding to Ms. McCloud, Mrs. Townshend stated that when you hear them refer to the type of product, it's not the building materials it's the style of house. When she gave an overview, they talked about the change in the type of housing where there are fewer duplexes and fewer singles. The market has changed so that type of housing isn't selling as well right now which is why they have proposed some of the changes in unit types. It's not the building materials; they will still be required to meet all building codes.

Ms. McCloud stated that she may not have articulated what she really wanted to say. She is more concerned about the value and how it's going to affect what she has already.

Ms. Annette Mathis – 422 S Greenberry Lane Dover, DE 19904

Ms. Mathis stated that her concern is the commercial property. Is there still going to be stores? They said that they would be built like when you are driving into the entry way there's vacant land. Those were supposed to be stores. Also, is the farmhouse going to stay there? Responding to Ms. Mathis, Mrs. Townshend stated that the farmhouse is owned by the State of Delaware and it will be staying. She is also concerned about the value of her home and the apartment buildings.

Mr. Chris Schaffner – 36 Maple Dale Drive Dover, DE 19904

Mr. Schaffner stated that he is from one of the developers who did significant due diligence with the previous bank who owned the property, TD Bank. He is certainly not here to criticize Pettinaro because he thinks that they do a good job. When they did their due diligence, it was based on that the TND was going to drive this development. There was a significant amount of infrastructure that needed to be in place in addition to the buildings. That the density was going to be the density; that it would not exceed six hundred sixty-five (665) units. That there would be nine (9) parks strategically placed and scattered throughout the community. That before any additional construction was able to be done a massive clubhouse had to be built. The top coat had to be in place. These things in their mind made it cost prohibitive to come in and try to take the property for what these people behind him purchased. They did do due diligence by going to talk to neighbors.

They knew that they wanted to float the idea of more multi-family condominium apartments and the neighbors were not in support of that. When they reached out and floated the increased density, there was no support for that from the administrative side. From a developer's perspective, it stings a little bit to know that they could have done all of this and they would have done a nice job as well if had they known that they could reduce the parks, reduce the clubhouse, reconfigure the infrastructure and increase the density. He would ask the Commission to take that into consideration that there were those of us who were interested in completing Eden Hill but within the constructs of the TND and that is not what's happening here.

Also as a student of history, his understanding was that the people who originally owned Eden Hill farm and subsequently sold it to the developer were very firm on what they envisioned the TND to be in fact they have street naming rights. He believes that to a approve this increased density, decreased parks, reduction of TND is a little bit of a slap in the face to the original sellers and what their intent of Eden Hill Farm Residential District being.

Colonel Welsh closed the public hearing.

Ms. Finerosky stated that this is a fairly recent acquisition for Pettinaro; they purchased this development approximately one year ago. Addressing Mr. Malago's concerns, she understands that there are a lot of issues with the Homeowner's Association, that the roads were not paved, that the lighting was not installed and various other management problems. They did talk to the City at length several times about this and one of the most pressing issues was the paving of the roads and getting them dedicated so that snow plowing would occur. They actually paved those roads in December right as the first snow fall was occurring, trying to get this turned over. They worked with Mr. Koenig and Mrs. Townshend on this to get it accomplished. She knows there are still other things that need to be done out there. She doesn't know who of the community has actually contacted Pettinaro directly regarding various complaints of things that need to be taken care of such as grass cutting and weeds. They do have a property manager who works for Pettinaro and is responsible for this project. She is happy to give out her card and phone number to anyone and put them in touch with him. Anyone from the community can call him directly; they don't need to go through any association or herself. They can call him directly if there are any maintenance problems on the property that they can correctly pretty simply. She believes that Christina Parranti works for a management company that might have been put into place by the previous developer. They might have bad information that she is the point of contact and is feeding them information. She doesn't know if Ms. Parranti is in contact with everybody in the community or not. The thing to do at this juncture, forgetting of the TND for a minute, is to meet with the neighbors and find out what needs to be done directly from them and what they can accommodate in the short term.

As far as the change in units, they have talked to several builders, Ryan Homes who was the previous builder and some other builders to get a feel for the types of units that are marketable currently. In order to build infrastructure and to be able to do everything else, they need to have a product that they can sell to people. They do not build single family homes or townhouses; they would be selling those lots to other builders. That's what is driving this, the economic conditions of the market today; what is selling versus what was selling years and years ago when the TND and the whole concept was created. They did start to put together a new Pattern Book and then they talked to the Planning Department about revising the TND and were told to wait this out until they see where they are at with that to see whether they can compile the existing pages of all the

addendums to the Pattern Book or whether they just need to scrap it and come up with a new Pattern Book depending upon the unit types they end up with.

There were always apartments proposed for this development; they were listed as condominiums and they were originally 20% of the ratio of the unit count in the development.

Mrs. Townshend stated that the original plan that was approved in 2007 had one hundred five (105) single family detached homes, one hundred eighty-four (184) duplex homes, one hundred sixty (160) townhouses and two hundred sixteen (216) condominiums for a total of six hundred sixty-five (665) residential units. That was the original plan that was approved. Unfortunately, if you were told that there wouldn't be any multi-family you were misinformed. From a building type standpoint, construction is the same. Condominium is the form of ownership. You can have townhouses, single families or duplexes that could be under a condominium style ownership. Which is why when Pettinaro indicated that they wanted to have apartments, the City indicated that it should be very clear in this process. This is why there is a public hearing because of the changes they have requested. They were not changes that Staff could make administratively and it did require the opportunity for public feedback. But the multi-family units were always part of the equation; they were built as condominiums. She can speak from her experience that many of the condominium association complexes have a very high rental rate in them where you have owners that rent out their units. Just because they are condominium does not mean that they wouldn't be rentals. They wouldn't be a centrally managed rental; it would be more of a combination.

Colonel Welsh stated that ownership is the issue with a condominium versus an apartment. They are probably both going to look alike. One is going to be owned by individual and one is going to be managed by a company. He shares Mrs. Townshend's thought process when it comes to a condominium. A large number of condominiums are rented with different standards presented by the owners to the renters and not centralized control. He thinks as a neighbor he would rather have a well-managed apartment than a series of condominiums that are not controlled. It's never going to be what you want it to be most likely. As long as there is real estate, someone is going to buy it, someone is going to develop it and someone is going to do something with it. In this particular case, we have gone through the worst recession that this country has ever gone through, probably the highest number of bankruptcies amongst builders and developers that has ever occurred. They've got a very large project that they all had a dream of what this development was going to be. It's not going to be what they imagined it would be. Do you stop the project now and have the residents stuck with a house in the middle of nowhere? Or do you continue with it? It's not exactly what you wanted it to be or what you were promised that it would be but that was four (4) developers ago. He would rather the project continue, the parks be built and the development finished so that they won't have the dust or the dirt and the heavy equipment disrupting your life. He thinks right now that Pettinaro is going to be the residents' best bet for the future and he sincerely believes that they are going to do the right thing. Hopefully, it's going to work out for everybody.

We are really not on the track of where we should be tonight in their purpose of discussion. Their discussion is does it meet the Code, does it meet the standard? If it does, basically the Commission is obligated to approve it or have legal reason not to approve it. He has given a lot of leeway tonight because he does think that the residents have valid concerns. He wants to hear the concerns; he wants to make sure that Mrs. Townshend hears it and that Pettinaro hears it as well.

Mrs. Townshend stated that the east side of the development will connect up through Banning Street through the Eden Hill Medical Center. Banning Street is a public street and this will connect to that street. Additionally, the circle is a public street that goes back to the farmhouse. That is a public street constructed with public dollars so at this point it may not be fully open because you can only get to the farmhouse. It is a public street so if there is an issue with that not being treated as a public street the City will have to look into that.

Mr. Lyon stated that just for clarification, are they speaking of the street closest to North Street or the one that is internal to the development? Responding to Mr. Lyon, an unknown person from the audience stated that they were referring to the internal street.

Mr. Lyon stated that will be built out when the commercial part gets build. Right now it's got barricades up towards North Street. There is going to be a connection through that. Responding to Mr. Lyon, an unknown person from the audience stated that if you go around the circle one way you go past the back of the farmhouse.

Mrs. Townshend questioned if they were saying that at the east side of Greenberry Lane there are barricades? Responding to Mrs. Townshend, Mr. Lyon stated that was the end of the Phase line.

Mrs. Townshend stated that the barricades are there because it's not constructed all the way to there. It's a dirt road so the road has not been finished. Part of the City's responsibility will be making sure that the road connections are done at the appropriate phases. Any development that has more than one hundred fifty (150) units is required to have two (2) access points to a public street. They can't allow the entire development to exceed one hundred fifty (150) units inclusive of what's already there without a second connection to a public street. The other developer who spoke indicated that there is a lot of infrastructure work that needs to happen in a lot of cases before the construction can take place. Some of the residents have mentioned the parks. There is some park work that needs to be done before additional units can be done. The developer is aware of that; the City has communicated that with them. The Code requires that the recreation improvements keep pace with the development of housing units. When they purchased the property, the City said they couldn't do anything until Phase 1 is paved and dedicated to the City. Now the City needs the phasing for the recreation and they need to hold Pettinaro to that phasing. The City will be responsible to hold them to their responsibility to make sure that things don't get ahead of where they need to be.

Colonel Welsh stated that most of the area that's multi-family housing as it pertains to this particular phase of the development is in the northeast corner. So it's going to be closer to the exit anyway.

Ms. Finerosky stated that as far as what the buildings look like, they don't have an architectural plan yet. As Mrs. Townshend said, the blocks are placeholders. They will have sufficient parking for the amount of units that they have. Overall on the site, there's only a net increase of seventy-seven (77) units for the whole project. So while they have increased the number of apartments all of the other ratios have changed and they have a net increase of seventy-seven (77) units total.

The original project had 2.2 acres of what they call pocket parks. They are just small areas of park land at various intersections and corners. They still have 2.06 acres. The original project had 1.97

acres of open spaces; they now have 9.22 acres of open space in this version of the project. They have done a good bit of due diligence and a good bit of research. They have been very successful at rescuing projects and making them work and having the resources to keep them going. They have done their homework on this project. She likes to think that they were forward enough thinking to come to the City and ask for consideration to make changes to the TND so that they do have a viable project that can go forward rather than sitting there.

Colonel Welsh questioned if Ms. Finerosky could by chance provide a phone number? Responding to Colonel Welsh, Ms. Finerosky stated that she could; she has cards with her to give out.

Colonel Welsh questioned that they have actually increased the open space but will that be maintained? Responding to Colonel Welsh, Ms. Finerosky stated yes. There will be a clubhouse, a swimming pool and there will be other active recreation features as well.

Colonel Welsh stated that to satisfy the needs of the existing residents, can Ms. Finerosky get her project manager to get on cleaning up the fields and cutting the grass and making the place more livable and presentable while moving towards great things? Responding to Colonel Welsh, Ms. Finerosky stated yes, she would talk to him in the morning.

Ms. Still moved to approve S-15-07 Eden Hill Farm TND: Residential District – Revised Implementation Plan, seconded by Mr. Holt and the motion was unanimously carried 8-0 by roll call vote. Mr. Ambruso voting yes. Ms. Still voting yes, based on the application meeting the requirements. Dr. Jones voting yes; it meets the requirements and it appears that the developer is working with the Planning Office. Mr. Baldwin voting yes; it meets the Code requirements. Mr. Holt voting yes, with the hope that the new developer will be able to handle the design and improve the overall quality of this whole operation. Mr. Tolbert voting yes; he does sympathize with the current residents in the area but he also has knowledge of what has happened with Eden Hill from the beginning with the plan that was originally submitted and how beautiful it was as well as what the economic slump has done to the development. He fully understands that but he feels confident that the developer that is there now will do the best that they can with the development to bring forth something that will be worthwhile and meaningful to Dover. Mr. Holden voting yes; he is glad to have a solid developer come along and help move this project forward. It has been stagnant for some time. A lot of the issues whether they were misdeeds or economic misfortune he is sympathetic and empathetic to and he also thinks that Pettinaro is going to continue to try to right some of those past infractions. He thinks they also have a proven track record with the existing Blue Hen Mall Apartments in running a good ship. He shares in the thoughts that a single well run property management entity can do a very good job versus condominium issues which can be problematic. He thinks the change makes it a viable development to move this forward and help rectify some of the issues. Colonel Welsh voting yes; the development does meet the Code requirements and all aspects of the development. He has all the confidence in the world. It's not going to be what everyone envisioned it to be. But he thinks when it's all said and done, the residents will have a nice place to live; a place where they enjoy living. They will have a place where children can ride bikes and go to the park. He thinks if we could move forward about one (1) or two (2) years, the residents would probably be happy with what they see. It's been in limbo for a while. It's been a victim of the economy as so many places have been and he thinks Pettinaro is going to do a good job of moving everything forward. He would hope that the developer will maintain communication with the

residents who are there while this construction is moving forward and ensure that their needs are taken care of. He has every confidence that Pettinaro will do that.

Colonel Welsh thanked all of the residents for coming because the Commission needed to hear what they had to say.

NEW BUSINESS

Meeting adjourned at 9:51 PM.

Sincerely,

Kristen Mullaney
Secretary